GEORGIA

PARLIAMENTARY ELECTIONS 2016

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT
26–29 April 2016

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I. INTRODUCTION

Following an invitation from the authorities of Georgia to observe parliamentary elections anticipated in October 2016, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to Tbilisi from 26 to 29 April. The OSCE/ODIHR NAM included Steven Martin, OSCE/ODIHR Senior Adviser on New Voting Technologies, Oleksii Lychkovakh, OSCE/ODIHR Election Adviser. The OSCE/ODIHR NAM was joined by Andreas Baker, Director of Elections of the International Secretariat of the OSCE Parliamentary Assembly.

The purpose of the mission was to assess the pre-election environment and the preparations for the parliamentary elections. Based on this assessment, the NAM should recommend whether to deploy an OSCE/ODIHR election-related activity for the forthcoming elections, and if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, as well as with representatives of political parties, media, civil society, and international organizations. A list of meetings is annexed to this report.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs for its assistance and co-operation in organizing the visit. The OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission and share their views.

II. EXECUTIVE SUMMARY

The next parliamentary elections are to be held in October 2016. While the president announced on 5 April that the elections would take place on 8 October, the decree to formalize the election date was not countersigned by the prime minister and elections have yet to be formally announced. The elections will elect the 150-member parliament through a mixed electoral system with 77 members elected proportionally through one nationwide constituency and 73 through single-mandate constituencies.

The legal framework regulating parliamentary elections remains largely unchanged since the last parliamentary elections. Amendments to the Election Code in December 2015 redrew the boundaries of single-member constituencies with a view to address a long-standing OSCE/ODIHR recommendation. A number of other OSCE/ODIHR recommendations remain outstanding and several draft amendments may still be adopted ahead of the elections.

Elections will be administered by three levels of election administration, headed by the Central Election Commission (CEC). Most OSCE/ODIHR NAM interlocutors expressed confidence and trust in the work of the CEC and noted its overall transparent and professional approach. However, some specific concerns were expressed regarding the transparency of the recruitment process for mid-level election administration staff.

Voter registration is passive and centralized, and the process is being modified to include biometric data. The OSCE/ODIHR NAM interlocutors expressed overall confidence in the quality of voter lists and the ability of responsible institutions to administer them properly.
The campaign will start upon publication of the legal act calling the elections and continue until election day. Several political party representatives noted potential limitations in their ability to campaign freely, citing concerns over pressure on candidates and their supporters and holding meetings. They also raised concerns regarding possible misuse of administrative resources, especially in more remote areas and those populated with national minorities. Some OSCE/ODIHR interlocutors mentioned a potential risk of local authorities and security services exerting pressure on voters. Some also expressed concern over the potential use of harsh and divisive rhetoric.

The legislation provides for public and private funding of political parties, reporting and disclosure requirements, establishes ceilings on donations and expenditures, as well as sanctions for violations. The State Audit Office (SAO) is mandated to exercise oversight of campaign finance. While acknowledging the SAO’s enhanced capacity, a number of OSCE/ODIHR NAM interlocutors questioned its ability to efficiently exercise oversight.

The media environment is diverse but characterized by significant politicization and polarization. Concerns were noted to the OSCE/ODIHR NAM about ongoing court proceedings over the ownership of the broadcaster Rustavi 2 as well as about instances of alleged pressure on several prominent television hosts and journalists, which contributes to a challenging environment in which to cover the elections.

The Election Code establishes an expeditious dispute resolution process for complaints and appeals and authorities acknowledged the challenge to meet the short timelines. Some OSCE/ODIHR interlocutors noted a lack of confidence in the judicial process pointing to a number of recent trials of high-profile individuals.

The Election Code provides for observation by citizen and international observers. OSCE/ODIHR NAM interlocutors noted the positive role played by civil society and citizen observer groups plan to undertake a number of election-related activities, including long and short-term observation, as well as monitoring the media and campaign finance.

All OSCE/ODIHR NAM interlocutors would welcome an OSCE/ODIHR observation activity for the upcoming parliamentary elections. Particular concerns were raised over the conduct of the campaign, and especially with regard to possible pressure on contestants and voters and a potential misuse of administrative resources. Stakeholders requested the deployment of a robust and lengthy mission to ensure sufficient nationwide coverage with an emphasis on areas populated with national minorities. A number of previous OSCE/ODIHR recommendations remain unaddressed and specific aspects that could merit attention by an OSCE/ODIHR election observation activity include the conduct of the electoral campaign, campaign finance, and media coverage.

Based on the findings of this report, the OSCE/ODIHR NAM recommends the deployment of an Election Observation Mission (EOM) for the October parliamentary elections. In addition to a core team of experts, the OSCE/ODIHR NAM recommends the secondment of 28 long-term observers from OSCE participating States to follow the electoral process countrywide, and 350 short-term observers to follow election day proceedings. In line with OSCE/ODIHR’s standard methodology, the EOM would include a media monitoring element.
III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

Georgia is a semi-presidential republic with the president serving as the head of state and prime minister as the head of government. Legislative power is vested in parliament. Constitutional amendments following the 2013 presidential election considerably reduced the powers of the president in favour of the prime minister and the parliament.

According to the law, parliamentary elections should be held in October of the year in which the term of parliament expires. While the president announced on 5 April that elections would take place on 8 October, the decree to formalize the election date was not countersigned by the prime minister and elections have yet to be formally announced.¹

The last parliamentary elections in 2012 were the country’s first peaceful transfer of power through elections since independence and resulted in the Georgian Dream (GD) coalition winning 85 seats and forming the government.² The United National Movement (UNM) won 65 seats and formed the largest opposition faction.³ In 2013, the GD coalition candidate won the 2013 presidential election, and in 2014 the GD coalition won the majority of seats in local elections. For the upcoming parliamentary elections, the parties comprising the GD coalition declared that they intend to contest the elections individually.

These elections will take place against a backdrop of political tension affecting the pre-electoral environment, including ongoing legal disputes concerning the country’s largest private broadcaster and a recent release of surveillance videos of high-profile individuals.⁴

The OSCE/ODIHR has previously observed twelve elections in Georgia.⁵ In its report on the 2012 parliamentary elections, the OSCE/ODIHR concluded that the “elections marked an important step in consolidating the conduct of democratic elections in line with OSCE and Council of Europe commitments, although certain key issues remain to be addressed. The elections were competitive with active citizen participation throughout the campaign, including in peaceful mass rallies. The environment, however, was polarized and tense, characterized by the use of harsh rhetoric and some instances of violence. The campaign often centered on the advantages of incumbency, on the one hand, and private financial assets, on the other, rather than on concrete political platforms and programs”.

¹ On 10 May, the President announced that an agreement was reached to formally pass the decree to start the campaign on 8 June for parliamentary elections to be held on 8 October.
³ Since the 2012 parliamentary elections, the Free Democrats and National Forum left the GD coalition and four members left the GD party to sit as independents. Four members from the UNM founded a new party – New Political Center. Currently, 18 out of 150 members of parliament are women, well short of the 30 per cent target put forward by the United Nations’ Economic and Social Council (ECOSOC).
⁴ The surveillance videos include footage of private parties and celebrations and are perceived as significantly affecting the image and reputation of the individuals involved.
⁵ See previous OSCE/ODIHR election reports on Georgia.
B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

The 150 members of parliament (MPs) are elected for four-year terms under a mixed electoral system. Of these, 77 members are elected under a proportional component in one nationwide constituency through closed party lists and 73 are elected in single-member constituencies. Parties and blocs must surpass a five per cent threshold of valid votes cast to qualify for proportional seat allocation. In majoritarian contests, candidates must receive 50 per cent of votes cast to be elected (increased from 30 per cent in previous elections). If no candidate receives the required number of votes, a runoff is held within 14 days between the two candidates who received the highest number of votes.

The parliamentary elections are primarily regulated by the 1995 Constitution, the 2001 Election Code, the 1997 Law on Political Unions, 2008 Law on the State Audit Office, as well as other legislation including the Criminal Code, the Administrative Offences Code, the 2004 Law on Broadcasting, and supplemented by regulations of the Central Election Commission (CEC).

The legislation largely remains unchanged since the last parliamentary elections. In December 2015, the parliament amended the Election Code to redraw the boundaries of all single-mandate constituencies. The amendments prescribe the redrawing of constituencies in a two-stage process and define the boundaries and the number of voters for 43 of 73 single-member constituencies. The CEC was mandated to delimitate the remaining 30 constituencies, which was completed by 1 April. Other amendments include increasing media airtime for parties during the campaign and clarifying campaign finance sanctions. However, a number of previous OSCE/ODIHR recommendations, including on the campaign, campaign finance, and media, remain unaddressed.

While the principle of equal suffrage was largely satisfied with the delimitation and serves to address a long-standing OSCE/ODIHR recommendation, concern was noted that the amendments did not contain sufficient information on various aspects of how the process is implemented. OSCE/ODIHR NAM interlocutors raised concerns with how the boundary delimitation process was managed by the government as well as the resulting delimitation of certain constituencies. In particular, many stakeholders criticised lack of transparency, impartiality and broad engagement in the process.

Numerous draft amendments remain under consideration ahead of the elections, including altering the current mixed electoral system to one that is fully proportional. However, there is disagreement over when to adopt such a change and what type of proportional system to introduce. Other pending changes include a package of some 50 technical amendments proposed by the CEC as well as proposed changes on media coverage and financial support to political parties during the elections.

C. ELECTION ADMINISTRATION

The elections will be managed by three levels of election administration comprising the CEC, 73 District Election Commissions (DECs) and some 3,000 Precinct Election Commissions (PECs).

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6 The redrawing of constituencies was required following a Constitutional Court ruling in May 2015.
7 The 30 constituencies are in the cities of Tbilisi (22), Rustavi (2), Kutaisi (3) and Batumi (3).
8 See the OSCE/ODIHR and Venice Commission Joint Opinion on Amendments to the Election Code of Georgia, 14 March 2016.
9 Section II.2.b of the 2002 Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission) recommends that fundamental elements of electoral law should not be amended within the last 12 months before an election.
10 Some 60 polling stations will be established in diplomatic and consular representations abroad.
All election commissions are composed of 13 members. For the CEC, five members and the Chairperson are appointed by parliament upon nomination of the president and seven are appointed by political parties that received the highest amount of state funding.\(^{11}\) For DECs and PECs, six members are appointed by higher-level commissions after a public competition and serve five-year terms. The remaining seven members are party nominees and serve for the specific election. Ahead of the elections, some 210 DEC members were recruited by the CEC. While the selection process followed previous practice, some OSCE/ODIHR NAM interlocutors raised potential concern over a lack of transparency and potential political nature of appointments. Three CEC members are women, including the chairperson. Women comprise approximately 56 per cent of DEC members.

The CEC is developing training programmes focused on new commission members and requires all staff to complete a certification process. It also plans a voter education campaign, including in sign language, and will focus on remote areas and national minority communities. The CEC is working on several initiatives to ensure access to voter information and polling stations for voters with disabilities. Most OSCE/ODIHR NAM interlocutors expressed confidence and trust in the work of the CEC and noted its overall transparent and professional approach. Some reservations were noted concerning the challenge of recruiting sufficient competent polling staff for election day.

D. VOTER REGISTRATION

The right to vote is granted to all citizens aged 18 years or older. Citizens declared incompetent by a court or serving a prison sentence of more than five years are ineligible. Voter registration is passive and centralized. The CEC is responsible for compiling voter lists based on information provided on quarterly basis by the Public Service Development Agency (PSDA) of the Ministry of Justice and other relevant authorities.

Authorities are in the process of introducing biometric data and identification documents. The PSDA continues to undertake efforts to improve the quality and accuracy of the database through facial recognition to remove duplications and other inconsistencies. However, the PSDA informed the OSCE/ODIHR NAM that some 64,000 voters are still in possession of invalid documents and thus are not eligible to vote. As of the last update in February, the number of registered voters was some 3,540,000. Voters have multiple options to check their data, including at government service centres throughout the country, PSDA offices as well as online. PECs should post voter lists for public scrutiny once they are established. Since 2014, voter lists have included photos of voters.

The OSCE/ODIHR NAM interlocutors expressed overall confidence in the quality of voter lists and the management ability by the PSDA and CEC. However, some mentioned that the deficiencies with the existing address system remain problematic and require consideration.

E. CANDIDATE REGISTRATION

Eligibility criteria to be elected as an MP include having voting rights, being at least 21 years of age, living in Georgia for at least the last two years, speaking Georgian, and not being a drug addict.

Candidates can be nominated by political parties or blocs, or run independently through nomination by an initiative group of five voters. To participate in the elections, parties must first register with

\(^{11}\) This includes parties that received at least four per cent of votes in previous parliamentary elections or at least three per cent of votes in local elections. Since the Election Code stipulates that only seven members of commissions will be appointed by parties, the seven parties that receive the highest funding qualify to appoint members.
the CEC. A party without representatives in the outgoing parliament and not qualified to receive state funding is required to collect 25,000 signatures; qualified parties are required to collect 1,000 signatures. For the proportional component, parties/blocs can submit lists that include from 100 to 200 candidates. Parties eligible for public funding receive an additional 3 per cent of funding if at least 30 per cent of candidates of the less represented gender are included in each 10 candidates on their respective list.

An independent candidate running as a majoritarian candidate must collect signatures of support equal to one per cent of the number of voters registered in the respective district and pay a deposit of GEL 5,000. The signature collection requirement is waived for independent incumbent MPs.

F. ELECTION CAMPAIGN

The campaign will start upon publication of the legal act calling the elections and continue until election day. Local administrations are obliged to support electoral contestants to hold meetings with voters, public debates and discussions, and to ensure adequate safety. Information on designating locations to display campaign materials is published not later than 10 days before the start of the campaign.

Several political party representatives noted potential limitations in their ability to campaign freely, citing concerns over pressure on candidates and their supporters. They also raised concerns regarding possible misuse of administrative resources, especially in more remote areas and those populated with national minorities. Some OSCE/ODIHR interlocutors mentioned a potential risk of security services and local authorities exerting pressure on voters.

The campaign is expected to be intense and focus on personality issues rather than broader policy programmes. Parties noted their intention to use a range of traditional campaign methods and those parties with more limited financial resources emphasised the use of social media. Some OSCE/ODIHR NAM interlocutors expressed concern over the potential use of harsh and divisive rhetoric.

G. CAMPAIGN FINANCE

Campaign finance is regulated by the Law on Political Unions of Citizens, the Election Code, and the Law on State Audit. It is supplemented by regulations of the State Audit Office (SAO). Since the last parliamentary elections, only a few amendments have been introduced, including lowering sanctions for certain violations and adjusting types of permitted donations. In August 2015, the Council of Europe’s Group of States against corruption (GRECO) Second Compliance report on Georgia concluded that most of its recommendations had only been partially addressed.

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 transfer. In-kind donations are permitted and the legislation allows parties to receive loans up to GEL 1,000,000 (some EUR 400,000) per year. An electoral subject that obtained at least five per cent of votes in a parliamentary election under the proportional component receives a one-time payment of up to GEL 1,000,000 from the state budget to cover election campaign expenses. Additionally, parties that overcame the three per cent threshold (lower

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12 Equal to some EUR 2,300 (1 EUR equals approx. 2.5 Georgian Lari, GEL).
13 See the 2015 GRECO Second Compliance Report on Georgia.
14 Some EUR 24,000 and EUR 48,000 respectively.
from four per cent in previous elections) in the last parliamentary or last municipal elections are eligible for public funding.15

Total annual expenditure by a party/coalition shall not exceed 0.1 per cent of the gross domestic product of Georgia for the previous year; specific expenditure limits for independent majoritarian candidates are also established. OSCE/ODIHR NAM interlocutors noted ambiguity of the legal provision that requires potential independent candidates to declare their intention to participate in the elections and thus become subject to regulations governing campaign expenditure.

The SAO is mandated to oversee campaign finance. Contestants are obliged to submit reports every three weeks from the date of registration for the election and to report donations within five days of receipt. Contestants must submit expenditure and audit reports no later than one month after the announcement of final election results. The SAO can impose sanctions for violations of campaign finance regulations and request information on the origins of funds and property donated, but solely based on a court decision. The law does not set deadlines for the SAO to scrutinize contestant declarations or oblige it to publish the oversight conclusions; neither does it provide clear deadlines by which the SAO needs to address violations.

While acknowledging the SAO’s enhanced capacity, a number of OSCE/ODIHR NAM interlocutors raised concern with its ability to efficiently exercise oversight and potential challenges with sufficient co-operation with other institutions to perform its work.

H. MEDIA

The media environment is diverse but characterized by significant politicization. Television is the primary source of election-related information. Three broadcasters, the Georgian Public Broadcaster (GPB) and two private channels, Rustavi 2 and Imedi, have nationwide coverage. The coverage of three smaller private channels, Kavkazia, Maestro, and Channel 9, is mostly limited to Tbilisi.

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 programmes. The law provides that all broadcasters are obliged to allocate free airtime for election advertisements of “qualified” election subjects and to provide them with equal conditions for placement of paid campaign advertisements.16

Qualified parties are allocated public funds to use for paid advertising. The amount allocated depends on the number of votes obtained during last equivalent elections, but shall not exceed GEL 600,000. By law, at least 15 per cent of the amount shall be used for pre-election advertising in at least 7 regional and local broadcasters. Many broadcasters intend to conduct various debates among the political contestants. In addition, the GPB is planning to air a series of voter education and mobilisation programmes with a focus on youth and national minorities.

The Georgian National Communications Commission (GNCC) regulates media during the campaign and conducts media monitoring with a view to identify any imbalances in coverage. For the upcoming elections, the GNCC is planning to monitor 45 TV, 40 radio broadcasters and state-

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15 Funding is distributed based on a formula that considers the number of seats each party gained in proportional and majoritarian contests, the total number of votes obtained and if the party has formed a faction in the parliament.

16 “Qualified” election subjects are parties and/or candidates of parties that received at least three per cent of votes in the last parliamentary elections or local elections. In case political parties comprising electoral bloc decide to run separately they will not be entitled for such air time.
funded newspapers. It can recommend various sanctions for noted violations. In general, complaints against broadcasters are considered by their own self-regulation bodies.

Most OSCE/ODIHR NAM interlocutors characterized the media environment as aligned along political interests. A number of concerns were noted about ongoing court proceedings regarding the ownership of Rustavi 2, which significantly challenge the channel’s ability to continue its operations unimpeded. Several instances of alleged pressure on several prominent television hosts and journalists were mentioned to OSCE/ODIHR NAM as contributing to a challenging environment in which to cover the elections.

I. 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. Representatives of parties, blocs and registered observers have the right to file complaints in all cases; voters only have the right to file complaints on their non-inclusion on a voter list. Authorities acknowledged the challenge to meet the short timelines and noted the need to build capacity to understand how to properly submit complaints to the respective authorities. Some OSCE/ODIHR interlocutors noted a lack of confidence in the judicial process pointing to a number of recent trials of high-profile individuals.

As in previous elections, to address potential campaign violations by civil servants or through institutions, an Inter-Agency Task Force (IATF) will be established, by 1 July. The IATF is composed of high-level officials and mandated to consider complaints or allegations of election-related violations and issue non-binding recommendations. Several OSCE/ODIHR interlocutors questioned the IATF’s effectiveness to sufficiently manage violations and stated that it has previously been used by parties to convey political messages rather than submitting election-related complaints through formal mechanisms.

J. ELECTION OBSERVATION

The Election Code provides for observation by citizen and international observers. To be eligible to observe the elections, an organisation is required to be a non-profit legal entity registered not later than one year before election day with a statute that provides for monitoring elections and/or protecting human rights.

Citizen observer groups plan to undertake a number of election-related activities, including long and short-term observation, as well as monitoring the media and campaign finance. OSCE/ODIHR NAM interlocutors noted the positive role played by civil society, but also expressed concern about the potentially large numbers of observers present at polling stations, which could impact the work of polling staff.

IV. CONCLUSIONS AND RECOMMENDATION

All OSCE/ODIHR NAM interlocutors would welcome an OSCE/ODIHR observation activity for the upcoming parliamentary elections. Particular concerns were raised over the conduct of the campaign, and especially with regard to possible pressure on contestants and voters and a potential misuse of administrative resources. Stakeholders requested the deployment of a robust and lengthy mission to ensure sufficient nationwide coverage with an emphasis on areas populated with national minorities. A number of previous OSCE/ODIHR recommendations remain unaddressed and
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ANNEX: LIST OF MEETINGS

State and Electoral Authorities
Ministry of Foreign Affairs
David Dondua, Deputy Minister
Thea Maisuradze, Director of International Organisations
Ani Gabrichidze, Head of OSCE Division

Parliament
Vakhtang Khmaladze, Chairperson of Legal Issues Committee

State Audit Office
Zurab Aznaurashvili, Head of Financial Monitoring Service of Political Parties

Central Election Commission
Tamar Zhvania, Chairperson
Giorgi Sharabidze, Deputy Chairperson
Giorgi Javakhishvili, Secretary

Public Services Development Agency, Ministry of Justice
Giorgi Pataridze, Chairperson
Mamuka Samkharadze, Deputy Chairperson

Court of Appeals
Irakli Shengelia, Chairperson of the Chamber for Administrative Cases
Tea Dzimistarashvili, Judge, Chamber for Administrative Cases

Political Parties (in alphabetical order)
Irakli Lataria, Party Leader, Alliance of Patriots
George Maglakelidze, Political Secretary, Alliance of Patriots
Zurab Kharatishvili, Chairperson, Civil Alliance for Liberty
Aleksandre Amrashvili, Party member, Civil Alliance for Liberty
Koba Makhauri, Party Leader, Christian-Democratic Movement
Nino Gogadze, Chair of Faction, Tbilisi City Council, Conservatives
Giorgi Khokerashvili, Party Leader, European Democrats
Irakli Kobakhidze, Executive Secretary, Georgian Dream
Ann Sirbiladze, Deputy Head of International Relations Department, Georgian Labour Party
Maja Panjikidze, Foreign Secretary, Free Democrats
Bezhan Gunava, Deputy Chairperson, Free Georgia
Nino Gamsakhurdia, Adviser, Industry will save Georgia
Zurab Ghongadze, Press Secretary, National Democratic Party
Shorena Khorbaladze, Member of the Political Council, National Forum
Mamuka Kudava, International Secretary, New Political Center
Gia Japaridze, Adviser, New Political Center
Nino Charkviani, Executive Secretary, Reformers
Khatuna Samnidze, Chairperson, Republican Party
Giga Bokeria, International Secretary, United National Movement
Irakli Kavtaradze, Deputy International Secretary, United National Movement

Media
Georgian National Communications Commission
Georgia
Parliamentary Elections, October 2016
OSCE/ODIHR Needs Assessment Mission Report

Vakhtang Abashidze, Chairperson
Merab Katamadze, Commissioner
Ivane Makharadze, Broadcasting Regulation Department

**Georgian Public Broadcaster**
Giorgi Baratashvili, Director General
Sergo Gvarjaladze, Director of the Creative Unit
Giorgi Gvimradze, Director of the News Unit

**Rustavi 2**
Nini Nakashidze, Deputy Director for Communication and News

**Civil Society**
Mikheil Benidze, Executive Director, International Society for Fair Elections and Democracy
Elene Nizharadze, Project Manager, International Society for Fair Elections and Democracy
Irma Pavliashvili, Project Coordinator, Georgian Young Lawyers Association
Teona Macharashvili, Media and Elections Project Coordinator, Georgian Young Lawyers Association
Tamar Kintsurashvili, Chair of the Board, Media Development Foundation
Eka Gigauri, Executive Director, Transparency International Georgia
Levan Nanoshvili, Election Program Manager, Transparency International Georgia

**International organisations**
Nermin Nisic, Chief of Party, IFES