



**Office for Democratic Institutions and Human Rights**

**GEORGIA**

**PARLIAMENTARY ELECTIONS**

**2 November 2003**

**OSCE/ODIHR Election Observation Mission Report, Part 1**



**Warsaw  
28 January 2004**

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**GEORGIA**  
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**OSCE/ODIHR Election Observation Mission Report<sup>1</sup>, Part 1<sup>2</sup>**

**I. EXECUTIVE SUMMARY**

The 2 November Parliamentary elections in Georgia fell short of a number of OSCE commitments and other international standards for democratic elections. The elections demonstrated that the authorities lacked political will to conduct a genuine democratic process. This resulted in widespread and systematic election fraud during and after election day, most obviously in Adjara and Kvemo Kartli regions.

Prior to the elections, the Georgian authorities attempted to address the recurrent problem of voter lists. However, they did not make genuine efforts to compile accurate and reliable voter lists. Deficient voter registration may have led, *inter alia*, to the *de facto* disenfranchisement of potentially significant numbers of voters and to double registration. This challenged the guarantee of universal and equal suffrage and lessened voters' confidence in the State administration.

While the participation of a wide variety of parties provided voters with a genuine choice, the authorities did not ensure fair campaign conditions for all contestants. Notably, the pro-Presidential bloc - For New Georgia (FNG) - failed to distinguish between party and State structures during its campaign, thus abusing administrative resources to its benefit. In addition, State local officials, in particular district level governors (*Rajon Gamgebelis*), displayed political bias, and many lent support to the FNG. The pre-election period was marred by two acts of serious violence and intimidation of voters. The political environment in Adjara dissuaded political parties from campaigning there.

With the exception of freely allocated airtime, State media failed to provide politically balanced reporting on the election contestants. TV Adjara provided wholly biased coverage, giving exaggerated and dutiful coverage to The Union of Democratic Revival (Revival). After the election, the channel went beyond acceptable limits in comparing Mikheil Saakashvili to Adolf Hitler.

The composition of election commissions at all levels gave a distinct advantage to pro-presidential parties. Initially, the newly composed Central Election Commission (CEC) operated more transparently than its predecessor. It faced serious time constraints due to its late establishment. Persistent delays contributed to a climate of uncertainty and mistrust. As

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<sup>1</sup> This report is also available in Georgian. However, the English version remains the only official document.

<sup>2</sup> The OSCE/ODIHR Election observation Mission Report, Part 1, is released before the completion of the parliamentary election process, which started on 2 November 2003. This formal departure from the OSCE/ODIHR standard practice provides a useful opportunity to offer recommendations, some of which could be addressed in advance of the repeat parliamentary elections (proportional component) scheduled for 28 March 2004. This report should also be read in conjunction with the Statement of Preliminary Findings and Conclusions on the Extraordinary Presidential Election held on 4 January, 2004.

the election process started to unfold, important shortcomings became increasingly apparent. Many commission members placed narrow party interests above their legal obligations with the CEC, tolerating serious violations and accepting implausible election results without question.

Polling was disorganized, slow and marred by serious irregularities. These included ballot stuffing, multiple voting and destruction of ballot boxes. The secrecy of the vote was not adequately respected. Some domestic election observers reported instances of obstruction, intimidation, and in one case arrest and detention.

After the close of polls many Precinct Election Commissions (PECs) ignored correct counting procedures. During the tabulation of results some PECs and District Election Commissions (DECs) disregarded the voters' choices and were directly involved in producing dishonest election results – mostly, but not exclusively, benefiting the FNG bloc and Revival.

Notwithstanding the serious shortcomings detailed in this report, certain aspects of the election process demonstrated Georgia's potential to hold democratic elections. These comprised:

- The Unified Election Code (UEC) represented an improved legal framework;
- The candidate registration process was mainly fair and efficient;
- The rights to free speech, free association, and peaceful assembly were generally respected;
- Taken as a whole the media ensured a reasonably well-informed electorate;
- Civil society, and in particular the Georgian election observers, played a crucial role in enhancing transparency; and
- The judiciary, prior to the election, generally provided effective remedy to aggrieved parties and in a few cases made courageous and justified judgments.

The scale of the fraud affected the election results, provoking mass demonstrations that culminated in the resignation of President Shevardnadze and the annulment of results for the proportional election contest by the Supreme Court. Regrettably, the results of the majoritarian elections, many of which were equally questionable, were not annulled. Following these events, Nino Burjanadze, the then Speaker of Parliament, became Interim President. As required by the Constitution, she called an extraordinary presidential election which was held on 4 January 2004. The partial cancellation of the election results meant that 58 elected Members of Parliament did not take their seats and the Parliament elected in November 1999 was reconvened. As a further consequence, four re-runs and 11 second round majoritarian elections were held on 4 January. The date for the re-run of the proportional contest was set for 28 March 2004.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

In accordance with its commitments as an OSCE State, Georgia invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 2 November parliamentary elections. In response to a strong interest of the international community, the OSCE/ODIHR deployed a reinforced and enlarged Election Observation Mission (EOM) that was formally established on 2 September 2003. It was headed by Julian Peel Yates (United

Kingdom) and consisted of 34 election experts and long-term observers (LTOs) from 16 OSCE participating States, based in Tbilisi and the regions. However, observers were not deployed in Abkhazia and parts of South Ossetia where elections were not conducted.

On election day, the OSCE/ODIHR EOM was joined by representatives of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) to form the International Election Observation Mission (IEOM). Mr. Bruce George (UK), President of the OSCE PA, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and led the OSCE short-term observers. Mr. Tom Cox (UK) led the PACE delegation, and Mr. Demetrio Volcic (Italy) led the EP delegation. Some 389 short-term observers (STOs) were deployed from 43 OSCE participating States, including 21 Parliamentarians from the OSCE PA, 21 from the PACE, and 3 from the EP. The IEOM observed voting and counting in 1,557 of the 2,893 polling stations across Georgia, the tabulation of election results in 42 of the 75 District Election Commissions (DECs), and numerous CEC and DEC sessions.

The EOM wishes to thank the OSCE Mission to Georgia as well as international organizations and embassies accredited in Tbilisi for their support during the course of the election observation. In addition, the ODIHR expresses its appreciation to the Ministry of Foreign Affairs and other national and local authorities for their assistance and co-operation.

### **III. BACKGROUND**

Immediately prior to and after regaining independence (9 April 1991), Georgia went through a period of political instability marked by violent secessionist conflicts in the former Autonomous Region of South Ossetia (1990-1992) and the Autonomous Republic of Abkhazia (1992-3). These displaced large numbers of ethnic Georgians from these areas, many of who remain in temporary accommodation. The conflicts remain unresolved with almost all of Abkhazia and much of South Ossetia outside the control of the central authorities.

From 1995 to 2001, the Citizens Union of Georgia (CUG), the former ruling party created by Eduard Shevardnadze, dominated Parliament. The October/November 1999 parliamentary elections produced a clear majority for the CUG, which according to official results received 56% of the vote.

In 2001, the CUG began to fragment, losing its predominant position in Parliament. The first group of Members of Parliament (MPs) to leave the majority faction founded the New Rights Party, which described itself as “constructive opposition”. In November 2001, Mikheil Saakashvili founded the United National Movement, drawing more MPs away from the CUG. The National Movement was clearly in opposition to former President Shevardnadze. Both new parties performed well in the June 2002 local elections. In November 2002, Zurab Zhvania established “the United Democrats”. In August 2003, that party formed an opposition oriented bloc with Nino Burjanadze and the Traditionalists that was named “Burjanadze-Democrats” bloc.

The CUG scored poorly during the 2002 local elections and failed even to obtain a seat in the Tbilisi City Council. In 2003, the CUG formed a pro-presidential alliance “For New Georgia” (FNG) that comprised left and right wing parties including the Green Party, the Silk Road,

and the Christian Democratic Party (led by former State Minister Vazha Lortkipanidze), as well as two erstwhile opposition parties, the National Democratic Party and the Socialist Party.<sup>3</sup>

In 1999, Revival gained 58 parliamentary seats in coalition with the Socialist Party, the Traditionalists and Century XXI. Revival received most of its support in Adjara where Aslan Abashidze, the party's leader, was also Head of the Autonomous Republic. Revival described itself as an opposition party although its positions have often been ambiguous. Two other parties were represented in the outgoing Parliament: "Industry Will Save Georgia" (The Industrialists), and the Labour Party (Labour).<sup>4</sup> The Industrialists were neither strongly pro nor anti-President Shevardnadze, while the Labour Party considered themselves as an opposition party.

Since 1995, domestic and international confidence in the integrity of electoral processes declined and regressive trends became apparent, including the following flaws: a lack of political balance in the composition of election commissions, a lack of separation between State and party structures, unequal campaign conditions including bias in the State media and abuse of administrative resources, intimidation of voters, interference of local authorities in the election process, unreliable voter registers, and election manipulation.

On 3 May 2003, President Shevardnadze scheduled the parliamentary elections for 2 November, the fourth since independence. Initially, the elections were regarded by many as a prelude to the 2005 presidential election, which prior to the events of 22-23 November, was to determine the successor to Eduard Shevardnadze who was prevented by a constitutional provision from seeking a third term.

Shortcomings experienced during previous contests and a high level of distrust in the impartiality of State institutions jeopardized public confidence. Indeed, months before the elections interlocutors expressed concern that frustrations arising out of the difficult economic and social situation combined with fears over the integrity of the election could cause instability and possibly violence before or after the elections.

The international community offered considerable support and took a very strong interest in the elections process, which were considered crucial to Georgia's future democratic development.

### **Constitutional Referendum**

A constitutional referendum was held concurrently with the parliamentary elections. The question was "Do you agree to reduce the number of members of Parliament and define the number no more than 150?" 83,5% voted in favor of this proposition. Since the referendum was not legally binding Parliament must now amend the Constitution to give it the force of law. However, it remained unclear if and when Parliament would address this issue. The

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<sup>3</sup> In addition, the FNG was supported by various parliamentary factions including: *Tanadgoma* (Support), *Abkhazeti*, *New Abkhazeti*/Christian Democrats and Regions of Georgia, some independent MPs and other political organizations.

<sup>4</sup> According to official 1999 election results the Industrialists received 7.13% and Labour failed to overcome the 7% threshold, receiving 6.82%. Subsequently, Labour filed two election cases with the European Court of Human Rights. No judgement has yet been handed down. Two deputies represented Labour in Parliament.

EOM did not observe the referendum but assessed the consequences of holding both elections simultaneously.

#### **IV. LEGAL FRAMEWORK**

##### **A. APPLICABLE LEGISLATION AND GENERAL ELECTORAL PROVISIONS**

The Constitution foresees the establishment of a bicameral legislature comprised of a Council of the Republic and Senate. However, due to the failure to resolve the conflicts in South Ossetia and Abkhazia, the Senate has yet to be established. Georgia therefore had a unicameral Parliament composed of 235 deputies, with 150 deputies elected from party lists by proportional representation and 85 elected under a majoritarian system. Deputies were elected for a four-year term through free, universal, equal and direct suffrage by secret ballot. The proportional contest took place in a single countrywide constituency while the majoritarian contests were conducted in election districts (constituencies).

In August 2001, Parliament adopted a comprehensive Unified Election Code (UEC) in order to consolidate and harmonize the conduct of elections. The Code was amended in April 2002 and twice in August 2003. The active electoral right (as a voter) is granted to Georgian citizens who are 18 years of age, with the exception of individuals who have been confirmed incompetent or have been deprived of their liberty through due process of law. The passive right (as a candidate) was granted to all eligible voters who have attained at least 25 years of age. The UEC stipulated that candidates must have permanently resided in Georgia for at least 10 years, and have lived in Georgia for the last two years.

Parties, political organizations, coalitions, and “initiative groups of voters” (IGVs) may contest the proportional contest if supported by the signatures of 50,000 voters (approximately 1.6% of the electorate). This requirement was waived if the election subject had a representative in the outgoing Parliament. To contest a majoritarian election, a candidate must collect 1,000 signatures, must reside in the election district, or be an MP. The legislation also provided for independent candidates to stand for election.

To receive mandates in the proportional contest parties required “7% of the votes of those who participated in the election”. Both majoritarian and proportional elections necessitated at least one-third of registered voters to participate for the polls to be valid. In the majoritarian contests, the candidate who receives the largest number of votes, but not less than one third of the votes of “participating voters” is elected. Should no candidate achieve this, a second round election between the top two scoring candidates takes place within 14 days of the announcement of election results. In the second round, the successful candidate requires only the highest number of votes.

Because elections could not be held in Abkhazia and parts of South Ossetia/Tskhinvali, contests took place in 75 of 85 election districts.<sup>5</sup> The UEC provided that the mandates of MPs elected in 1992 in Abkhazia were “extended”. The renewal of mandates for Abkhazian MPs meant that by the next parliamentary elections these deputies will have served 15 years in Parliament without election. However, the law made no provision regarding parliamentary representation for Java and Tskhinvali districts in South Ossetia/Tskhinvali. Nevertheless, as in previous elections, the CEC established Liakhvi election district, an area without clear

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<sup>5</sup> Elections took place in 10 districts of Tbilisi, four cities and 61 districts.

delimitation within South Ossetia, enabling some villages (mostly ethnic-Georgians) to directly elect a representative and participate in the proportional contest. Three additional polling stations for other residents of South Ossetia/Tskhinvali were established in Kareli District and polling took place in the Kodori Gorge area in Abkhazia.

## **B. EVALUATION OF THE LEGAL FRAMEWORK**

Repeating a pattern noted during previous elections, in August 2003 the UEC was amended substantially while election preparations were already underway. The UEC incorporated many recommendations made by the OSCE/ODIHR and the Council of Europe's Venice Commission. Overall it provided an adequate framework for the conduct of democratic elections if implemented impartially and uniformly. Recommendations adopted by Parliament included provisions to:

- Permit internally displaced persons (IDPs) electoral rights in majoritarian contests;
- Create a centralized register of electors;
- Grant prospective candidates time to correct technical errors in their nomination papers;
- Create equal campaign conditions;
- Give more latitude for domestic observers to carry out their activities;
- Improve transparency in the work of election commissions;
- Enhance voting procedures by using indelible ink to mark voters' fingers (intended to prevent double voting), ballot envelopes, and transparent ballot boxes; and
- Clear and more precise rules for the resolution of election disputes.

Notwithstanding the significance of these improvements, the effective and impartial application of the legal provisions is as important, if not more so, than the quality of the legislation. Regrettably, the election administration failed to apply the legislation adequately. Moreover, the UEC failed to address a number of recommendations made previously. The recommendations contained in this report (Section XV) address a number of major shortcomings.

## **V. ELECTION ADMINISTRATION**

### **A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION**

The election administration had a three-tiered structure comprising the CEC, 75 DEC's and 2,893 PEC's. The CEC and DEC's are permanent bodies. Election commissions were composed of members appointed by political parties with the ruling party traditionally enjoying a dominant position. Parties may also appoint non-voting representatives (proxies) to election commissions.

Achieving genuine political consensus on the composition of the election administration has been one of the hardest challenges faced by Parliament in recent years. Attempts to secure an impartial and independent election administration have foundered due to the dearth of candidates in whom all parties have confidence.<sup>6</sup> The composition of the election

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<sup>6</sup> Article 17 of the UEC provided that the election administration is "independent" and that commissioners should comply with their legal obligations, but it does not require commissioners to carry out their tasks "impartially".



administration for the 2003 elections was no less contentious, and prior to 2 November the expectation of a democratic election was very low.

Amendments to the UEC adopted in August provided for a 15-member CEC comprising: 5 members appointed by the President, 3 by Revival, 2 by the Industrialists and one each by New Rights, United Democrats, National Movement, and Labour. Unusually, the UEC stipulated that the President appointed the Chairperson from nominations made by the OSCE. While the formula (5+3+2+4+Chairperson) ensured a plural party representation in the administration, a tactical alliance between the five Presidential appointees and the five members appointed by Revival and the Industrialists gave the grouping a *de facto* two-thirds majority and control of the CEC. DEC and PECs had the same composition.

In August, most of the former CEC members were replaced and some of their controversial decisions were annulled. On 30 August, the Special Representative of the OSCE Chairperson-in-Office and the Special Representative of the Secretary General of the Council of Europe in Georgia submitted to the President a three-person list of nominees for the post of CEC Chairperson. On 1 September, the President appointed Nana Devdariani, the incumbent Public Defender. From the outset, many opposition parties questioned her suitability for the position and her impartiality.

The CEC Chairperson appointed DEC Chairpersons and registered election subjects. The CEC established rules for applying the law. However, each DEC has extensive authority to administer elections at district level. PECs were under the direct authority of the DEC. According to the law, polling stations were to be established with a minimum of 20 voters to a maximum of 2,000. However, the CEC decided to permit 3,000 voters to be registered at a polling station. To achieve a quorum, a majority of members must be present at meetings. Decisions were taken by a majority of those present while CEC Decrees required a two thirds majority.

The appointment of DEC Chairs by the CEC Chairperson was contentious. In August, the outgoing CEC adopted a Decree of dubious status, which allowed DEC Chairs to be nominated by the local government executive (*Gamgebelis*), local councils (*Sakrebulo*s), or a 2/3 majority of CEC members. The legality of the decree was not challenged, despite the fact that it deviated from the UEC. After, the application of the decree, the FNG bloc, Revival and the Industrialists nominated virtually all the appointed DEC Chairs and Deputy Chairs. Indeed, only seven were opposition nominees, most of who were replaced in the weeks that followed.<sup>7</sup> Thus, a clear political imbalance existed, undermining confidence in DEC impartiality.

The formation of PECs was also contentious and subject to delay. As in DEC, appointments for PEC Chairs favoured FNG. In 15 districts, PECs were appointed by the outgoing DEC leading to recrimination and legal challenges. In Adjara, the overwhelming majority of PEC chairs had the backing of Revival. However, some opposition parties also failed to make nominations there.

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<sup>7</sup> For example in Kakheti Region none of the four DEC chairs nominated by opposition remained in office.

## B. THE ORGANIZATION OF ELECTIONS

The delay in restructuring the election administration and the late appointment of new members had a negative influence on the organization of the election. The incoming CEC faced serious time constraints in its election preparations and legal deadlines were amended frequently, sometimes in possible contravention of the law. Eventually, the extension of deadlines affected the CEC's ability to meet deadlines that fell close to election day. Furthermore, there was insufficient time to adopt all instructions necessary to implement the UEC. The CEC was not adequately assisted by the Government, which disbursed funds late. This also caused DEC's to rely on local government executive authorities to provide *ad hoc* assistance.

Prior to the election, the incoming CEC functioned much more transparently than its predecessor. CEC sessions were chaired effectively and on a number of occasions the CEC acted as a collegial administrative body rather than a political forum with few instances of block voting. During the registration of candidates, the CEC Chairperson used her powers effectively to overrule some flawed decisions taken by DEC's. In addition, the CEC clarified some ambiguous legal provisions, harmonized some technical issues regarding the concurrent holding of the referendum and introduced some positive innovations.<sup>8</sup>

However, it failed to use its authority to deal with shortcomings in the UEC. For example, it did not:

- Adequately determine voter turnout and the figure against which the 7% threshold is calculated. These are of vital importance in determining: if elections are valid, if a second round election is required and which parties receive mandates in the proportional contest. Decisions were taken only after election day.
- Approve a DEC protocol obliging DEC's to include a table of all PEC results in the district level results, thereby enabling parties to verify the calculation of results;
- Instruct PEC's how to respond where more envelopes are found in a ballot box than the number of signatures on the voter list;
- Adequately clarify the circumstances in which a vote (i.e. ballot paper(s) plus envelope) is considered invalid. Thus, it remained unclear whether a envelope lacking a referendum ballot or with an invalid referendum ballot would invalidate the parliamentary ballot papers;
- Plan adequately for announcing preliminary and final election results. Moreover, the CEC failed to instruct staff on how to deal with anomalous results; and

Significantly, the CEC did not always ensure that the elections were held according to law. It accepted false or dubious election results and was unwilling to deal with election complaints effectively.

The late appointment of DEC Chairs created severe time constraints, and some did not hold inaugural meetings until 22 September. In many districts, outgoing DEC's made important decisions before the new Chairs took office. In a few districts, the replacement of new DEC

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<sup>8</sup> It decided that: differing voting times foreseen in the UEC and the referendum law should be harmonized; all three ballot papers should be placed in one envelope in a single ballot box and voters should sign the voters list three times to indicate receipt of three ballots. Additionally, the CEC required PEC's to validate votes on election day by signing and stamping ballot envelopes - lessening the potential for ballot stuffing.

chairs caused intense disagreement that paralyzed their work during crucial preparatory phases. In almost half of the 75 districts, parties alleged bias by DEC Chairs in favour of FNG with the large majority of observers receiving credible information that the appointment of PEC chairs favoured this bloc. LTOs received numerous reports of interference in DEC work by local government officials, thereby questioning the independence of the election administration. After election day, many DEC chairs failed to follow the UEC and a number were active or complicit in producing false results.

### **C. CANDIDATE REGISTRATION**

All major parties contested the elections and none encountered undue difficulty in registering party lists. Overall the candidate registration process represented progress with the rejection of significantly fewer candidates than in 1999. On 20 September, the CEC pre-registered 43 political parties to contest the proportional ballot. Of these, one withdrew (the Peoples' Party), and three were denied final registration due to the late submission of documents. Thus, 39 parties contested the election as "stand-alone" parties or in coalition. The wide range of parties contesting the election indicated the existence of political pluralism and offered voters a genuine choice.

Many parties appeared unaware of the requirement for their majoritarian candidates to collect 1,000 signatures with the CEC only clarifying the issue close to the registration deadline. Although observers did not witness much activity by candidates to collect signatures, ultimately most were able to present the required number. The large majority of DEC chairs applied equal criteria to candidates and the registration process went relatively smoothly. However, some failed to grant rejected candidates time to remedy defects in the nomination papers as provided by the UEC. In a positive development, the CEC established a multi-party sub-committee to verify if DEC chairs had taken correct decisions in accepting or rejecting candidates.

In most districts a broad spectrum of candidates contested the majoritarian elections. 460 candidates were registered to compete for the 75 majoritarian seats while some 100 were rejected.<sup>9</sup> However, the registration process in a small number of districts raised serious concern (Bolnisi, Tkibuli, and Gardabani) where the FNG appeared determined to prevent serious rival candidates from standing. In two districts (Lentekhi and Chokhatauri), a single candidate contested the elections.

### **D. VOTER REGISTRATION**

Inaccurate voter lists have been a recurrent problem. Despite repeated recommendations to address the issue little progress was made until the 13 March 2003 Presidential decree that required the Ministry of the Interior to collect voter data to replace the mostly handwritten voter lists, which had not been updated for many years. The decision to improve voter registers was necessary, but long overdue. The authorities appeared to underestimate the scale of the task and did not make genuine efforts to produce accurate and reliable voter registers. Ultimately, their capacity to realize the objective fell short of the ambition. In none of the 75 election districts, did observers assess the lists positively. Inaccurate lists challenged the universality and equality of the vote.

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<sup>9</sup> In 1999, 478 candidates were rejected by DEC chairs.

Late amendments to the UEC substantially modified the procedures for compiling voter lists and provided for the creation of a centralized national voter register. A database of voters was compiled by IFES (International Foundation for Election Systems) who entered the data supplied by the authorities.<sup>10</sup> Unlike previous elections, the UEC dispensed with supplementary lists and citizens were no longer eligible to register to vote on election day. Consequently, the accuracy of the voter registers assumed an even higher importance.

Preliminary voter registers released in early October contained significant anomalies and errors. The number of voters registered in a number of individual districts showed a wide variation from previous elections. Registers for Tbilisi prepared by the former CEC were particularly problematic: five of the ten districts saw an increase of over 50% in the number of voters. Significantly, a large number of entries did not include address data and many voters were not assigned polling stations. Inaccurate lists were of concern not only because errors could deny eligible citizens the right to vote but also because deflated or inflated voter totals could impact on the turnout required to validate majoritarian elections. Furthermore, serious discrepancies in the voter lists increased the possibility of election fraud.

A 22% increase in voter numbers in Kvemo Kartli was particularly worrying due to the regions' previous experience of serious election violations. In contrast, two regions, Imereti and Guria, "lost" 27% and 23% of their voters (compared to 2002). The unexplained decline was most dramatic in Kutaisi, previously Georgia's second most populous city, where 38% of voters disappeared from the registers. Significantly, these figures are seriously at odds with data collected for the 2002 census.

Reports on errors in voter lists included: omitting entire apartment blocs or streets; voters being listed in the wrong districts; listing many deceased persons; and large numbers of duplicate entries. Despite the enormity of the task, many PECs worked conscientiously to rectify errors. However, some DEC failed to supply PECs with voter lists, and many PECs appeared unfamiliar with new registration procedures and applied inconsistent methods. Many failed to display lists in a systematic or practical manner, and many minority populations were unable to read lists produced in Georgian. Other problems included: a 2,250-page list of deceased persons in Tbilisi that was unusable as it was not broken down by district or precinct; IDP voters not being systematically included in lists; and significant numbers of voters lacking ID documents.

Voter registration became the most contentious electoral issue and had significant political repercussions. Opposition parties were strident in their complaints on the issue and alleged that deficiencies were politically motivated as districts in which they expected to receive strong electoral support were the worst affected areas. However, the parties' involvement in verifying voter lists did little to improve their accuracy. The CEC declined to meet parties' requests to substitute official data for that gathered by their activists.

On 19 October, the CEC decided to extend the period for amending the lists to 26 October and to prolong the deadline for printing the voter lists to 28 October. This decision left insufficient time for updates to be processed before the election. Unexpectedly, on 26 October, the CEC decided to cease work on the central database altogether, thereby jettisoning the effort to improve the accuracy and transparency of voter registers. PECs were

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<sup>10</sup> The Ministry of Internal Affairs collected data on approximately 1.8 million voters. Initially, the outgoing CEC prepared voter registers for Tbilisi.

permitted to use either handwritten or computerized lists. This decision dramatically altered the voter registration framework and caused a complete lack of uniformity in the type of list used.

The Adjara authorities decided to compile voter lists for the Autonomous Republic, using different methods to the rest of Georgia. No data was provided to the CEC and legal deadlines were ignored. Despite repeated requests, observers were granted a meeting with the Adjara authorities to discuss voter registration issues only very close to election day. The delay in releasing voter numbers in Adjara seriously compromised transparency and the data was not subject to genuine scrutiny. The Adjara Ministry of Interior claimed it had registered some 289,000 voters, an increase of 22% compared to 2000.

The Ministry of Foreign Affairs was responsible for registering citizens residing outside Georgia and organizing voting abroad. Previously, only citizens registered with diplomatic missions were eligible to register as out-of-country voters. New procedures enabled citizens to register to vote abroad up to 21 days before the elections, without registering their status with the diplomatic mission. However, the deadline was extended to 20 October. The MFA did not anticipate that the number of voters abroad would increase significantly. However, surprisingly their number rose from some 20,000 in mid September to 40,000 by 15 October to approximately 80,000 by 20 October. During previous elections some 30,000 voters were registered abroad.

## VI. THE ELECTION CAMPAIGN

Some political parties began to campaign shortly after the elections were announced. However, the official campaign period was relatively short, beginning only after the CEC registered party lists. As the election approached, tensions grew and the tone of the campaign became antagonistic, particularly between the FNG on the one hand, and the Burjanadze-Democrats and National Movement on the other.

The opposition parties' campaigns tended to focus on the election itself and their general orientation towards the government, rather than presenting voters with the substance of their platforms. Very few campaign events were held in Adjara. However, posters with the slogan "Batumi without Abashidze" were systematically removed from a variety of sites or defaced, in some instances by the local State authorities. Elsewhere in Georgia, a wide variety of posters were displayed.

In most election districts observers assessed that the right to free speech and peaceful assembly were respected. A large number of campaign meetings were held peacefully and in general candidates were able to campaign throughout many parts of the country without impediment, although observers verified six instances where campaign events were impeded. However, two violent incidents marred the pre-election period: on 26 September, in Bolnisi (Kvemo Kartli) and on 23 October in Batumi (Adjara). Both occurred during National Movement rallies. EOM Observers witnessed the incidents and reported that security forces did not act in a politically neutral manner and that the party's supporters were violently suppressed. In Adjara, the party's leaders and candidates were assaulted, party premises ransacked, journalists' equipment was forcibly confiscated and campaign material burned. In Bolnisi, observers reported that the incidents were at least partly orchestrated by the local

government authorities (*Gamgebeli*)<sup>11</sup> and the police, who acted with impunity. In both of these cases, the freedom of peaceful assembly was severely compromised.

During the pre-election period the media reported attacks on various party offices. However, EOM observers reported that either the media reports had exaggerated the seriousness of the incidents or that there was insufficient information to corroborate events. Nevertheless, despite the generally calm pre-election environment, events in a number of districts raised serious concern. In Nadzaladevi (Tbilisi) on 29 October, a candidate was wounded by a firearm and in Vani (Imereti) observers reported intimidation against local campaign activists. In the majority of districts visited (39 of 74) observers received credible allegations that voters, party supporters, and public employees were pressured to support pro-government candidates. In 7 districts, observers were able to verify allegations as credible or verified by multiple sources.

Observers reported that State functionaries, particularly *Gamgebeli* were not politically neutral and many lent strong support to the FNG. This was in breach of the law (Article 73.5), and some even served as FNG campaign managers. In almost half of the districts (35) observers reported that State property was misused for campaign purposes, mostly benefiting the FNG, e.g. in 26 districts observers reported local campaign headquarters being established in State premises, of which 20 were FNG offices. Often campaign material from a variety of parties was displayed in public buildings and prohibited locations. In addition, the EOM received a few allegations of vote buying. These shortcomings created unequal conditions for election contestants, challenged the fairness of the campaign and seriously brought into question the separation of party and state structures. In this regard, the election did not meet OSCE commitments and other international standards.

## VII. THE MEDIA

In Tbilisi, a plurality of print and electronic media operated largely without undue government interference. Increasingly, independent TV stations replaced State media as the main source of information. Their content was frequently critical of the government. Outside Tbilisi, during the pre-election period, the premises of some local media caught fire or were robbed and some local journalists alleged direct or indirect pressure in their work.

While there were several dozen TV stations broadcasting in Georgia, most had a very limited geographical range and audience. Only the State owned Channel 1, *Rustavi-2* and the recently founded *Imedi TV* have national or near national coverage. *Mze TV* and Channel 9 broadcast in Tbilisi and Adjara TV (founded by the Adjara authorities) and Channel 25 broadcast mainly in Adjara. Georgia has yet to reform its State media and introduce public service broadcasting principles.

### A. REGULATION OF THE MEDIA DURING THE ELECTION CAMPAIGN

In general, the legal framework allowed the media sufficient freedom to determine how to cover the campaign and electoral issues. However, it was a concern that at various times CEC members nominated by the President argued that the CEC should adopt media regulations which would have lessened media freedoms and restricted parties' ability to

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<sup>11</sup> District-level Governors (*Raion Gamgebeli*) are appointed by the President from among the members of the District Council (*Raion Sakrebulo*).

campaign effectively. The UEC provided for free airtime on State media (TV and radio) to all party lists. This consisted of a two-hour bloc allocated equally among the parties, over a 15-day period. The CEC was charged with regulating the campaign in the State and private media. On 15 September, the newly appointed CEC adopted a Resolution that, *inter alia*, set the amount of airtime devoted to the election campaign at no more than 15% of the daily broadcast time for both paid and free airtime, and required media to submit to the CEC, on a weekly basis, data on the amount of paid airtime received and the tariffs charged.

## **B. MEDIA MONITORING**

On 9 September the EOM began a quantitative and qualitative analysis of the political and campaign content of selected print and electronic media.<sup>12</sup> Taken as a whole, the media offered the electorate a diverse range of political opinions that enabled voters to compare parties and candidates and thereby make a more informed choice on election day. The main subject discussed in the media was the election process itself rather than parties' political platforms.

State TV complied with its legal obligation to allocate free airtime to all party-lists. However, the transmission of TV slots well outside prime time did not provide election contestants with an effective campaign forum.<sup>13</sup> Significantly, Channel 1 did not treat all election subjects equally, granting the President, the Government, and the FNG 71% of all airtime dealing with political issues. The same groups received some 91% of space devoted to politics in *Sakartvelos Respublika*. Channel 1 regularly aired an item "For my Georgia" promoting the government that was widely perceived as part of the FNG campaign but was not classified as such. Nevertheless, other parties had access to Channel 1, together receiving some 29% of generally positive coverage.

*Imedi TV* and *Rustavi-2 TV* were more balanced. However, the latter clearly favoured opposition parties and gave a critical assessment of the President, the Government, Revival and in particular the FNG bloc. During September, *Imedi TV* presented generally objective news reporting but from early October it focussed coverage on FNG (27%) and the Burjanadze-Democrats (17%), to the near exclusion of all other parties except for New Rights (11%). Significantly, news reports on the Burjanadze-Democrats included negative coverage. TV Adjara's news broadcasts provided extensive and dutiful coverage of Aslan Abashidze and Revival (81% of time devoted to political subjects), while reporting on other political subjects in a negative manner, in particular the National Movement (12%, all negative coverage). Adjara residents were able to receive other sources of information.

A large number of State funded media operated at local level. However, the UEC is unclear whether media regulations applied to local media. Perhaps in consequence, local media were inconsistent in providing free airtime to majoritarian candidates, with observers estimating only half did so. Observers received numerous allegations that local media was biased in favour of the FNG. After 2 November, the two State TV channels (Channel 1 and Adjara TV) provided consistently biased coverage of political events. Channel 1 misrepresented the

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<sup>12</sup> Four TV stations and five newspapers were analyzed daily: TV: Channel 1 (8 hours per day); *Rustavi-2* (8 hours per day); TV Adjara (news) and *Imedi TV* (news); Newspapers: *Sakartvelos Respublika* (State-funded); *Akhali Taoba* (private); *Rezonansi* (private) *24 Saati* (private) and *Alia* (private).

<sup>13</sup> Broadcasts were from 10:00 – 12:00 on weekdays and from 15:15-17:15 at weekends.

IEOM's post-election press conference presenting a much more positive picture than that given by speakers and the text of its statement.

The media covered post-election demonstrations extensively, but at times, the tone of political discourse in the media was rancorous and extreme. The clearest example was a clip broadcast during the news on Adjara TV that likened Mikheil Saakashvili to Adolf Hitler. Prior to 22 November, Channel 1 reported negatively on opposition-led demonstrations. Notwithstanding its strong support of incumbents, on 18 November the President criticized Channel 1 for not supporting the State sufficiently. In response, the Chairman of the channel resigned commenting that it should not be the role of the State TV simply to defend the interests of the Government. *Rustavi-2 TV* lent strong support to the political stance of the National Movement and the Burjanadze-Democrats. Additionally, its decision to continue broadcasting controversial advertisements for *Kmara* after receiving a warning to desist, resulted in the channel being fined US\$128,000 by the courts. *Imedi TV* adopted a more pro-opposition stance shortly before the demonstrations reached their culmination. TV Adjara continued to present biased and selective reporting against the opposition and in favour of Revival.

## VIII. DISPUTES, COMPLAINTS AND APPEALS PRIOR TO ELECTION DAY

The UEC contained clear and satisfactory procedures for resolving election disputes. Appeals could be lodged with the election administration as well as the courts. However, the decision by the Tbilisi District court to charge fees to losing parties in election disputes was problematical and may have been a disincentive for some to seek legal redress.<sup>14</sup>

Prior to the election, the Courts heard over 50 election related cases, mostly concerning candidate registration, DEC and PEC appointments. On 14 September, the Tbilisi District Court dismissed a case appealing against the CEC Chairperson's decision on appointing the DEC Chairs. The appellant, claimed, *inter alia*, that the process was flawed as it had been negotiated privately and that each of the 350 nominees should have been considered individually. The Court upheld the CEC Chairperson's decision, thereby recognising her sole right to make appointments. |

The courts overturned three DEC decisions and six CEC decisions thus enabling candidates to participate in the elections. The FNG lodged three appeals seeking to overturn CEC decisions and remove rival candidates from the ballot. Initially, the Supreme Court upheld all three appeals thereby de-registering opposition candidates in Bolnisi, Tkibuli, and Gardabani. Thus, in two of these districts a sole candidate remained on the ballot, both supported by FNG. The key evidence in the first two cases were written statements retracting signatures supporting candidates. Previously, the CEC had decided not to accept these statements due to the real possibility they were made under duress and were of dubious origin. Indeed, many statements made retracting support for the National Movement candidate in Bolnisi were almost identical. Eventually, due to the efforts of the CEC Chairperson, the candidates in Bolnisi and Gardabani were reinstated.

<sup>14</sup> Unusual in election related cases, some Courts charged unsuccessful parties GEL 300 (approximately US\$150) for expedited court hearings.



The relatively large number of court cases indicated a general confidence in the judiciary, particularly its higher echelons. The EOM monitored a large number of court cases. With few exceptions prior to the elections, the judiciary operated transparently, efficiently, diligently, and with respect for deadlines. However, the judiciary's handling of disputed election results was less positive, indicating potential limits to its institutional strength.

## **IX. PARTICIPATION OF WOMEN**

Notwithstanding male dominance in the political sphere, women hold a number of prominent positions in Georgian public affairs. Until December 2003, Irina Sarishvili-Chanturia led the NDP, while the Burjanadze-Democrats electoral list bore the name of the female Speaker of Parliament. Although the CEC Chairperson was female, no other members are women. Some 80% of DEC Chairs were male, although 71% of the DEC Secretaries and 28% of DEC members were women. Observer reports indicated that some 45% of PEC chairs were women.

Parliament declined to adopt an amendment stipulating a quota of women in electoral lists. Generally, parties failed to include sufficient numbers of women in prominent positions in their lists or as party candidates. In 42 of the 75 election districts, no women candidates contested the elections.

## **X. NATIONAL MINORITIES**

Georgia has two sizeable national minority populations: Azeris (concentrated in Kvemo Kartli and part of Kakheti) and Armenians (concentrated in Samtskhe Javakheti) as well as less numerous minority groups including Russians, Ossetians, Lezids, Greeks, Chechens and Abkhazians. In many cases, national minorities have poor proficiency in the Georgian language. This created a *de facto* barrier to their full participation in the work of election commissions and limited access to election related information including legislation. In this respect, an important contribution was made through a project funded by the OSCE High Commissioner on National Minorities (HCNM) to produce election materials in Azeri, Armenian, and Russian.

The FNG bloc took the most inclusive approach and had, the highest number of candidates from minorities. A few political parties campaigned for the votes of non-Georgian speakers and distributed promotional material in Azeri, Armenian and Russian languages. However, prior to the election, observers received detailed and credible reports that some Azeris in Kvemo Kartli suffered intimidation by the local administration and police. On election day, many of the violations reported by observers took place in Kvemo Kartli where the turnout was inflated artificially indicating that ethnic-Azeris did not vote in the large numbers suggested by the official results.

## **XI. CIVIL SOCIETY AND DOMESTIC OBSERVERS**

The CEC accredited 45 domestic observer organizations of which the International Society for Fair Elections and Democracy (ISFED) was by far the largest, deploying some 2,500 observers on election day. ISFED and Georgian Young Lawyers Association (GYLA)

observers played a crucial role in enhancing the transparency of the process by conducting a partial, “parallel vote tabulation” (PVT) according to a dependable methodology. However, these organizations faced serious obstacles in conducting their activities, particularly in Adjara where one observer was arrested while fulfilling his legitimate role and detained for one month. In other areas (Tkibuli and Kvemo Kartli), observers were at times obstructed, intimidated and on one occasion violently attacked. Evidence gathered by domestic observers served as a basis to challenge the legality of the elections in Court.

The motives of some other purportedly non-partisan observer groups were highly questionable, including the Great Silk Road, and those accredited by the Adjara authorities and Revival and these operating in Kvemo Kartli. Their activity was partisan and appeared to be conducted with the intention of counteracting the work of genuine observers by contradicting their findings. IEOM observers reported that in some instances the activity of these “bogus” observers intimidated voters, particularly during repeated polling on 16 November in Samtredia District.

## **XII. OBSERVATION OF VOTING, COUNTING AND TABULATION OF RESULTS**

### **A. GENERAL ASSESSMENT**

Observers reported from more than 1,400 polling stations in Georgia. Despite an unsettled environment in some areas, the election took place in all 75 districts. However, in many places polling was disorganized and slow. Significant delays occurred in Kutaisi and parts of Tbilisi. A wide variety of shortcomings and irregularities were noted including direct observations of serious election fraud on and after election day, particularly during the counting and tabulation of results. In Adjara, Kvemo Kartli, and a number of other districts, egregious election fraud had a significant effect on the national election results. Tension was reported in 19% of polling stations visited, unrest in 14%, and 37 cases of violence (3%). Rapid reaction units of the Ministry of Interior were deployed in four districts.

Observers assessed the voting process as poor or very poor in 19% of polling stations visited.<sup>15</sup> In general, their assessment of the poll became more negative as the day progressed. Their opinion of the counting phase was markedly worse, with 31% reporting negatively.<sup>16</sup> Observers followed the tabulation of results in 42 of the 75 DEC. In 16 DEC (38%) observers reported a poor or very poor confidence in the accuracy of the results tabulation.

### **B. VOTING PROCEDURES**

Many polling stations were too small and were situated in unsuitable locations. Generally, PECs were provided with copies of the legislation and guidance manuals and most worked diligently and co-operatively to follow correct voting procedures in difficult circumstances. However, it was evident that PECs should have received more training. In 14% of those polling stations where inking was to be applied, voters were not checked for traces of ink prior to receiving ballots; although after voting, generally ink was applied correctly (93%). In

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<sup>15</sup> Observers assessed the process as excellent in 13% of polling stations, good in 41% and adequate in 27%.

<sup>16</sup> 22% of forms characterized the process as excellent, 26% good and 21% adequate.

10% of polling stations all or nearly all voters did not produce correct ID documents. Importantly, in 15% of polling stations the secrecy of the ballot was not preserved, with observers reporting instances of open voting, badly positioned screens, group voting, voters showing marked ballots and inadequate voting booths. The UEC is partly responsible for this failure, as by law voters were obliged to show the reverse of marked ballots to PEC members to verify the presence of PEC signatures (before the ballots are placed in envelopes). This practice created a possibility for PEC members to see to whom voters cast their ballots. In some districts (e.g. Samtredia), PECs were incorrectly marking candidates as “withdrawn”, when these persons were still contesting the election.

Serious violations were observed on election day, albeit in a relatively small number of polling stations. These included:

- 11 cases of ballot stuffing observed;
- attempts to stuff the ballot box – 4 cases observed and 23 allegations made;
- bussing of voters from one polling station to another – 12 cases observed and 11 allegations made;
- use of pre-marked ballots – 6 cases observed and 12 allegations made.

Other major violations included: multiple voting; destruction of ballot boxes; attempts to unduly influence voters (8% of stations); permitting proxy voting (5%) and apparently identical signatures on voter lists (3%). In one instance, observers witnessed the removal of a ballot box at gunpoint. Irregularities and shortcomings included: leaving the ballot box unattended (12%); the presence of large numbers of unauthorized persons including police and local government officials inside polling stations (23%), some of whom interfered in or directed the process; campaign material prominently on display at polling stations (11%) and active campaigning (5%). Serious fraud was particularly evident in Adjara and Kvemo Kartli, where observers reported a very low confidence in the process.

The voting process confirmed that voter lists contained numerous and serious inaccuracies. Some 54% of observer report forms indicated that voters were turned away. In these polling stations, over 10% of reports indicated that more than 50 voters could not cast their ballot with severe problems noted in Tbilisi and Kutaisi, the two largest cities.

The use of different voter lists in the same polling stations reduced the transparency of the process. The situation was further confused by the issuance of an informal CEC advisory to PECs on election day afternoon, which in effect allowed unregistered citizens to vote. However, even before the advisory was issued, some PECs had decided unilaterally to register voters.<sup>17</sup> The decision to add significant numbers of police to voter lists raised mistrust among parties and citizens. These factors caused PECs difficulties in establishing the number of registered voters and consequently the turnout, which in turn determined the validity of majoritarian election contests. In some districts the number of registered voters was established only after 2 November.<sup>18</sup>

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<sup>17</sup> Reported in 13% of polling stations visited.

<sup>18</sup> According to the CEC’s official results of 20 November, some 3.2 million voters were registered.

## C. THE VOTE COUNT

Observers attended the count in 148 polling stations reporting it was often disorganized and contentious: in 29 polling stations (20%) observers reported unrest with 32% of observers reporting disputes among PEC members and eight violent incidents. In almost half of the polling stations visited the counting of the three ballots was conducted simultaneously, causing confusion and lessening transparency.

Relatively high number of PECs failed to follow correct counting procedures: 9% failed to determine the number of voters before opening the ballot box; 13% did not determine the number of unused ballots and seal them before opening the ballot boxes; 27 % did not check for validating stamps and signatures on the ballot envelope. Other shortcomings included failing to determine the total number of envelopes found in the ballot box (45%), announce the number of ballots of each type found in envelopes (48%); check ballots for signatures (33%) and mark as void ballots found outside envelopes (39%). The determination of ballots' validity was inconsistent in 21% of stations.

Observers reported a relatively large number of serious violations during the count (19% of polling stations visited), including 6 instances of ballot stuffing. Unauthorized persons were present during the count in 36% of polling stations visited, and often interfered in the process. Many PECs had difficulty in completing the complicated protocols. In the majority PECs failed to display election results publicly as provided by law. In 21 polling stations (15% of those observed) observers were hindered while conducting their activity.

## D. TABULATION AND ANNOUNCEMENT OF RESULTS

The CEC announced turnout data at 12:00 hrs, 17:00 and 19:00. In some cases the data was implausible. For instance, in Khelvachauri the turnout between 17:00-19:00 indicated that all PECs in the district were processing a voter every 10 seconds and in Mtskheta and Gardabani the data claimed that between 19:00-20:00 all PECs managed to process a voter every 9 seconds. According to the CEC website, 195 polling stations had 100% voter turnout. In Tkibuli, turnout was initially put at 74%, which was subsequently amended to 94% without explanation.

After the close of polling stations, in the majority of districts observers followed the preliminary tabulation of results at DEC level. While they noted some DEC's performing their tasks according to the law, too often the process was tense, disorganized, non-transparent, and frequently seriously flawed. Of the 42 DEC's observed 12 refused to comply with the CEC instruction to provide it with data on individual PEC election results. In a significant minority of DEC's, observers were unable to receive information relevant to their activity, including access to results data.

After the election, long-term observers continued to monitor closely the work of selected DEC's. Their assessment of the tabulation of election results was even more negative than that of short-term observers. A large number of DEC's and PEC's simply ignored the UEC, in some cases being directly involved in manipulating election results. A catalogue of serious shortcomings observed included:

- Completing or amending PEC protocols at DEC premises rather than at the polling station as stipulated by law (Tkibuli, Tsalenjikha, Isani, Tskaltubo and Samtredia) or simply refusing to deliver protocols to the DEC (Kutaisi and Vani);

- Fabricating protocols in both majoritarian and proportional contests, sometimes with vastly inflated turnout figures (Gardabani, Marneuli, Khelvachauri and Batumi), the existence of different protocols with differing results for the same PEC (Nadzaladevi and Vani), PECs signing blank protocols (Marneuli, Vani and Dusheti) and DEC members accepting unsigned, unstamped PEC protocols (Khelvachauri);
- Failing to seal election material and failing to store material securely (Gldani, Baghdadi, Kutaisi, Lanchkuti, Batumi, Kobuleti and Khulo);
- The presence of unauthorized persons in DEC premises including police, who in a few cases were influencing the work of the DEC (Gurjaani, Dedoplistskaro, Dusheti, Tsalka, Chiatura and Zugdidi), interference in the work of the DEC members by *Gamgebeli* (Samgori, throughout Kvemo Kartli and in Khashuri) and serious instances of intimidation of DEC members and observers (Rustavi);
- DEC members manipulating downwards the turnout figure after election day to ensure that the top scoring candidate did not face a second round run-off (Liakhvi), DEC members manipulating upwards the number of votes received by a leading candidate to avoid a second round contest (Lagodekhi), DEC members attempting to manipulate the election result by cancelling specific PEC results to change the second placed candidate and thus second round candidates (Mtatsminda and Aspindza);
- Ignoring official election complaints (Bolnisi, Samgori, Rustavi, Marneuli, Gardabani, Khashuri, and Mtatsminda);
- Tolerating fraudulently completed ballots (Samgori where the recount evidenced dishonestly completed ballots, which were nevertheless included in results), misinforming observers of the number of complaints and court appeals (Abasha) negotiating results rather than basing these on protocols (Samgori and Kutaisi);
- Failure by some DEC members to display protocols as required by law.
- The failure by 18 PECs located out-of-country to submit original protocols to the DEC.

### **Exit Polls, the PVT and Preliminary CEC Results.**

Two organizations conducted exit polls and asked over 20,000 voters for whom they had voted at the point of leaving polling stations. The data from these surveys were released on election night or shortly thereafter. Both the PVT conducted by ISFED and the exit poll indicated that the National Movement had a clear lead over the second placed FNG, which in turn had a small lead over the third-placed Labour party. According to these sources the Burjanadze-Democrats, Revival and New Rights also overcame the 7% threshold.

From early morning on 3 November, the CEC began to announce preliminary unofficial results on its website. However, it abandoned efforts to base these on original PEC protocols. Instead, results were based on verbal reports given by DEC members. The publication of unofficial preliminary results by the CEC was a welcome innovation. It showed major discrepancies between the official DEC results and the PEC results on which these were supposedly based (18 cases). In a few cases the results posted by the CEC contradict those noted by international observers on election night.

Significantly, CEC preliminary results varied considerably from other data and gave FNG a lead over the National Movement. When the results from Adjara were finally included, Revival became the second party and retained a lead over the National Movement.

On 13 November, unusually the CEC determined the number of participating voters as equalling the number of valid ballots and then determined this figure as the base for calculating the 7% turnout. It should be noted that the figure for voter participation (turnout) and the figure against which the 7% threshold is calculated (votes) are not synonymous. On the same day the CEC announced the results of 54 majoritarian contests.

On 16 November polling took place in four polling stations in Samtredia and one polling station in Tsalenjikha. Observers followed polling in Samtredia where ballot boxes had been stolen on 2 November and reported a number of shortcomings and anomalies including: intimidation of voters; preventing international observers from following mobile voting; issuing very large numbers of temporary identity documents in the run up to the poll, deploying a huge numbers of “observers” from an organization called “Great Silk Road”, some of whom carried concealed weapons and interfered with the voting process. Second round contests and PEC reruns were originally scheduled for 16 November but most were rescheduled for 23 November and some for 30 November, thereby fragmenting the election process. The CEC used the full 18-day time limit before announcing final election results on 20 November. This reduced transparency and did nothing to reduce political tensions. The official CEC and PVT results are set out below:

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

Final election results claimed that turnout in Adjara was 97% with 96.7% of these voting for Revival. However, manipulated and dubious results were also noted elsewhere. Inflated turnout and fraudulently garnered votes for FNG and Revival had a significant effect on the national election results.

The results of some out of country polling stations were wholly implausible. The number of votes for the Industrialists was subject to constant inflation. In Lughansk #48, original results gave the party 1 vote and the final protocol gave it 1001 votes.

### **XIII. POST-ELECTION DAY DISPUTES, COMPLAINTS AND APPEALS**

Election commission members, party and candidate representatives and domestic observers all used legal mechanisms to complain against election day and subsequent violations. However, some DEC were unwilling to address complaints and many were ignored, dismissed on technicalities or in a few cases the papers were lost. The CEC received over 100 complaints and appeals, but did not begin to address these until 13 November. The large majority were dismissed, although in a few cases the CEC overturned DEC decisions by ordering ballot recounts. Overall, the election administration did not hear and rule on complaints and appeals effectively or impartially.

The judiciary was extremely active in hearing cases, sometimes working well into the night to meet tight deadlines. In some cases the courts took bold decisions. However, the high number of violations and subsequent complaints challenged their ability to rule on each case effectively. Often the judiciary failed to provide a clear resolution of disputed issues.<sup>19</sup> Even when courts abolished election results, cases were simply referred back to DEC to re-examine. This was particularly problematic in cases where the DEC had shown a complete disregard for the law. In most cases where courts ordered a recount DEC simply re-tabulated results using dubious protocols.

#### **XIV. POST-ELECTION EVENTS**

Immediately after 2 November, the National Movement and the Burjanadze-Democrats claimed victory and denounced the Georgian authorities for rigging the elections. After the announcement of preliminary results the political situation became more polarized and antagonistic. Beginning on 4 November these parties launched protest rallies in Tbilisi. However, Labour, Revival, New Rights, and the Industrialists did not participate in the protests.

Demonstrations gained additional momentum on 6 November when implausible results from Adjara were publicized, antagonizing the situation further. During this period demonstrations also took place outside a number of DEC across Georgia. The protests included a week-long vigil outside Parliament during which major opposition politicians announced various demands including the cancellation of election results and the resignation of President Shevardnadze. On 14 November, after a rally in Tbilisi, the two opposition parties ended the vigil outside Parliament and urged supporters to engage in non-violent civil disobedience. Demonstrations continued to take place in many cities and large towns in Georgia. On 18 November, Revival organized a counter-demonstration in Tbilisi, which was attended by both the party's supporters and pro-Presidential forces. The counter demonstrators remained outside Parliament until 22 November.

On 22 November, the leaders of the National Movement, the Burjanadze Democrats, and their supporters prevented the convening of the incoming Parliament and on 23 November President Eduard Shevardnadze resigned. Throughout the political crisis security forces and opposition demonstrators behaved with restraint and the rights of peaceful assembly and free speech were generally respected. However, a violent incident involving firearms occurred in Zugdidi and on 19 November, in Bolnisi, a peaceful opposition demonstration was violently attacked by pro-government supporters including members of the local government executive.

On 25 November, the Supreme Court annulled the result of the proportional component of the parliamentary elections because it was not possible to determine the will of the people due to widespread fraud. On 27 November, a group of over 80 MPs petitioned the Constitutional Court to rule as unconstitutional all election contests held on 2 November. The Constitutional court found that the complaint did not satisfy technical requirements.

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<sup>19</sup> Mtatsminda DEC (Tbilisi), to which the overseas votes are attributed, was unable to comply with a Court order to recount votes due to an absence of ballot papers and voter lists.

However, the plaintiffs were given three days to correct their petition. On 1 December, the papers were resubmitted, but the Court found the petition inadmissible since the signatories to the case had fallen below the required number of MPs.<sup>20</sup> The Interim President chose not to bring a case and regrettably, the results of majoritarian elections could not be overturned. The newly constituted CEC decided that it had an obligation to conclude the majoritarian elections. Therefore, few reruns and second round contests took place on 4 January 2004.

The Parliament elected in 1999 was reconvened until the parliamentary election process was completed. On 25 November, it scheduled the extraordinary presidential election for 4 January 2004, in conformity with the constitution. On 28 November, it adopted amendments to the UEC. The amendments were limited but addressed a number of problems observed on 2 November including extending the use of indelible ink to all polling stations and removing an unreasonable provision which required that election complaints directed against persons must include their place of registration. Previously, the provision had rendered as invalid a number of otherwise legitimate complaints.

## **XV. RECOMMENDATIONS**

In addition to the greater political effort required to prevent the abuse of administrative resources during future elections, the following recommendations are offered for consideration and action.

### **A. GENERAL**

1. Following the 2003 elections, the authorities should restore public confidence in the democratic election process and the political impartiality of State institutions.
  - Those who have tolerated or committed fraud in this and previous elections should be barred from serving on election commissions;
  - A climate of impunity for the violation of election-related laws can only be curbed through the prosecution of those who have knowingly and willingly broken the law; and
  - The new administration must ensure that the courts are able to function free from interference from the other branches of power and that their judgements are enforced.

In preparation for future elections a realistic timetable should be established. The executive and legislative authorities must assume more responsibility to meet that timeframe in order to permit timely election preparations that are more conducive to a democratic poll.

2. Adequate funding for the elections should be disbursed to the CEC at the start of the election process, enabling it to operate effectively and free from interference by the executive and legislative branches of power. DECs require suitable minimum working conditions including a computer and a fax machine.

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<sup>20</sup> The constitutionality of parliamentary elections can only be challenged by one fifth of Parliament (47 deputies) or the President.



## B. THE ELECTION FRAMEWORK

While the UEC represented an improvement over previous legislation, further progress is achievable. As a matter of principle, election legislation should not be amended when an election process is underway. With repeat parliamentary elections scheduled for 28 March, it is not feasible to introduce major changes in the short term. Therefore, recommendations regarding the legal framework should be addressed, as a matter of urgency, after the completion of the parliamentary election process.

3. The UEC defines the electoral units used in majoritarian elections. Currently, the wide variation in the size of their electorates challenges the OSCE commitment regarding equal suffrage. For instance, Kazbegi district has 5,400 registered voters while Kutaisi has 116,000. Each received one majoritarian mandate. It is strongly recommended that this issue be addressed and that election districts do not vary in size by more than approximately 10% between the largest and the smallest constituencies.
4. The 7% threshold in the proportional contest is high compared to most other OSCE participating States.<sup>21</sup> While this is a constitutional provision, the threshold should be reconsidered by Parliament after the 28 March 2004 repeat parliamentary elections.
5. The UEC should clarify the base figure (i.e. 100%) against which the 7% threshold is calculated. It might be 7% of “all ballots cast” (however this is determined) or simply 7% of “valid votes”. This uncertainty can affect the composition of Parliament.<sup>22</sup> It is recommended that it be calculated based on valid votes as only those disclose a clear political choice.
6. The UEC should clearly stipulate the method for calculating the turnout (participating voters). The provision establishing a minimum turnout for valid elections presupposes accurate voter lists. If this cannot be guaranteed, consideration should be given to remove this provision.
7. The provision that the proportional ballot can be repeated only where results amounting to 10% of the total number of voters have been cancelled should be reconsidered.
8. Article 67 of the UEC should be amended to allow more than one representative of a domestic and international organization to observe the work of election commissions.
9. The Organic Law on Referenda should be incorporated in the UEC and the existing Law - repealed.

## C. CANDIDATE NOMINATION AND REGISTRATION

10. In the event that a single candidate is registered in an election district, the elections should be postponed and new contest scheduled. Elections should not take place with only one

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<sup>21</sup> In 1999, Article 50.2 of the Constitution was amended in 1999, raising the threshold from 5% to 7%.

<sup>22</sup> In 1999 the CEC determined that parties required 7% of the voter turnout. The Labour Party had less than 7% of the number of *votes cast* (defined by the CEC as the turnout) but more than 7% of the valid votes cast.

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candidate. In the event that a candidate withdraws from a second round contest, the third placed candidate should be permitted to contest the election.

11. Election commissions should be required to issue an official warning to candidates prior to revoking their registration for violating campaign related provisions.
12. Registration and appeal procedures should be equal for independent and party candidates.
13. The 1,000 signatures required to register as a candidate in a majoritarian contest can be extremely difficult to collect in six districts where it exceeds 10% of the population. Thus, the number of signatures collected should be reduced proportionally to the population of the district. The implementation of this recommendation will require constitutional amendments.

#### **D. THE CAMPAIGN AND THE MEDIA**

14. Prior to the election the Government threatened to apply the 1997 “Law on Public Manifestations”, which provides that local authorities be notified 5 days in advance of planned public meetings. While this provision was not applied, it could seriously limit parties’ ability to campaign. Therefore, the incoming Parliament should review this provision.
15. The State media should be obliged to treat all contestants equally not only in special election programmes, but also during all other programmes, including its news broadcasts.
16. The UEC should define clearly if obligations regarding State media are applicable to local media as well as the national level, and stipulate more clearly which media can be considered “State media”.

#### **E. ELECTION ADMINISTRATION**

17. Should Parliament decide to retain partisan election commissions, the UEC should ensure political balance in the composition of the election administration that enjoys the confidence of the major political parties. It is advisable to introduce provisions stipulating that all commissioners must undertake their tasks in a professional manner and in full respect of the law .
18. A programme for training DEC and PEC should be developed well in advance of the next election. Training should ensure PEC members are aware of penalties for legal violations.

#### **F. VOTER REGISTRATION**

19. The functioning of civil status offices and residency registration offices at the municipal and central levels should be subject to an in depth review. The legislation should clarify the responsibilities of all agencies and guarantee that personal data of citizens regarding their civil status and permanent residence are collected, registered, maintained, and

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regularly updated in an organized and timely manner, without violating the confidentiality of the data. This is a precondition for accurate voter lists.

20. A national, centralized civil/voter register should be compiled and kept as a permanent record of eligible citizens. Voter lists should be available for citizens to check entries periodically not only during election periods. Civil Status offices and residency registration offices should be obliged to transfer relevant data to the agency responsible for compiling and maintaining voter registers on a regular basis. Data on voter registers e.g. the number registered voters by PEC and DEC should be available on the web.
21. Until the accuracy of voter lists meets broadly accepted “best practices”, citizens should be able to register on election day, provided that their eligibility has been carefully checked and it has been confirmed that they have not voted (use of indelible ink). Establishing eligibility on election day could be tasked to the courts, which could then issue citizens a certificate, to be acted upon by the PEC.

#### **G. ELECTION DAY**

22. To enhance the secrecy of the vote, PEC members should not handle marked ballot papers. Therefore, voters should be issued with ballot envelopes and place ballots in these themselves. The PEC should verify that ballots have the correct number of signatures and a stamp before voters mark their ballots.
23. Consideration should be given to reducing further, for example by half, the maximum number of voters registered at an individual polling station, which will be more conducive to orderly polling. However, this may incur additional costs. Reducing the number of PEC members could reduce costs.
24. The UEC or the CEC should clarify:
  - Once all ballot envelopes have been opened which ballots are to be counted first. This would avoid the simultaneous counting of ballots for different elections;
  - The circumstances in which a vote (i.e. ballot paper(s) plus envelope) is considered invalid, particularly where multiple ballots are placed in the same envelope;
  - What action should be taken in the event that ballot envelopes found in a ballot box are higher than the number of signatures on the voter list(s).
25. The amount of data contained in PEC protocols should be simplified to ease completion (while ensuring that all relevant data is included). The protocol should contain guidance to PECs on their correct means of completion.
26. As stipulated by law, the summary protocols should be numbered and printed on special papers. The CEC instructions should clearly indicate that the protocol No. 1 and protocols No.2 are to go to the CEC and DEC respectively. Unused protocols should be invalidated by PECs.

#### **H. POST ELECTION DAY**

27. DEC's should be obliged to complete a protocol that includes all individual PEC results within the district (in spreadsheet format) as an integral part of the DEC summary protocol, thereby enabling parties to verify the calculation of district level results.
28. The UEC should provide clear guidance on the circumstances in which ballots should be recounted after election day and the procedures to be applied while ensuring full transparency.
29. The CEC should improve its planning for the announcement of preliminary results. Staff should receive appropriate training and binding instructions to DEC's on how to submit results to the CEC should be issued.
30. The CEC should be required to release final election results earlier than 18 days after the election. Ongoing appeals should not prevent the announcement of results. The law should provide for a reasonable period to appeal the final election results before the convening of the incoming Parliament.

#### **I. MISCELLANEOUS**

31. To encourage participation by national minorities in the election process, PEC manuals, protocols, ballots and public information materials should be made available in minority languages or Russian in the areas where national minorities reside.
32. The judiciary should not impose unreasonable court costs on the losing parties in election related cases.

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (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 Document).

The 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 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, gender equality, and trafficking in human beings. The ODIHR implements a number of targeted assistance programs annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

The 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. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

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/odihhr](http://www.osce.org/odihhr)).