



Office for Democratic Institutions and Human Rights

# GEORGIA

## PRESIDENTIAL ELECTION

27 October 2013

OSCE/ODIHR Election Observation Mission  
Final Report



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**GEORGIA**  
**PRESIDENTIAL ELECTION**  
**27 OCTOBER 2013**

**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 19 September to observe the 27 October 2013 presidential election. The OSCE/ODIHR EOM assessed compliance of the electoral process with OSCE commitments and other international standards for democratic elections, as well as national legislation. For election day, the OSCE/ODIHR EOM joined efforts with observer delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and the NATO Parliamentary Assembly (NATO PA).

The 27 October presidential election was efficiently administered and transparent, and took place in an amicable and constructive environment. During the election campaign, fundamental freedoms of expression, movement, and assembly were respected and candidates were able to campaign without restriction. The media was less polarized than during the 2012 elections and presented a broad range of viewpoints. On election day, voters were able to express their choice freely.

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

Twenty-three presidential candidates were registered by the Central Election Commission (CEC) in a transparent and inclusive manner. Twenty-four nominees were refused registration. Four of these challenged their refusals over dual citizenship but were rejected, which could be considered restrictive according to international good practice.

According to OSCE/ODIHR EOM interlocutors, the campaign environment was seen through the prism of the 2012 parliamentary elections and was notably less polarized. However, it was negatively impacted by allegations of political pressure, including on United National Movement (UNM) representatives in local governmental institutions. The campaign gradually evolved from a direct confrontation between the Prime Minister and the President that had overshadowed the political scene, to a competition among the main candidates. However, personality politics continued to dominate the public debate throughout the campaign.

In spite of the large number of candidates, the campaign lacked dynamism with most candidates focusing campaigning on door-to-door activities. Rallies observed by the OSCE/ODIHR EOM were generally orderly and peaceful, with a few instances of strong language used. The misuse of administrative resources did not feature as a major issue during the campaign, although citizen

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Georgian.

observers reported a few cases of campaigning by unauthorized people, misuse of state resources, and vote buying.

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

Although there were three female candidates, only one of these featured prominently in the campaign. In general, campaigns and platforms of all candidates did not bring up issues specifically affecting women and mostly referred to the women's traditional role in the Georgian family. Overall, women were well-represented in the election administration making up some 56 per cent of District Election Commission (DEC) members and 65 per cent of Precinct Election Commission (PEC) members. Four CEC members were women, including the chairperson.

The CEC managed the electoral preparations in a professional, transparent, and timely manner and enjoyed a high level of stakeholder confidence. CEC sessions and meetings were open to observers, non-governmental organizations, and the media. The CEC engaged in inclusive discussions with stakeholders on various election-related matters before making decisions. DEC members and PEC members performed competently and managed election preparations without major difficulties. The appointment of six commission members by the parties of the Georgian Dream (GD) coalition and only one by the UNM to all levels of the election administration raised concerns from election contestants about an over-representation of the GD coalition.

There was overall confidence in the quality of voter lists. In August, a number of voters were removed from the voter register on the basis of incomplete data or invalid address registration. Only a small portion of these voters re-registered and were included in voter lists due to the limited time before the election.

Ahead of the election, numerous complaints were filed with the CEC and DEC members about campaigning by public officials, defacement of posters, harassment of party activists, the appointment of key PEC positions and vote buying; most of these were rejected. Complaints were also filed with the Inter-Agency Commission for Free and Fair Elections, which issued a number of non-binding recommendations. Overall, the majority of complaints were not filed with the bodies that had the competency to impose sanctions and ensure effective adjudication of disputes in line with international commitments and good practice.

Generally, the existing framework regulating party and campaign finance could be effective in ensuring integrity and transparency, if implemented properly. However, the absence of clear deadlines for addressing violations and limited enforcement by the State Audit Office raised concerns by the OSCE/ODIHR EOM interlocutors about the effectiveness of campaign finance oversight. Overall, the OSCE/ODIHR EOM considered the monitoring of campaign finance largely insufficient and formalistic.

Election day processes were assessed as professional and transparent. The assessment of opening, voting, counting, and tabulation by international observers was positive. International observers noted some procedural irregularities, however, they were not considered widespread or systematic.

The main issue observed by the OSCE/ODIHR EOM was that polling stations were overcrowded with more observers than allowed by law and that in some cases they interfered in the process. This was compounded by the lack of experience of some PEC chairpersons and members.

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

The CEC started announcing preliminary results on election night and posted them on its website broken down by district and precinct; this was a positive measure to further increase transparency.

On and after election day, 320 complaints were filed with DEC's. The majority of complaints concerned PEC result protocols not being filled-in, signed, or stamped properly. Approximately 100 complaints were granted and, as a consequence, warnings were issued to PEC members and in some cases 30 per cent of their salary was retained. Some 30 complaints were filed requesting the annulment of PEC results protocols and all but one were rejected. In addition, three complaints were filed with the courts, of which one was granted, resulting in the annulment of summary result protocols of three PECs.

The CEC summarized and released the final election results on 12 November and on 17 November the new President was sworn into office.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs of Georgia to observe the 27 October presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an election observation mission (EOM) on 19 September. The EOM was headed by Matteo Mecacci and consisted of a core team of 16 international experts based in Tbilisi and 28 long-term observers (LTOs) deployed throughout the country. Mission members were drawn from 24 OSCE participating states.

For election day, the OSCE/ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP), and the NATO Parliamentary Assembly (NATO PA). In total, 401 observers were deployed from 45 countries.

The election was assessed for its compliance with OSCE commitments and other international standards for democratic elections as well as national legislation. This final report follows a Statement of Preliminary Findings and Conclusions released at a press conference in Tbilisi on 28 October 2013.<sup>2</sup>

The OSCE/ODIHR EOM wishes to thank the authorities of Georgia for the invitation to observe the election, as well as the Central Election Commission (CEC), the Ministry of Foreign Affairs (MFA), the Parliament of Georgia, the Supreme Court, the Inter-Agency Commission for Free and Fair Elections (IAC) and other state and local authorities for their assistance and co-operation. It also expresses its gratitude to the representatives of political parties, media, civil society, and other

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<sup>2</sup> For all previous OSCE/ODIHR reports on Georgia, see <http://www.osce.org/odihr/elections/georgia>.

interlocutors in Georgia for their input. The OSCE/ODIHR also wishes to express appreciation to the diplomatic representations of OSCE participating States and of international organizations for their co-operation and support.

### III. BACKGROUND

On 4 July, in line with legal and constitutional provisions, the president called the presidential election for 27 October. Constitutional amendments that came into force upon the inauguration of the new president considerably reduced the powers of the president in favor of the prime minister and the parliament.

The political atmosphere since the 2012 parliamentary elections was marked by a tense cohabitation between the governing coalition, the Georgian Dream (GD), and the parliamentary opposition party, the United National Movement (UNM), and their respective leaders. This was compounded by the arrests and pre-trial detentions of several UNM officials, including the party's Secretary General, who was responsible for running its presidential campaign. Moreover, there were many changes in party representation in local government following the 2012 parliamentary elections. While the UNM previously controlled all 69 local government units, by 3 August 2013, 55 chief executives (*gamgebeli*) and 31 local council (*sakrebulo*) chairpersons had been replaced, either through resignation or dismissal. Many UNM *sakrebulo* members joined the GD or declared themselves independent. Additionally, a number of local public servants resigned or were dismissed and were subsequently replaced by GD supporters in selection processes that were criticized by some domestic non-governmental organizations (NGOs) for lacking transparency.<sup>3</sup>

### IV. ELECTORAL SYSTEM

The president is elected by popular vote for a five-year term. To be elected in the first round, a candidate must receive more than 50 per cent of the valid votes cast. Otherwise, a second round between the two candidates with the highest number of votes is held two weeks after the official announcement of results. The candidate who receives most votes in the second round is deemed elected. The law does not stipulate what happens if one of the candidates in the second round withdraws ahead of a run-off.<sup>4</sup> The CEC informed the OSCE/ODIHR EOM that in the event of a second round, it would be held with only one candidate who would be deemed elected regardless of voter turnout and the number of votes obtained.

*The law should be amended to include provisions related to the withdrawal of a candidature in the event that a second round is required.*

### V. LEGAL FRAMEWORK

The presidential election is primarily regulated by the Constitution, the Election Code, and the Law

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<sup>3</sup> See various reports on the changes of local government by Transparency International (TI) Georgia and International Society for Fair Elections and Democracy (ISFED).

<sup>4</sup> This possible scenario arose as the GD candidate threatened to withdraw from a potential run-off ten days before the first round election day.

on Political Unions of Citizens.<sup>5</sup> The electoral legal framework is comprehensive and provides a sound legal basis for the conduct of democratic elections. Numerous technical amendments were made to the electoral legislation in 2013 following the last parliamentary elections, which addressed the majority of OSCE/ODIHR recommendations. The amendments were adopted by consensus in the parliament and also incorporated most of the recommendations made by NGOs.<sup>6</sup>

Amendments that entered into force in August 2013 enhanced the legal framework. These included clarifications and greater safeguards to reduce the potential for abuse of administrative resources; provisions for more equitable conditions for campaigning, including an obligation for presidential candidates to resign from incompatible offices; further regulation of the formation of election commissions; and changes to the rules for campaign financing. In addition, to further clarify provisions in the Election Code, a number of interlocutors signed a Memorandum of Understanding on the use of administrative resources.<sup>7</sup>

Several electoral stakeholders lacked a clear understanding of some legal provisions during the campaign, including whether attendance of campaign event was prohibited for public officials who were by law not allowed to participate in and conduct campaigning, and whether police officers had the right to attend campaign events and under which conditions.

Various instructions on this issue were issued throughout the campaign period. The IAC issued a non-binding recommendation indicating that passive attendance at campaign events by public officials was not prohibited.<sup>8</sup> The Ministry for Internal Affairs issued two instructions stating that police officers could attend campaign events only when they were not on duty and in uniform.<sup>9</sup> In one case, the Zugdidi District Court ruled that the attendance of a campaign event by plain-clothed police officers was not prohibited because they were on duty.<sup>10</sup>

***It is recommended to clarify provisions related to whether passive attendance of a campaign event is considered a form of campaigning for public officials and whether police officers have the right to attend campaign events and under what conditions.***

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<sup>5</sup> Other applicable laws include the General Administrative Code, Administrative Offences Code, Criminal Code, Law on Public Assemblies, and the Law on the Constitutional Court.

<sup>6</sup> Namely ISFED, TI, and the Georgian Young Lawyers Association (GYLA).

<sup>7</sup> Signatories included the CEC, IAC, TI, ISFED, International Centre for Civic Culture, and new Generation - new Initiative (nGnI). The memorandum served to interpret Articles 45, 48 and 49 of the Election Code.

<sup>8</sup> See Complaints and Appeals Section for further detail on the work of the IAC.

<sup>9</sup> Article 25 of the Constitution and Article 1.2 of the Law on Public Assemblies stipulate that members of the armed forces and the Ministry of Internal Affairs (including the police) do not have the right of assembly. In addition, Article 45.4.c of the Election Code stipulates that they are not allowed to conduct in and participate in campaigning. According to Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, there may be lawful restrictions on the exercise of the rights of assembly and association by members of the armed forces, of the police or of the administration of the state. Also see paragraph 60 of the OSCE/ODIHR and Council of Europe's European Commission for Democracy through Law (Venice Commission) Guidelines on the Freedom of Peaceful Assembly, second edition ([www.osce.org/odihr/73405](http://www.osce.org/odihr/73405)), which note that legislation should not restrict the freedom of assembly of law-enforcement personnel (including the police and the military) or state officials unless the reasons for restriction are directly connected with their service duties, and then only to the extent absolutely necessary in light of considerations of professional duty.

<sup>10</sup> During the 27 April 2013 by-elections, the Samtredia District Court and the Kutaisi Court of Appeals ruled that the law only restricted active campaign participation and excluded passive attendance at campaign events.

## VI. ELECTION ADMINISTRATION

The election was organized by three levels of election administration: the CEC, 73 District Election Commissions (DECs), and 3,655 Precinct Election Commissions (PECs). In addition, 34 special polling stations were established in penitentiary institutions, medical facilities and military bases; 52 polling stations were established in diplomatic and consular missions abroad for out-of-country voting.<sup>11</sup>

All election commissions are composed of 13 members, 7 of whom are nominated by the political parties that qualify for state funding.<sup>12</sup> Besides those seven nominated by political parties, five members of the CEC are appointed by the parliament upon the nomination of the president with additional procedures to select the sixth, the chairperson. Following a public nomination process, the current chairperson was elected on 11 September 2013.<sup>13</sup> CEC members serve a five-year term.

For DECs and PECs, the remaining six members beyond the political party nominees are appointed by the respective higher-level commissions after a public competition and serve a five-year term. All PEC members and DEC party nominees serve only for the period of the electoral event.

The appointment of six commission members by the parties of the GD coalition and only one by the UNM at all levels of the election administration raised concerns from election contestants about the over-representation of the GD coalition. The PEC chairperson, deputy chairperson and secretary positions were distributed according to legal requirements and in 2,751 PECs, the chairperson positions were held by staff appointed by the DECs.<sup>14</sup> However, in the remaining precincts where the chairperson positions were held by the political appointees, the representation of PEC chairpersons heavily favored the GD coalition over the UNM. This trend was repeated for the deputy chairperson and secretary positions.<sup>15</sup>

Four out of 13 CEC members were women, including the chairperson. At lower levels, women comprised approximately 56 per cent of DEC members and held 24 per cent of the chairperson positions. Women represented some 65 per cent of PEC members, and served as chairpersons in 53 per cent of PECs.

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

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<sup>11</sup> No polling stations were established in the Russian Federation due to the absence of diplomatic relations between the two countries.

<sup>12</sup> Parties that received the highest amount of state funding include the UNM, Georgian Dream–Democratic Georgia (GD-DG), Conservative Party, Republican Party, Our Georgia–Free Democrats, “Industry Will Save Georgia”, and National Forum.

<sup>13</sup> The former CEC chairperson resigned in August to run as a candidate in the presidential election.

<sup>14</sup> The law requires that the chairperson, deputy chairperson and secretary cannot be from the same “election subject”, which is defined in the Election Code as political parties, election blocs, candidates and initiative group of voters (independent candidates). In 37 PECs, the results of the first sessions were cancelled due to not following this provision. Subsequently, the members for these positions were reappointed and the sessions were re-run.

<sup>15</sup> This included 881 chairpersons from the GD and 23 from the UNM; 920 deputy chairpersons from the GD and 99 from the UNM; and 738 secretaries from the GD and 163 from the UNM.

decrees, ordinances, and decisions on complaints on its website in Georgian and English, thus increasing the transparency of its work.

DECs and PECs performed their tasks competently and managed preparations without major difficulties. However, various stakeholders commented on the insufficient experience of some PEC chairpersons and members.

The CEC Training Centre conducted well-attended training sessions for PEC officials. According to the OSCE/ODIHR EOM and participants, training materials were comprehensive and well written and trainings were interactive and assessed positively.<sup>16</sup> In addition, trainings were conducted for various stakeholders, including local administration officials, the Council of National Minorities, public defender, workers in penitentiary institutions, media representatives, citizen observers, and political party representatives.

A CEC voter information campaign with messages on different electoral aspects was broadcast on public and private media, including television (TV) information spots broadcast in minority languages and sign language. The CEC addressed the participation of voters with disabilities in various ways. To enhance the independent participation of visually impaired voters, Braille templates for ballots were introduced in all polling stations. In addition, 302 polling stations were fitted with ramps and 800 special voting booths for disabled voters were available.

## VII. VOTER REGISTRATION

The right to vote is granted to all citizens 18 years or older. Citizens who are declared incompetent by a court and those serving a sentence in a prison for a criminal offence other than a misdemeanour are not eligible to vote.<sup>17</sup> The CEC is responsible for compiling the voter lists (VLs) based on information provided by the State Services Development Agency (SSDA) within the Ministry of Justice and other relevant authorities.<sup>18</sup> The CEC announced the final number of voters as 3,537,719, including 48,458 voters registered abroad.

In August 2013, approximately 98,000 voters were removed from the SSDA register on the basis of incomplete data or invalid address registration.<sup>19</sup> These voters needed to re-register by 10 October to be included in VLs for the election. The limited time period given to the SSDA was insufficient to adequately notify and re-register these voters. The SSDA announced that by the deadline, 9,142 deregistered voters had re-registered. According to the CEC, there were approximately 150 inquiries received on its telephone hotline on election day from deregistered voters who were unable to vote.

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<sup>16</sup> As reported by OSCE/ODIHR LTO teams in Samegrelo-Zemo Svaneti, Racha-Lechkhumi, Imereti, Guria, Samtskhe-Javakheti, and Kvemo Kartli.

<sup>17</sup> Citizens serving a prison sentence of more than five years do not enjoy voting rights. This loosens previous restrictions on voting rights of prisoners, which were introduced by a constitutional amendment following OSCE/ODIHR and Venice Commission recommendations. See OSCE/ODIHR EOM Interim Report 1, 1 October 2012 Parliamentary Elections in Georgia.

<sup>18</sup> Ministry of Defence, Ministry of Corrections and Legal Assistance, Ministry of Internally Displaced Persons, local government bodies, and the Supreme Court. According to Article 184 of the Election Code, biometric voter lists shall be introduced for the 2014 local elections under the responsibility of the SSDA.

<sup>19</sup> The CEC noted that after subtracting voters abroad, the actual number of de-registered voters was approximately 75,000. The de-registered voters were allowed to vote in the 2010 and 2012 elections because of special legal provisions, which were not applicable for this election according to a parliamentary decision.

*It is recommended that any changes made to the voter register that may potentially lead to voter disenfranchisement should be made early enough to give the necessary time to the relevant institutions to conduct an information campaign and voter re-registration.*

VLs were posted at PECs for public scrutiny with changes possible until 11 October. In addition, the PECs distributed two rounds of voter information cards. In some limited cases associated with internally displaced persons, PECs could not find the voters at their listed place of residence. According to the election administration, very few voters checked their data on VLs at PECs and on the CEC website. The CEC reported that a total of 3,079 corrections were made to the VLs, mainly related to correcting names, dates of birth and address registration. Overall, there was confidence in the quality of VLs.

The CEC established election precincts by the legal deadline. However, as the SSDA was late in submitting updated voter lists to the CEC and the boundaries of election precincts had already been established, a limited number of polling stations included more than the maximum 1,500 voters allowed by law.

## VIII. CANDIDATE REGISTRATION

Under the Constitution, any citizen of Georgia who has the right to vote, is at least 35 years of age, has lived in Georgia for at least five years, and resided in Georgia for at least three years before the election was called, may be elected president. The residency requirements imposed appear disproportionate and at odds with international standards.<sup>20</sup>

*The existing residency requirements for presidential candidates appear overly restrictive and should be reconsidered or reduced.*

Candidate registration was overseen by the CEC and was conducted in a transparent and inclusive manner. Presidential candidates could be nominated by political parties or run as independent candidates.<sup>21</sup> In total, 12 political parties and 42 independent candidates submitted applications. All candidates were required to collect signatures of at least 0.75 per cent of registered voters (equal to 26,530 voters), which is within international good practice norms.

On 23 September, the CEC announced that it had registered 23 candidates; 10 nominated by political parties and 13 independent candidates.<sup>22</sup> Five women submitted applications; of these,

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<sup>20</sup> “Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation”. See Paragraph 14 of General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights (ICCPR) by the UN Human Rights Committee. See also paragraphs 26-27 of the 2011 Joint Opinion of the OSCE/ODIHR and Venice Commission (no. 617/2011).

<sup>21</sup> Independent candidates were nominated by an initiative group made up of at least five voters.

<sup>22</sup> Candidates nominated by parties: Akaki Asatiani (Union of Georgian Traditionalists), Davit Bakradze (UNM), Nino Burjanadze (Democratic Movement–United Georgia), Koba Davitashvili (People’s Party), Sergo Javakhidze (Justice for Georgia), Zurab Kharatishvili (European Democrats), Giorgi Margvelashvili (GD-DG), Teimuraz Mzhavia (Christian Democratic People’s Party), Shalva Natelashvili (Labour Party of Georgia), Giorgi Targamadze (Christian-Democratic Movement). Independent candidates: Nugzar Avaliani, Tamaz Bibiluri, Teimuraz Bobokhidze, Levan Chachua, Nino Chanishvili, Giorgi Chikhladze, Mamuka Chokhnelidze, Kartlos Gharibashvili, Nestan Kirtadze, Giorgi Liluashvili, Avtandil Margiani, Mamuka Melikishvili, and Mikheil Saluashvili.

three were registered with only one nominated by a political party.

Seven nominees withdrew and 24 nominees were refused registration, some for not fulfilling legal requirements.<sup>23</sup> Nine nominees filed complaints with the CEC. Four of these challenged their denial on the grounds that they had dual citizenship, which is an obstacle to holding the office of president.<sup>24</sup> The law does not clearly distinguish between the requirements of running for and holding the office of the president. All complaints were rejected by the CEC and the courts. The rejection of candidates with dual citizenship could be considered restrictive according to international good practice.<sup>25</sup>

*The criteria for active and passive suffrage rights should be clearly prescribed by law and the issue of dual citizenship as barrier for candidacy might be reconsidered in line with international good practice.*

## IX. ELECTION CAMPAIGN

During the election campaign, fundamental freedoms of expression, movement, and assembly were respected and candidates were able to campaign freely without restriction. According to OSCE/ODIHR EOM interlocutors, the campaign environment was seen through the prism of the 2012 parliamentary elections and was notably less polarized. The campaign gradually evolved from a direct confrontation between the Prime Minister and the President, which had overshadowed the political scene, to a competition among the main candidates. However, personality politics continued to dominate the public debate throughout the campaign, with the GD candidate and the Prime Minister calling for the end of the cohabitation with President Saakashvili. In an open letter released on 2 September, the Prime Minister indicated that after the GD candidate had won the election he would resign from office by 24 November by which point he would name his successor.

The campaign period officially began once the election was called on 4 July. There are no prohibitions on campaigning on election day, except in the media. While Nino Burjanadze (Democratic Movement – United Georgia (DM-UG)) and Giorgi Margvelashvili (GD-DG) opened campaign offices and organized meetings across the country shortly after the start of the campaign, the majority of candidates were slower to begin.<sup>26</sup> Some independent candidates claimed to the OSCE/ODIHR EOM that the late start to their campaign, in part, was the result of the late assignment of numbers on the ballot paper by the CEC. Davit Bakradze (UNM) only began campaigning after the party's primaries organized in July.

In spite of the large number of candidates, the campaign lacked dynamism. Only Mr. Margvelashvili, Mr. Bakradze, Ms. Burjanadze, and to a lesser extent Mr. Davitashvili (People's

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<sup>23</sup> Of these 24, 5 were rejected for holding dual citizenship, 12 for not submitting the list of supporters within the defined terms, 1 for submitting fewer support signatures than required, 3 for submitting incomplete documentation, 2 for not correcting inaccuracies on supporter lists, and 1 for termination of the Georgian citizenship. The rejected nominees with dual citizenship included Salome Zurabishvili, Tariel Khvedelidze, Merab Suliashvili, Giorgi Gakhokia and Zurab Tsitsushvili.

<sup>24</sup> As per Article 29.1<sup>1</sup> of the Constitution, which states that a citizen who at the same time is a citizen of a foreign country, shall not have the right to hold the position of the President.

<sup>25</sup> See paragraph 1.1.b of the Venice Commission Code of Good Practice in Electoral Matters: <http://www.venice.coe.int/webforms/documents/CDL-AD%282002%29023rev-e.aspx>.

<sup>26</sup> Mr. Margvelashvili was put forth by the GD coalition as its presidential candidate, although as coalitions were not permitted to nominate candidates, he was formally nominated by the party of the GD-DG.

Party), Mr. Natelashvili (Labour Party), and Mr. Targamadze (Christian-Democratic Movement) actively campaigned throughout the country.<sup>27</sup> Most candidates released their electoral programmes in the few weeks preceding election day. Two independent candidates announced their withdrawal just a few days before the election.<sup>28</sup>

Campaign methods included rallies, billboards and posters, flyers, small meetings with voters, press conferences and to a limited extent social media. Most candidates focused campaigning on door-to-door activities, highlighting the importance of personal meetings with voters. Due to limited resources and lack of access to public funding and free airtime, a few independent candidates used creative ways of promoting their respective candidacy, such as contests and participation in TV entertainment programmes.

Rallies observed by the OSCE/ODIHR EOM were generally orderly and peaceful. However, there were instances of strong language being used by Ms. Burjanadze and Mr. Natelashvili at a few meetings and in media interviews, who stated that any election result short of their victory would be the consequence of a rigged election, and that they would take whatever steps necessary to protect their votes.

The most prominent campaign message from the majority of candidates was to guarantee the respect of people's rights and protection from government abuse. Even though the president's authority to effect policy was reduced following the constitutional reform, candidates campaigned by promoting a range of policy issues including education, employment, and social welfare. Territorial integrity and relations with the Russian Federation featured prominently, and the "restoration of justice" was mentioned in several candidates' programmes, with calls for officials appointed by the previous government and its main local and national leaders to be brought to justice. The OSCE/ODIHR EOM noted that many interlocutors viewed the campaign as a run-up to the local election due in May 2014.

OSCE/ODIHR EOM observers noted that women generally represented between 25 and 50 per cent of attendees at public meetings. However, in their campaigns and platforms candidates did not bring up issues specifically affecting women and most of them referred to the traditional role of women in the Georgian family.

***Parties and candidates could consider how to integrate a gender perspective into their campaign strategies in order to better represent the interests of both male and female voters.***

Mr. Margvelashvili was actively supported by the GD members of parliament and members of the government, including the Prime Minister who was prominent in TV appearances during the campaign. Mr. Margvelashvili emphasized the achievements of the coalition government thus far and focused on those programmes that still need to be implemented. As a main point of the GD campaign, Mr. Margvelashvili also stressed the Prime Minister's past and future contribution to the economic and social development of the country, including his donation of one billion USD to a Georgian co-investment fund.

In contrast, Mr. Bakradze was perceived as distancing himself from senior UNM elected leadership; there were no joint appearances with President Saakashvili who was re-elected as the party

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<sup>27</sup> For the period of 1 July – 20 October, ISFED reported a total number of 819 public meetings organised by political parties and presidential candidates, with over 90 per cent of them having been in support of the candidates of GD, UNM and DM-UG.

<sup>28</sup> The candidates withdrew after the official withdrawal period and their names remained on the ballot.

chairperson in October, and only a few UNM members of parliament participated in Mr. Bakradze's public meetings. Whilst stressing UNM achievements and the necessity to maintain the course of Euro-Atlantic integration, Mr. Bakradze also acknowledged that mistakes had been made and referred to the need for more peaceful dialogue and reconciliation.

Ms. Burjanadze based her campaign on the disillusionment with her main competitors' parties. She positioned herself as the only candidate who could bring a full restoration of justice and normalization of relations with the Russian Federation.

While the misuse of administrative resources did not feature as a major issue during the campaign, citizen observers reported a few cases of campaigning by unauthorized people, misuse of state resources, and vote buying. Early in the campaign, the Prime Minister announced the government's intention to have an exemplary election.<sup>29</sup> In order to avoid any appearance of misuse of administrative resources, Mr. Margvelashvili resigned from his post as Minister of Education shortly after the Prime Minister's statement, even though the law did not oblige him to do so.<sup>30</sup>

The IAC, a body under the Ministry of Justice and composed of senior officials of the executive, which is mandated to consider complaints or allegations of violations by civil servants, was re-established on 8 August. At the request of opposition parties, the IAC issued recommendations to political parties to ensure that their members would refrain from disturbing rival candidates' meetings.<sup>31</sup> Despite the Prime Minister's address of 10 July and the IAC recommendations, a few instances of harassment and intimidation took place.<sup>32</sup>

On 17 October, in a bid that seemed designed to prompt voter mobilization, the Prime Minister made statements that directly challenged the electoral process when he stated publicly that he would advise the GD candidate to withdraw from the election and not to participate in a second round, if required.<sup>33</sup> He also stated publicly that he would be personally disappointed if Mr. Margvelashvili garnered less than 60 per cent of the vote. This statement was subsequently endorsed by the GD candidate, and led to some controversy as it was interpreted by other candidates as possibly encouraging election fraud.

## X. CAMPAIGN FINANCE

Party and campaign finance is regulated by the Law on Political Unions of Citizens, the Election Code, as well as the Law on State Audit. The legislation provides for public and private funding of political parties, reporting and disclosure requirements, establishes ceilings on donations and campaign expenditures, as well as sanctions for violations. The most recent amendments, enacted in August this year, addressed the major outstanding concerns of OSCE/ODIHR EOM interlocutors

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<sup>29</sup> See the Prime Minister's address from 10 July 2013:  
[http://www.government.gov.ge/index.php?lang\\_id=ENG&sec\\_id=270&info\\_id=37574](http://www.government.gov.ge/index.php?lang_id=ENG&sec_id=270&info_id=37574).

<sup>30</sup> Political public officials, including members of government, are not prohibited by law from campaigning.

<sup>31</sup> See IAC recommendations from 2 and 13 September:  
<http://www.justice.gov.ge/Page/index?code=b59e4e5a-6fd9-41f5-9756-9ff14e84cc9a>.

<sup>32</sup> These included incidents during the UNM primaries in Zugdidi, Batumi and Tbilisi; disruption of Mr. Bakradze's public meetings in Khoni in August, Zugdidi, Tetrtskaro and Telavi in September, and Tbilisi in October; physical assault against three UNM activists in Tbilisi and Mtskheta in October; alleged acts of pressure on local officials in Kapsi, media representatives in TV Maestro; and threatening letters to voters in Kutaisi in October.

<sup>33</sup> Mr. Ivanishvili had said previously that he believed that Mr. Margvelashvili would win the election in the first round; see the open letter of 2 September.

and were passed by parliament in a consultative manner. The amendments allowed corporate donations, reduced sanctions for violations of campaign finance rules, lowered the threshold for parties to receive state funding, and provided for the reimbursement of campaign expenditures for presidential candidates who pass a ten per cent threshold in the first round of the election. The legal framework could be effective in ensuring the integrity and transparency of campaign financing, if implemented properly.

Some legal provisions remain ambiguous and inconsistent. This includes a lack of clarity on the disclosure and reporting requirements; no concrete deadline for addressing violations within the electoral timeframe; lack of sufficient provisions regulating loans; and inconsistencies with regards to applicable sanctions for violations. Furthermore, a number of provisions in the Law on Political Unions of Citizens and the Election Code as well as the internal Political Financing Methodology of the State Audit Office (SAO) were not harmonized with the 2013 amendments.<sup>34</sup>

***Campaign finance legislation would benefit from further improvement in order to address the identified gaps in regulation and to further enhance transparency and accountability. To avoid discrepancies, the legal framework should be harmonized with the corresponding amendments.***

Any citizen or legal entity may donate up to GEL 60,000 and GEL 120,000, respectively, per year to one or more parties via bank transfers.<sup>35</sup> In-kind donations are also permitted and the legislation allows political parties to receive loans for the purpose of election campaigning of up to GEL one million. Whereas monetary and in-kind donations are well-regulated and subject to strict reporting requirements, the process of obtaining loans and subsequent reporting lack sufficient safeguards and regulation.<sup>36</sup>

***To ensure that the legislation is consistent, loans received by political parties for the purpose of election campaigning could be subject to the same restrictions and reporting requirements as donations.***

Although the ban on corporate donations was lifted in 2013, no donations from legal entities were received by any candidate. Some 169 donors contributed GEL 2,048,360 to the GD, 398 donors contributed GEL 2,332,798 to the DM-UG, and the UNM reported receiving GEL 403,793 from 91 donors. The Law on Political Unions of Citizens provides for various sanctions for illegal donations to a party. The donor or the party may be fined twice the value of the illegal donation for receiving or concealing it, whereas, fines for not reporting or concealing donations allowed by law, as well as for breach of reporting requirements are fixed at GEL 1,000 or 2,000.<sup>37</sup> Sanctions should be consistent and must bear a relationship to the type of violation and respect the principle of proportionality.<sup>38</sup>

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<sup>34</sup> Article 2 of the Election Code defines the term “donations” as “funds deposited by individuals”, whereas donations from both legal entities and individuals are allowed under the current legislation; Article 251 paragraph 1 of the Law on Political Unions of Citizens stipulates that the total amount of expenditures by the candidate may not exceed 0.1 per cent of Georgia’s gross domestic product (GDP) of the previous year, whereas paragraph 2 refers to 0.2 per cent of GDP as a basis of calculation. Also paragraphs 5, 17, 19, 21, 30, 41, 67 and 86 of the Political Financing Methodology are not in line with the 2013 amendments.

<sup>35</sup> Equal to approximately EUR 27,270 and EUR 54,550, respectively (2.2 GEL = 1 EUR).

<sup>36</sup> See paragraph 171 of the OSCE/ODIHR and Venice Commission Guidelines on Political Party Regulation, <http://www.osce.org/odihr/77812>.

<sup>37</sup> Additionally, donations may be confiscated and transferred to the state budget.

<sup>38</sup> See paragraph 216 of the Guidelines on Political Party Regulation.

***The law could be amended to provide for sanctions for illegal or non-disclosed campaign donations that are proportional and effective.***

The SAO is mandated to exercise campaign finance oversight and respond to violations of campaign finance regulations. As a result of the 2013 legislative amendments, the SAO can only impose sanctions for violation of campaign rules and request information on the origins of funds and property donated based on a court decision.

The SAO informed the OSCE/ODIHR EOM that it investigated 20 cases concerning 14 contestants during the election period. Fines of GEL 2,000 were imposed in two cases for failing to notify the SAO about cash withdrawals from the bank account. The remaining cases concerned a failure to submit declarations, concealing donations or expenditures, and the failure to inform the SAO about purchasing political advertisement. Although the SAO informed the OSCE/ODIHR EOM that it would react to campaign finance violations after election day in order to avoid it having an effect on the electoral process, no cases were filed with the courts at the time of this report.

The Law on Political Unions of Citizens does not provide clear deadlines by which violations of campaign finance regulations need to be addressed by the SAO. This has resulted in some concerns by the OSCE/ODIHR EOM interlocutors about the effectiveness of campaign finance oversight. The statute of limitations for violations of campaign finance requirements is six years.

The vast majority of parties and independent candidates submitted income and expenditure reports within the reporting deadline, although no action was taken by the SAO for those not submitting reports. Overall, the OSCE/ODIHR EOM considered the monitoring of campaign finance largely insufficient and formalistic. It examined a number of candidate declarations and found that in multiple cases there was no declared expenditure for printed materials although the candidate's respective campaign posters were visible throughout the country. Additionally, the OSCE/ODIHR EOM media monitoring results indicated that while several candidates purchased airtime on national TV, such expenditures were not declared to the SAO. A more proactive approach by the SAO could have improved the effectiveness of campaign finance oversight.

***To ensure effective oversight, it is recommended that the legal framework clearly define timeframes for addressing campaign finance violations. The scrutiny of campaign finance conducted by the SAO should be thorough, comprehensive and timely.***

The SAO is not required to publish these reports, although to ensure a greater level of transparency the SAO made the reports publicly available on its website.<sup>39</sup> Additionally, the law does not set the deadlines for the SAO to scrutinize the financial declarations of the contestants and does not oblige the SAO to publish its conclusions.<sup>40</sup>

***To further enhance transparency and accountability, it is recommended that the SAO be required to publish campaign finance reports submitted by election contestants, as well as the results and conclusions of its investigations in a timely manner.***

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<sup>39</sup> <http://sao.ge/monitoring-service-of-finance/declaration/the-2013-presidential-election>.

<sup>40</sup> Paragraph 200 of the Guidelines on Political Party Regulation recommends publication of financial reports in a timely manner.

## XI. MEDIA

### A. MEDIA ENVIRONMENT

The OSCE/ODIHR EOM interlocutors considered the media environment more open than during the 2012 parliamentary elections and journalists were noted as covering major political events in a more inclusive manner. National TV is the prime source of information for the overwhelming majority of voters. Three TV stations (*Rustavi 2*, *Imedi*, and *Maestro*) have a combined viewership of over 60 per cent. Print media outlets offer a wider spectrum of views; however, they have limited influence and are gradually being replaced by online media. While the improved media environment provided voters with a wide range of information and views through talk-shows, free airtime and debates, critical analysis and analytical reporting were still lacking.

### B. LEGAL FRAMEWORK

The Constitution guarantees freedom of speech and of the press and prohibits censorship. The Law on Broadcasting stipulates that both public and private broadcasters should ensure pluralistic and non-discriminatory coverage of all relevant views in their news programs. While the Election Code guarantees equal rights to all contestants, the law provides that only certain ‘qualified’ candidates are provided equal allocation of airtime and equal conditions for participation in debates and the use of free airtime. The Code of Conduct for Broadcasters also calls for “thorough and balanced coverage of campaign activities of qualified subjects”.

Only those candidates nominated by political parties that received either four per cent in the last parliamentary elections or three per cent in the last local elections were considered as ‘qualified’.<sup>41</sup> This distinction provided significant benefit to ‘qualified’ candidates and limited the ability of non-qualified candidates to campaign on the same level. The non-qualified candidates criticized this distinction as arbitrary in the context of the presidential election and held a press conference calling for equal conditions for media coverage and state funding for all candidates.

‘Qualified’ candidates were entitled to receive free airtime in the amount of 60 seconds per hour on public broadcasters and 90 seconds per three hours on all private broadcasters that broadcast news, political programs or paid political advertisements. The Georgian Public Broadcaster (*GPB*) allocated every non-qualified candidate 15 seconds of free airtime per day outside primetime hours.

***In context of presidential elections, the existing legal framework for the allocation of free airtime to ‘qualified’ candidates and the legal definition of ‘qualified subjects’ should be reviewed in order to provide contestants, in particular independent candidates, free airtime in a more inclusive manner. In addition, to provide all candidates with an opportunity to convey their messages freely, and to create a more level-playing field, consideration could be given to establishing a minimum length of airtime allotted to non-qualified candidates.***

The Election Code also allows, but does not oblige, broadcasters to consider as ‘qualified’ those candidates nominated by a political party that received more than four per cent in an opinion poll held no later than a month before the election or in five opinion polls held in the same year as the election. Based on the results of opinion polls, the *GPB* treated Ms. Burjanadze as a qualified

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<sup>41</sup> This included Giorgi Margvelashvili (GD-DG), Davit Bakradze (UNM), Koba Davitashvili (People’s Party), Sergo Javakhidze (Movement “For Fair Georgia”), Giorgi Targamadze (Christian-Democratic Movement), Zurab Kharatishvili (European Democrats), and Teimuraz Mzhavia (Christian-Democratic People’s Party).

candidate as of 10 October, and TV *Adjara* as of 18 October. By contrast, private broadcasters chose not to allocate free airtime to her.

***Provisions that entitle, but do not oblige broadcasters to consider candidates as ‘qualified’ based on the results of opinion polls should be reviewed and clarified in order to avoid any undue refusals and inconsistencies in implementation.***

In addition to free airtime, the UNM was entitled to GEL 600,000 and GD-DG to GEL 100,000 of state funding for advertising on private TV stations.<sup>42</sup> While this funding was not used, the existence of such provisions in the legal framework further limited the level playing field for candidates.

***Consideration could be given to reviewing the utility of provisions in the Law on Political Unions of Citizens that allocate funds only to certain eligible party-nominated candidates for the purposes of paid political advertisements in a presidential election.***

Amendments to the Law on Broadcasting reduced the number of members on the *GPB*'s Board of Trustees from 15 to 9 and transferred the authority to select candidates for the board from the president to the parliament and the public defender as of 1 January 2014. New board members could not be appointed until then, even though the term of several board members expired on 1 September, and two other members resigned shortly thereafter leaving the board without a quorum.<sup>43</sup> The absence of a quorum on the *GPB*'s Board of Trustees prevented it from electing a new General Director and adopting the 2013 budget, which resulted in a financial crisis and limited the broadcaster's ability to cover the campaign. As a result of the internal conflict at the *GPB*, a number of prominent journalists were dismissed and several popular talk-shows were cancelled.

The Georgian National Communications Commission (GNCC), the key regulatory body for the broadcast media, regulates and supervises media conduct during the campaign, and conducts media monitoring. The GNCC had 48 hours to react to identified violations and complaints, and could levy fines in cases of violations of political advertising regulations. However, the GNCC was not entitled to react to biased or partial coverage by the media in news or talk-shows. Such cases should have been reviewed by self-regulatory bodies of respective broadcasters.

The GNCC took a passive approach in overseeing the media during the election campaign, which limited transparency and effectiveness. The GNCC started its media monitoring on 7 September, over two months after the official start of the campaign period. It did not present any monitoring results before the election and published five interim reports only on 28 November. This raises concerns over the GNCC's ability to identify potential violations and give media the opportunity to correct any identified imbalances within defined deadlines. Late publication of findings also does not provide the public with information on the impartiality of media coverage throughout the campaign. According to the GNCC, it did not officially receive any election-related complaints, although it was informed of one minor violation related to the airing of political advertisements.

***The role of the GNCC in the electoral process should be reviewed, including establishing reasonable legal deadlines for publishing its election-related monitoring reports to allow for***

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<sup>42</sup> According to the Law on Political Unions of Citizens, extra funding for TV advertisements is awarded to parties that qualify for general state funding and have nominated a candidate for president. The UNM and GD-DG were the only parties that meet these criteria.

<sup>43</sup> Several GPB board members complained about pressure from the GD suggesting that they resign.

*timely resolution of media violations. In order for the GNCC to be active and effective during the campaign, consideration could be given to grant it legal authority to impose sanctions for violations of equal access and fair treatment by the media based on its media monitoring results.*



### C. MEDIA MONITORING RESULTS

The OSCE/ODIHR EOM media monitoring showed that all media outlets provided voters with a wide range of views and information through talk-shows, newscasts, and free airtime and served as a platform for the contestants to present their programs and opinions freely.<sup>44</sup> Despite provisions in the legal framework that guaranteed equal access only candidates who qualified for free airtime, the main media outlets covered all major contestants in an inclusive manner. However, candidates nominated by the parties enjoyed an advantage over independent candidates as media outlets focused more on the activities of the main political parties, rather than on the candidates' campaigns.

In addition, all major public and private national TV stations broadcast live three meetings of the Prime Minister with political experts and journalists lasting over 11 hours in total. During these meetings and two lengthy interviews on *GPB-1* and *Imedi*, the Prime Minister criticized the work of experts and journalists in covering the government and the election, and openly campaigned for Mr. Margvelashvili, effectively providing him with additional airtime.

Only the *GPB-1* provided the more prominent qualified candidates with equitable coverage in the newscasts. Mr. Bakradze, Ms. Burjanadze, Mr. Margvelashvili and Mr. Targamadze each received similar proportions (from 12 to 15 per cent) of election-related coverage. The other qualified candidates, Mr. Davitashvili, Mr. Kharatishvili, Mr. Mzhavia, and the non-qualified candidates, Mr. Natelashvili and Ms. Kirtadze, each received from six to eight per cent. The tone of *GPB-1*'s coverage was mainly positive and neutral.

All private broadcasters monitored by OSCE/ODIHR EOM focused on the activities of Mr. Margvelashvili and Mr. Bakradze. Among the private broadcasters, *Rustavi 2* was the most active in covering the campaign. It devoted 28 per cent of coverage in its newscasts to Mr. Bakradze, while Mr. Margvelashvili received 24 per cent of such coverage. TV *Imedi* provided more limited coverage of the campaign. While TV *Imedi* devoted almost twice as much coverage to Mr. Bakradze, as compared to Mr. Margvelashvili, 32 and 17 per cent respectively, the vast majority of Mr. Bakradze's coverage was live coverage of the UNM party congress on 5 October. The tone of the coverage was mainly positive and neutral on both broadcasters.

TV *Maestro* covered major contestants in a more neutral manner and devoted an equitable amount of news coverage to Mr. Bakradze (27 per cent) and Mr. Margvelashvili (26 per cent). TV *Kavkasia* clearly favored Mr. Margvelashvili with 29 per cent of mainly positive and neutral coverage, while Mr. Bakradze received 20 per cent of such coverage, mainly neutral in tone. All private broadcasters also provided Ms. Burjanadze between 14 and 15 per cent of mainly neutral coverage, while Mr. Targamadze received between 11 and 12 per cent of mainly neutral coverage.

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<sup>44</sup> The OSCE/ODIHR EOM media monitoring covered five weeks of the campaign – from 23 September till 26 October. The monitoring was focused on the primetime coverage (18:00 -24:00) of six TV stations: *GPB-1*, *TV Adjara*, *Rustavi-2*, *Imedi*, *Maestro*, and *Kavkasia*.

Batumi-based *TV Adjara* focused more on regional issues, providing limited coverage of the campaign activities. When *TV Adjara* did cover the campaign, it favored Mr. Margvelashvili, who received 14 per cent of mostly positive coverage. None of the other candidates received more than eight per cent of similar amounts of coverage. For example, Mr. Bakradze, Mr. Davitashvili and Mr. Natelashvili each received six per cent, Ms. Burjanadze seven per cent, and Mr. Targamadze eight per cent. In its newscasts, *TV Adjara* included profiles of all candidates and presented their background and main election messages.

The *GPB-1* organized two debates among different groups of ‘qualified’ candidates on 17 and 18 October. Ms. Burjanadze chose not to participate in the debates because she was not included in the first grouping, which included Mr. Margvelashvili and Mr. Bakradze.

Only Ms. Burjanadze actively purchased airtime on private national TV, while Mr. Margvelashvili, Mr. Bakradze, Mr. Chikhladze and Ms. Kirtadze purchased a limited number of advertisements.

## **XII. COMPLAINTS AND APPEALS**

The Election Code establishes an expeditious dispute resolution process for complaints and appeals against election commission decisions with one to three calendar days allotted for appeals and decisions. Appeals are made to the Court of Appeals and its decisions are final. Representatives of parties, election blocs and registered observers have the right to file complaints in all cases. However, in certain cases, the law is not consistent in mentioning representatives of voters’ initiative groups (independent candidates) among those who can file a complaint.<sup>45</sup> In addition, voters only have the right to file complaints on their non-inclusion on a voter list.<sup>46</sup> The law does not explicitly stipulate that a voter has the right to file a complaint either with an election commission or with a court when their electoral rights have been violated, which is not in line with international good practice. The CEC informed the OSCE/ODIHR EOM that even though a voter does not have the right to file a complaint, a representative of an election subject or an observer may do so on behalf of the voter.

*The law should be amended to prescribe that all election contestants have the right to file complaints on all election-related issues. In addition, citizens should be permitted to file complaints in all cases of possible violation of their suffrage rights, including against decisions and actions of election commissions.*

In addition, election commissions and local authorities may submit protocols of administrative offences to a city or district court requesting administrative sanctions based on complaints other than against decisions of lower-level election commissions. The deadline for review of such complaints by the competent election commission or local authority is one month and the deadline for the court to decide is fifteen days.<sup>47</sup> Even though these time limits might not always ensure the adjudication of disputes within the election period, the CEC and the courts decided almost all such complaints before election day.<sup>48</sup>

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<sup>45</sup> While Article 78 of the Election Code stipulates who has the right to file complaints on various types of issues it is inconsistent in granting such rights to representative of voters’ initiative group (independent candidates).

<sup>46</sup> See paragraph 92 of the Code of Good Practice in Electoral Matters.

<sup>47</sup> See Article 183 of the General Administrative Code and Article 262.1 of the Administrative Offences Code.

<sup>48</sup> See paragraph 95 of the Code of Good Practice in Electoral Matters.

Before election day, 34 complaints were filed with DEC, mostly on the appointment of key PEC positions; the majority were rejected. In addition, some 60 complaints were filed to the CEC, most of which concerned defacing of posters and prohibited campaigning by public officials.<sup>49</sup> According to the law, the local authorities and the DEC, respectively, are the competent bodies to review such complaints and send them to the courts when appropriate.<sup>50</sup> Nevertheless, the CEC reviewed all complaints that were submitted to it in open and interactive sessions where complainants had the opportunity to present their facts and arguments, with the CEC addressing complaints even when they were not within its jurisdiction. The CEC rejected most and forwarded six cases to local authorities.<sup>51</sup> Four complaints were forwarded to DEC with a request to send them to the courts, which were subsequently reviewed and rejected by the respective courts.<sup>52</sup>

***The existing framework for the adjudication of complaints and the jurisdiction of the bodies involved should be respected by all the participants of the election process, including the election commissions and election contestants.***

The IAC dealt with over 80 cases brought to its attention either by letter or orally at its ten sessions and published two reports.<sup>53</sup> The majority of cases concerned allegations of prohibited campaigning by public officials, defacing of posters, and harassment of party activists.<sup>54</sup> The IAC issued 16 recommendations to various stakeholders, including recommending that state and local government bodies should issue explanatory notes to public servants on what they are permitted to do during the election period and that they refrain from dismissal of government personnel.<sup>55</sup>

Although the IAC proved a useful forum for various stakeholders to discuss election-related issues, the practice of the IAC to discuss all submitted complaints even those outside its jurisdiction discouraged the filing of complaints with election commissions and courts that had the authority to impose sanctions. This did not ensure an effective adjudication of disputes in line with international commitments and good practice.<sup>56</sup>

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<sup>49</sup> Complaints to the CEC included 13 complaints on prohibited campaigning by several public officials, including by police officers in 3 cases; 23 complaints on defacement of campaign posters; 6 on vote buying; 9 by presidential nominees who were refused registration.

<sup>50</sup> Article 93 of the Election Code and Article 234<sup>(1)</sup> of the Code of Administrative Offences prescribe which competent bodies are responsible for drafting the protocols of administrative offences; these are the relevant local government bodies on defacement of posters and, on other violations, the relevant election commissions at the place of the administrative offence.

<sup>51</sup> The six UNM complaints that were sent to local authorities for issuing administrative protocols related to: a GD flag on the building of the DEC in Gurjaani; posters of Margvelashvili on light posts in Rustavi; defacing Mr. Bakradze's posters in Gurjaani; in Chokhatauri; in Mtskheta; in Dmanisi. None of the local authorities sent the cases to the courts.

<sup>52</sup> These included: police officers attending a GD campaign event in Zugdidi; the head of the territorial Department of Education attending a GD campaign event in Sighnaghi; the GD candidate campaigning at a municipal festival in Lentekhi; and an NGO distributing wheelchairs in Ozurgeti.

<sup>53</sup> According to the Election Code, the IAC is mandated to prevent and respond to violations of the election legislation of Georgia by public servants' and to issue recommendations to any public servant, administrative body and the CEC, requesting to take appropriate measures.

<sup>54</sup> The law does not stipulate timeframes or procedures regulating its work. The IAC cannot adjudicate individual disputes nor impose sanctions. It is not obligated to review all the cases or to issue written responses but it publicized minutes of the sessions on its website.

<sup>55</sup> The IAC issued recommendations to the President, parliament, ministries and other state agencies, local authorities, CEC, courts the prosecutor's office and political parties. See:

<http://www.justice.gov.ge/Page/index?code=b59e4e5a-6fd9-41f5-9756-9ff14e84cc9a>.

<sup>56</sup> See Article 2.3.c of the ICCPR and paragraphs 92-100 of the Code of Good Practice in Electoral Matters.

*Administrative bodies that do not have jurisdiction over complaints filed with them should immediately forward them to the competent authority. Stakeholders should file complaints to the competent bodies in order to ensure effective, impartial and timely adjudication.*

Among its activities, the IAC recommended to the prosecutor to refrain from investigating party activists during the campaign period. Although well-intentioned, this recommendation could lead to election related offences not being investigated in a timely manner. The prosecutor investigated 17 election-related cases, mostly during the last two weeks before election day and 2 cases were sent to the courts.<sup>57</sup> However, there is no legal deadline for the prosecutor to complete an investigation, which does not ensure legal redress within the election timeframe.

*It is recommended that deadlines be stipulated in the Code of Criminal Proceedings for the investigation and prosecution of electoral offences, within the election timeframe.*

### **XIII. PARTICIPATION OF NATIONAL MINORITIES**

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

For this election, the CEC established a special working group on ethnic minority issues, organized meetings with national minority representatives, and visited minority regions. The CEC provided grants to support civic integration and increase national minority participation in the election process. It also carried out trainings, awareness-raising, and voter education projects in co-operation with several minority NGOs in minority languages and areas.

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

### **XIV. CITIZEN AND INTERNATIONAL OBSERVERS**

The Election Code provides for observation by citizen and international observers. The CEC registered 60 citizen and 65 international organizations to observe this election. Overall, the CEC accredited 19,746 citizen and 1,241 international observers. Observers could observe all aspects of the electoral process and civil society and citizen observer organizations, including ISFED, GYLA, and TI Georgia undertook a number of activities to support the electoral process and monitor the election. This included observation of the pre-electoral process, monitoring the work of DEC's, and of the media, voter list verification, parallel vote tabulation, establishment of telephone hotlines and information websites, as well as deployment of observers on election day. The involvement of a

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<sup>57</sup> Among those investigated included: five cases of physical abuse; two cases of defacing campaign banners; two cases of broken campaign office windows; and one case of hindering the work of a DEC.

large number of citizen observers and groups throughout the electoral process enhanced the transparency overall.

In addition, over 47,000 representatives of parties and candidates were registered before election day.

## **XV. ELECTION DAY**

Election day took place in an amicable and constructive environment. International observers assessed all stages of the election day process positively overall, although some procedural irregularities were noted throughout the day.

On election day, international observers observed the opening of 158 polling stations, voting in 1,489 polling stations (observers visited a total of 1,654 polling stations, visiting some of them more than once), and the vote count in 134 polling stations. The tabulation of results was observed in all 73 DECes.

The CEC started announcing preliminary results on election night and posted them on its website broken down by district and precinct; this was a positive measure to further increase transparency. The preliminary voter turnout was reported at 46.6 per cent.

In general, the OSCE/ODIHR EOM noted a significant presence of party and candidate representatives and civil society observers in all polling stations visited. Their efforts contributed to improving transparency and increasing citizen involvement in the process.

### **A. OPENING AND VOTING**

International observers positively assessed opening procedures in 147 of 158 PECs observed. However, delays in opening were observed in 43 polling stations, which did not affect voting; five polling stations observed opened with delays of more than 15 minutes. Candidate and party representatives were present in 149 polling stations and citizen observers in 119 polling stations observed for opening. However, both candidate and party representatives and citizens observers were observed (7 cases each) directing or interfering in the work of the PECs. Minor procedural problems observed during the opening included not announcing and entering the number of voters in the display protocol (20 cases) and not entering the number of ballots in the draft protocol and logbook (23 cases).

Voting was generally well organized with most polling officials professionally conducting their work during the day. In a positive overall assessment of voting, international observers evaluated the process as good or very good in 97 per cent of observations. Observers were not obstructed and could clearly follow procedures in 99 per cent of polling stations observed. Citizen observers and party representatives were present in the majority polling stations observed (75 and 99 per cent, respectively).

However, the voting process was assessed less positively in polling stations with overcrowding (six per cent) due mostly to the high number of citizen observers and candidate and party representatives present, often with multiple representatives from the same candidate or party in the polling station at the same time. In three per cent of polling stations observed, these people were noted as directing or interfering in the work of PECs.

Additionally, it was of concern that in some cases, citizen observers were noted as identifying themselves as partisan representatives of candidates and not as non-partisan observers, which raises questions of compliance with accreditation requirements. Overall, the number of observers present and the lack of oversight by PEC chairpersons over the observers contributed to a perception of chaos in a number of polling stations observed.

***It is recommended that all party/candidate representatives and citizen observer organizations respect a clear separation of partisan and non-partisan observation and comply with the legal provisions and accreditations procedures.***

In most polling stations observed, procedures were followed, with minor issues related to inking. Voters were not always checked for ink (five per cent) and voters' fingers were not marked with ink (four per cent). In 13 per cent of polling stations observed, the display protocol was not filled in properly and the number of voters not recorded as required by law. The performance of PECs, their understanding of voting procedures, as well as the transparency of the process were assessed positively in 94, 95, and 97 per cent of observations, respectively. Women served as chairpersons in 56 per cent of PECs observed.

Some election day procedures regulating opening, polling and counting were noted by OSCE/ODIHR EOM observers as complicating the process without having any substantive contribution to its transparency.<sup>58</sup> In addition, the use of mobile phones inside the polling stations by party and candidate representatives and observers was reported as disturbing the process.

***It is recommended to consider revising and simplifying election day procedures with the aim of removing any steps that may not add substantively to the transparency and integrity of the process.***

Instances of group/family voting were noted in four per cent of observations, including rural areas with five per cent and urban areas with two per cent of observed polling stations. Group/family voting was more often observed in polling stations in the east (six per cent) of the country, as compared to the centre (four per cent), west (four per cent) and Tbilisi city (two per cent).

## **B. COUNTING**

Most polling stations observed closed on time, with only eight having closed late, all within a 15-minute time period. Counting was assessed positively in 120 of 134 polling stations observed. International observers had a clear view of the counting process in 129 polling stations observed. Counting was assessed as transparent in 128 of 136 observations; however, some PECs were noted as having difficulties in understanding all counting procedures. Prior to opening of ballot boxes, unused ballots were not cancelled properly in 19 cases observed and voter lists and ballot papers were not packed in separate envelopes in 17 cases. In 13 cases observed, the PECs did not announce the choice on every ballot aloud, which is a key measure of transparency, and did not cross-check data after counting in 18 cases observed. In 21 polling stations, PECs were noted as having some difficulties in completing the results protocols, and in 32 cases they were not publicly posted, as required by law.

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<sup>58</sup> See paragraphs 31 and 32 of the Code of Good Practice in Electoral Matters: "The voting procedures must be kept simple. Compliance is therefore recommended with the criteria set out."

During the counting process, party and candidate representatives were present in 99 per cent and citizen observers in 74 per cent of observed polling stations.

### **C. TABULATION**

The tabulation process was assessed as good or very good in 78 of 83 observations from 73 DEC; five observations at DEC were assessed bad or very bad. International observers were generally able to follow the tabulation process without restrictions. The facilities for receiving election materials were assessed as inadequate in 16 cases, and in another 16 cases the high number of people present at the DEC negatively affected the process. While DEC were co-operative towards international observers, in nine cases, observers did not have a clear view of the procedures. Candidate, party, and citizen observers were present in all the DEC observed.

In general, election material was properly received at the DEC. Limited cases of observed irregularities included seals not intact (nine cases), incorrect and incomplete protocols (ten cases) and figures in the PEC results protocols not reconciling (nine cases).

## **XVI. POST-ELECTION DAY DEVELOPMENTS**

### **A. ELECTION DAY COMPLAINTS AND APPEALS**

On and after election day, 320 complaints were filed with DEC. The majority of complaints were filed by NGOs concerning PEC result protocols not being filled-in, signed or stamped properly. In most cases, complainants requested that disciplinary sanctions be imposed on PEC members. Approximately 100 complaints were granted and as a consequence warnings were issued to PEC members and in some cases 30 per cent of their salary was retained. Some 30 complaints were filed requesting the annulment of PEC results protocols; all but one were rejected where the PEC results were annulled.<sup>59</sup> In addition, three complaints were filed with the courts, including one, which was granted resulting in the annulment of the summary protocol of results of three PECs.<sup>60</sup>

Election day complaints procedures were enhanced with additional safeguards described in CEC manuals and handbooks. Moreover, a CEC template for filing complaints on election day was provided to the PECs. The CEC also established a hotline for complainants to call in case their complaints were denied registration by a PEC or DEC.

### **B. ANNOUNCEMENT OF RESULTS**

On 12 November, the CEC summarized and released the final election results (see Annex). Due to the fact that all election disputes were resolved and that no challenges were brought concerning DEC summary protocols, the CEC was able to summarize the election results four days before the legal deadline.

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<sup>59</sup> The OSCE/ODIHR EOM was informed that the results of PEC 80 of DEC 2 were annulled because the ballot box was not sealed and no recount was ordered.

<sup>60</sup> Of these three complaints - one was filed by nGnI on behalf of a voter who was turned away because there was already a signature next to his name on the VL; one was filed by GYLA against three ordinances by DEC 12; and one was filed by 'Multinational Georgia' against ordinances of DEC 22 rejecting complaints that requested the annulment of PEC summary protocols that were not filled-in and signed properly.

Mr. Bakradze recognized the election results shortly after exit polls were announced on election night, while Ms. Burjanadze waited for the preliminary results to be posted before recognizing the results. According to the final results, Giorgi Margvelashvili was elected and was sworn in on 17 November.

## **XVII. RECOMMENDATIONS**

These recommendations as contained throughout the text are offered with a view to enhance the conduct of elections in Georgia and bring them fully in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with past OSCE/ODIHR recommendations that remain to be addressed. OSCE/ODIHR stands ready to assist the authorities of Georgia to further improve the electoral process and in following up on recommendations contained in this and previous reports.

### **A. PRIORITY RECOMMENDATIONS**

1. In context of presidential elections, the existing legal framework for the allocation of free airtime to ‘qualified’ candidates and the legal definition of ‘qualified subjects’ should be reviewed in order to provide contestants, in particular independent candidates, free airtime in a more inclusive manner. In addition, to provide all candidates with an opportunity to convey their messages freely, and to create a more level-playing field, consideration could be given to establishing a minimum length of airtime allotted to non-qualified candidates.
2. The law should be amended to prescribe that all election contestants have the right to file complaints on all election-related issues. In addition, citizens should be permitted to file complaints in all cases of possible violation of their suffrage rights, including against decisions and actions of election commissions.
3. The existing residency requirements for presidential candidates appear overly restrictive and should be reconsidered or reduced.
4. It is recommended that all party/candidate representatives and citizen observer organizations respect a clear separation of partisan and non-partisan observation and comply with the legal provisions and accreditations procedures.
5. It is recommended to consider revising and simplifying election day procedures with the aim of removing any steps that may not add substantively to the transparency and integrity of the process.

### **B. OTHER RECOMMENDATIONS**

#### **Legal Framework**

6. The law should be amended to include provisions related to the withdrawal of a candidature in the event that a second round is required.
7. It is recommended to clarify provisions related to whether passive attendance of a campaign event is a form of campaigning for public officials and whether police officers have the right to attend campaign events and under what conditions.

## **Voter Registration**

8. It is recommended that any changes made to the voter register that may potentially lead to voter disenfranchisement should be made early enough to give the necessary time to the relevant institutions to conduct an information campaign and voter re-registration.

## **Candidate Registration**

9. The criteria for active and passive suffrage rights should be clearly prescribed by law and the issue of dual citizenship as barrier for candidacy might be reconsidered in line with international good practice.

## **Election Campaign**

10. Parties and candidates could consider how to integrate a gender perspective into their campaign strategies in order to better represent the interests of both male and female voters.

## **Campaign Finance**

11. Campaign finance legislation would benefit from further improvement in order to address the identified gaps in regulation and to further enhance transparency and accountability. To avoid discrepancies, the legal framework should be harmonized with the corresponding amendments.
12. To ensure that the legislation is consistent, loans received by political parties for the purpose of election campaigning could be subject to the same restrictions and reporting requirements as donations.
13. The law could be amended to provide for sanctions for illegal or non-disclosed campaign donations that are proportional and effective.
14. To ensure effective oversight, it is recommended that the legal framework clearly define timeframes for addressing campaign finance violations. The scrutiny of campaign finance conducted by the SAO should be thorough, comprehensive and timely.
15. To further enhance transparency and accountability, it is recommended that the SAO be required to publish campaign finance reports submitted by election contestants, as well as the results and conclusions of its investigations in a timely manner.

## **Media**

16. Provisions that entitle, but do not oblige broadcasters to consider candidates as 'qualified' based on the results of opinion polls should be reviewed and clarified in order to avoid any undue refusals and inconsistencies in implementation.
17. Consideration could be given to reviewing the utility of provisions in the Law on Political Unions of Citizens that allocate funds only to certain eligible party-nominated candidates for the purposes of paid political advertisements in a presidential election.
18. The role of the GNCC in the electoral process should be reviewed, including establishing

reasonable legal deadlines for publishing its election-related monitoring reports to allow for timely resolution of media violations. In order for the GNCC to be active and effective during the campaign, consideration could be given to grant it legal authority to impose sanctions for violations of equal access and fair treatment by the media based on its media monitoring results.

### **Complaints and Appeals**

19. The existing framework for the adjudication of complaints and the jurisdiction of the bodies involved should be respected by all the participants of the election process, including the election commissions and election contestants.
20. Administrative bodies that do not have jurisdiction over complaints filed with them should immediately forward them to the competent authority. Stakeholders should file complaints to the competent bodies in order to ensure effective, impartial and timely adjudication.
21. It is recommended that deadlines be stipulated in the Code of Criminal Proceedings for the investigation and prosecution of electoral offences, within the election timeframe.

**ANNEX: FINAL RESULTS**

<i>Summary Figures</i>	
Total number of voters	3,537,719
Number of voters who voted	1,660,976
Invalid ballots	30,101

<b>No. on Ballot</b>	<b>Name</b>	<b>Number of Votes</b>	<b>Percentage</b>
1	Tamaz Bibiluri	687	0.04
2	Giorgi Liluashvili	1,909	0.12
3	Sergo Javakhidze	2,107	0.13
4	Koba Davitashvili	9,838	0.6
5	Davit Bakradze	354,103	21.72
6	Akaki Asatiani	1,559	0.1
7	Nino Chanishvili	2,276	0.14
8	Teimuraz Bobokhidze	356	0.02
9	Shalva Natelashvili	46,984	2.88
10	Giorgi Targamadze	17,354	1.06
11	Levan Chachua	3,093	0.19
12	Nestan Kirtadze	762	0.05
13	Giorgi Chikhladze	820	0.05
14	Nino Burjanadze	166,061	10.19
15	Zurab Kharatishvili	3,718	0.23
16	Mikheil Saluashvili	1,376	0.08
17	Kartlos Gharibashvili	530	0.03
18	Mamuka Chokhnelidze	315	0.02
19	Avtandil Margiani	627	0.04
20	Nugzar Avaliani	664	0.04
21	Mamuka Melikishvili	995	0.06
22	Teimuraz Mzhavia	1,285	0.08
41	Giorgi Margvelashvili	1,012,569	62.12

As announced by the CEC on 12.11.2013, [www.cec.gov.ge/uploads/other/26/26478.pdf](http://www.cec.gov.ge/uploads/other/26/26478.pdf).

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).