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Executive Summary

- On 21 March 2008, and following the January 2008 presidential elections, the President called parliamentary elections for 21 May 2008. Following significant changes to the electoral system, the new Parliament will have 150 members, 75 elected from party lists under a proportional system, and 75 elected in single-mandate constituencies. The considerable difference in the number of voters in individual single-mandate constituencies undermines the equality of the vote.
- Some 3.5 million Georgian citizens will be eligible to vote. Voter lists are available for public scrutiny between 17 April and 5 May. Election-day registration has been abolished.
- The legal framework is generally conducive to the conduct of democratic elections, if implemented accordingly. However, the Constitution and the Unified Election Code (UEC) were amended as late as March, without full consultation in search of consensus, and include significant changes to the election system. New provisions permitting unrestricted campaigning by political officials and use of administrative resources for campaign purposes are problematic.
- The elections will be administered by the Central Election Commission (CEC), 76 District Election Commissions (DECs), and some 3,600 Precinct Election Commissions (PECs). The recent amendments extended political-party representation to all levels of the election administration for these elections. However, the opposition remains strongly under-represented in PEC managerial positions. The CEC has been active preparing the elections and holds frequent meetings which are open to party representatives, media and observers.
- Nine political parties and three electoral blocs will compete in the upcoming elections. The overall inclusive and transparent registration process was somewhat overshadowed by events surrounding the submission of the candidate list of the governing United National Movement (UNM), which opposition-appointed members of the CEC demanded to see, but were not given access to by the CEC chairperson in the hours which followed the deadline for submitting candidate lists.
- The election campaign is unfolding in a polarized political environment. Opposition politicians express a deep mistrust in the election administration and a lack of confidence in the election process. They have also alleged intimidation, pressure and vote buying. Non-governmental organizations have thus far noted fewer occurrences of intimidation than before the January presidential elections.
- Following negotiations between the authorities and the opposition, a new Board of Trustees of the Georgian Public Broadcaster (GPB) and a new GPB Director were elected. GPB and all electoral contestants signed a memorandum of understanding regarding GPB's election coverage. On 10 April, the OSCE/ODIHR EOM started monitoring five TV stations and four newspapers.
- Complaints and appeals procedures have been somewhat simplified and are now clearer. However, the effects which shortened deadlines may have on the guarantee of procedural fairness are still to be observed.

Introduction

The President of Georgia, Mikheil Saakashvili, on 21 March 2008, called parliamentary elections for 21 May 2008. Following invitations from the Speaker of Parliament and the Ministry of Foreign Affairs of Georgia, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established an Election Observation Mission (EOM) on 10 April 2008. The OSCE/ODIHR EOM, led by Ambassador Boris Frlec, consists of a 14-member core team based in Tbilisi and 28 long-term observers (LTOs) who were deployed on 17 April and are based in ten locations throughout the country. Core team members and LTOs are drawn from 24 OSCE participating States. Participating States have been requested to second 350 short-term observers to observe voting, counting and tabulation.

Background

Parliamentary elections, which were originally scheduled for later in 2008, were brought forward following a plebiscite which was held simultaneously with the 5 January 2008 presidential election. President Saakashvili proposed the plebiscite following opposition demonstrations in November 2007. One of the key demands was that the parliamentary elections be brought forward.

Following the 5 January presidential election, which was marked by a high degree of political polarisation, some headway appeared to be made in dialogue between the governing UNM and opposition parties. The main opposition bloc put forward a memorandum with a list of 17 demands in late January. Progress was made in discussions on a new electoral system, a key opposition demand. However, the positive trend proved to be short-lived. In March, the political atmosphere deteriorated again, as several opposition members held a 17-day hunger strike in support of their demands. The hunger strike ended with most of the opposition's demands not being met.

The Legal Framework and Election System

The legal framework for elections in Georgia includes the Constitution (1995), as amended, the Unified Election Code (UEC) (2001), as amended, other legislative acts including the Criminal Code and Administrative Offences Code, and legal acts of the election administration. On 11 and 12 March 2008, the Constitution was amended, introducing changes to the parliamentary election system. Also, the UEC has undergone a series of amendments since its enactment, most recently on 21 March, only two months prior to the parliamentary elections.¹

The UEC amendments include major changes to the election system, as well as changes to the election administration, campaign regulations, and complaints and appeals procedures. The amendments take into account several OSCE/ODIHR recommendations, although others remain unaddressed. Opposition parties express strong dissatisfaction with the changes to the election system, which they regard as benefitting the ruling party. Opposition parties, domestic observers, and the Public Defender voiced displeasure at both the inadequate level of consultations and lack of transparency of the process.

¹ According to the European Commission for Democracy Through Law (Venice Commission) Code of Good Practice in Electoral Matters (CDL-AD (2002) 23 rev, page 26, paragraph 65, an election system should not be changed within a year prior to elections.

Although the UEC is generally conducive to the conduct of democratic elections, it contains a number of substantive shortcomings, including campaign provisions which now permit unrestricted campaigning by political officials² and use of administrative resources for campaign purposes. These latter provisions are problematic and opposition parties and domestic observers are very critical of them. Overall, and despite the recent amendments, many gaps, inconsistencies, and ambiguities still remain, with the potential to impede, and potentially to undermine, the effective implementation of the law. The benefit of positive aspects of the law will largely depend on the implementation of the provisions in good faith.

Following these elections, the Parliament will consist of 150 members elected for a four-year term. Under the changes introduced by the March 2008 amendments, 75 members of parliament will be elected under a list-based proportional system in one nationwide constituency, and another 75 members will be elected in 75 single-mandate constituencies.³ The threshold which parties and blocs must pass to participate in the allocation of mandates from the proportional component was lowered from 7 to 5 per cent. In the majoritarian component, the candidate who receives the highest number of votes, but not less than 30 per cent, is elected in the first round. If no candidate receives the required plurality, a second round is held within two weeks between the two candidates who received the highest number of votes.

There is no legal requirement for single-mandate constituencies to be of equal or comparable size. In these elections, the number of voters in individual election districts, which as a rule coincide with administrative districts, ranges from around 6,000 to over 140,000. Such differences in the number of voters registered in individual districts undermine one of the main principles of electoral rights, namely the equality of the vote.⁴

The Election Administration

The upcoming parliamentary elections are administered by a three-tier election administration consisting of the Central Election Commission (CEC), 76 District Election Commissions (DECs) and about 3,600 Precinct Election Commissions (PECs). Specifically for these elections, the composition of DECs has been changed to provide for party nomination of DEC members.⁵ DEC membership has been increased from five to 13 members, with seven members nominated by political parties financed from the State budget. In this regard, the composition of DECs has been brought in line with that of the CEC and PECs. Political parties, especially from the opposition, remain under-represented in leadership positions at DEC and PEC level. Of the 3,555 PECs already established, 3,347 chairperson positions are held by members appointed to the PEC by the respective DECs, 203 chairs are UNM appointees, and only five were nominated by opposition parties. The division of positions of deputy chairpersons and secretaries is similar.

On 16–17 April, PECs held their first meetings. In six DECs⁶, party representatives, PEC members or local observers filed complaints requesting the annulment of the first PEC meetings, mostly because of alleged breaches of the procedural rules for such meetings, e.g. as regards the

² Mostly politically appointed or elected officials such as the President, ministers or heads of other executive bodies at local or regional level, but also members of parliament or local self-government bodies.

³ The opposition had advocated the introduction of a regional proportional election system.

⁴ Paragraph 7.3 of the 1990 OSCE Copenhagen Document commits OSCE participation States to “guarantee universal and equal suffrage to adult citizens”. The Council of Europe’s Commission for Democracy through Law (Venice Commission) recommends that “the permissible departure from the norm should not be more than 10%, and should certainly not exceed 15% except in special circumstances”.

⁵ Article 129^{8.4} of the UEC states that eight additional DEC members shall be appointed for the 2008 parliamentary elections. Article 26.2 states that DECs are composed of five members.

⁶ Gldani, Nadzeladevi, Senaki, Shuakhevi, Gurjaani and Isani.

nomination of members to hold key functions in the commissions. In Gldani, the DEC satisfied the complaint and annulled the protocols of the first meetings of 26 PECs, where new sessions were held. Other complaints were either not admitted or not satisfied. The Isani DEC's decision was appealed in court, but the appeal was not satisfied.

In early April, the CEC presented its "*Reforms Strategy for Free and Fair Elections*", under which it reorganized the structure and functions of its staff. While the strategy lists improved transparency as a top priority, it was undermined by events at the CEC on 21–22 April, when some CEC members were denied access to information (see below, Party Nomination and Registration).

The CEC holds frequent meetings, which are open for representatives of political parties, media and observers. The CEC adopted instructions for PEC members, drafted in cooperation with the United Nations Development Program and the Washington-based non-governmental organization IFES. These instructions were turned into a training manual. From the end of April, trainings of DEC's and PECs will be conducted by trainers who have already been trained.

Voter Registration

The CEC is responsible for the maintenance of the centralized voter register. On 15 April, the CEC announced that the total number of registered voters was 3,473,190. According to the CEC, 66,740 new entries were added to the voter lists since the January presidential election, including 21,674 from additional lists compiled on election day during the presidential election (out of a total of around 85,000 voters added to additional lists). Domestic observers described the process of incorporating the names of voters from additional lists into the general list as non-transparent because not all voters from the additional list were included in the general list and the criteria for inclusion were not explained.

The latest amendments to the UEC abolished election-day registration and extended the period for public scrutiny of the voter lists from 12 to 19 days. Voter lists are available for public scrutiny from 17 April to 5 May at PECs, DEC's and the CEC. Voters can also check their names through the Internet, a CEC hotline or SMS.

Party Nomination and Registration

Under the Georgian Constitution and the UEC, only political parties and electoral blocs registered by the CEC may nominate party lists and majoritarian candidates; the law does not allow individual nominations⁷. The nomination of parties not represented in the current Parliament should be supported by the signatures of 30,000 voters. Initially, 60 parties expressed the desire to participate in the elections. Twenty eight non-parliamentary parties submitted signatures to the CEC. Out of these, 18 were denied registration due to an insufficient number of signatures or too large a percentage of signatures deemed void by the CEC. Five of the parties which were denied registration went to the court; all lost their cases. Altogether, the CEC registered 23 political parties; subsequently 14 of these parties created three election blocs. Consequently, there are 12 election subjects in the upcoming elections – nine parties and three electoral blocs. On 21 April, the CEC determined the order of election subjects in the ballot paper. Registered parties and election blocs had to submit candidate lists for the proportional part

⁷ In contravention of article 7.5 of the OSCE's 1990 Copenhagen Document, which states that Participating States will respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.

of the elections to the CEC and nominate candidates for the single-mandate constituencies by 18:00 hours on 21 April.

Electoral contestants include the governing UNM of President Saakashvili, and the nine-party bloc whose candidate, Levan Gachechiladze, came second in the January presidential election. This bloc is contesting the elections as the United Opposition – National Council – New Rights (United Opposition). The bloc includes the New Rights party, whose leader, Davit Gamkrelidze, stood independently in the presidential election. The Republican Party, which was part of Mr. Gachechiladze's bloc for the presidential election, announced on 29 February that it would stand alone in the elections. Other parties contesting the elections include the recently formed Christian-Democratic Movement and the Labour Party of Georgia.

The generally inclusive and transparent registration process was overshadowed by events which took place at the CEC on 21–22 April. At around 18:00 hours, the deadline for submitting candidate lists to the CEC, the Speaker of Parliament Nino Burjanadze, who was to head the UNM list, announced that she was withdrawing from the election due to disagreements over the composition of the list. Suspecting that the UNM would change their list after the legal deadline, to replace Mrs. Burjanadze's candidature, opposition-appointed CEC members demanded to see the UNM list but were refused by the CEC Chairman, who said that the chancellery was closed and the information would be available only the next morning. Several leading opposition politicians arrived at the CEC to lend weight to the demand. Domestic and international observers were also present. The list, which was ultimately produced after more than four hours, was not kept in the room which the CEC Chairperson had initially pointed out and which had been guarded by the opposition. These events were characterized by lack of transparency, as some CEC members and staff restricted access to information for other CEC members.

The Political Environment and the Election Campaign

The political environment remains highly polarised. Opposition politicians express deep mistrust of the state authorities, doubts about the impartiality of the election administration, and a lack of confidence in the fairness of the electoral process, both as regards the procedures as set by legislation and their implementation by election officials.

Campaigning has been getting under way, especially by the UNM. The UNM's campaign message focuses on social welfare measures being undertaken by the Government, in a campaign to eradicate poverty. However, there has been little issue-based political debate, as opposition parties, notably the United Opposition bloc, focus instead on allegations of electoral violations. Allegations by opposition parties and non-governmental organisations include intimidation, among others of opposition candidates, pressure, notably on public-sector workers, vote buying, the use of administrative resources, and illegal campaigning by public servants, such as regional Governors. However, NGOs have thus far noted considerably fewer occurrences of intimidation than before the January presidential elections. Some opposition figures have used strong language against the UNM, and there have been warnings from the United Opposition that "rebellion" may follow the elections if they are perceived as not being fair.

The National Democratic Institute organized a Code of Conduct for Party Activists, which was signed by several parties, including the UNM and most parties from the parliamentary opposition, and presented at a press conference on 11 April.

The Media

Following opposition criticism of the Georgian Public Broadcaster (GPB) in connection with the coverage of the recent presidential election, a new GPB Board of Trustees was elected by the Parliament on 26 February. The composition of the nine-member board, which oversees the activities of GPB, resulted from negotiations between the authorities and the main opposition bloc. On 4 April, the new board elected a new GPB Director for a six-year term.

GPB's Board of Trustees initiated a memorandum of understanding between GPB and all political parties and blocs registered for the upcoming elections. The memorandum, signed on 16 April, foresees "balanced, objective and impartial" coverage of all contestants and divides GPB news programs into an "Election Chronicle" covering activities of the competing political parties and blocs, and an "Official Chronicle" focusing on the activities of the state administration. GPB started organizing televised debates between political parties and blocs two times per week (from 21 April to 20 May) and has also allocated a total of 36 minutes to each party or bloc for free-of-charge presentations (three times per week). The date and order of appearances in debates and of free-of-charge presentations was determined by drawing lots.

The UEC contains provisions governing media conduct during an election campaign, *inter alia* providing for the allocation of free and paid airtime to election contestants. The law distinguishes between "qualified" and "unqualified" subjects.⁸ GPB has allocated, for free-of-charge spots, 60 seconds per hour to each qualified subject, and 30 seconds per hour to each unqualified subject. The UNM started using its free airtime on 18 April and the United Opposition on 25 April.

Since 10 April, the OSCE/ODIHR EOM has been conducting quantitative and qualitative monitoring of five TV stations⁹ and four newspapers¹⁰. Preliminary monitoring results indicate that public TV has devoted similar proportions of its political and election prime time news coverage to the main opposition bloc (20 per cent) and the UNM (15 per cent). While 59 per cent of the UNM's coverage was positive and 39 per cent neutral in tone, only five per cent of the main opposition bloc's coverage was positive, and 95 per cent neutral. In addition, public TV devoted significant and favorable coverage to activities of the authorities, outside the campaign context, thus benefiting candidates with a pro-government orientation.

With Imedi TV remaining off the air¹¹, privately-owned Rustavi 2 is the most popular channel in Georgia. It has so far boycotted the main opposition bloc's activities in its widely-watched news programs. Mze TV, which is part of the same media holding, adopted a similar approach. Rustavi 2 explained its boycott by claiming verbal and physical attacks on its journalists by some representatives and supporters of the main opposition bloc. To lift the boycott, Rustavi 2 expects a public apology and assurances that its journalists will not face similar attacks in the future. In connection with the opposition's recent hunger strike, the nine-party bloc accused Rustavi 2 and Mze of bias in favor of the authorities and decided to boycott both channels and offer only

⁸ "Qualified" subjects are political parties or blocs which are represented by a faction in the Parliament or received at least four per cent of the proportional vote in the last elections, whereas "unqualified" subjects must demonstrate public support through opinion polls results in order to enjoy free airtime/space.

⁹ 1st Channel (Georgian Public Broadcaster), Rustavi 2, Mze TV, Kaukazia TV and TV Adjara.

¹⁰ *Rezonansi*, *24 Saati*, *Alia* and *Kviris Palitra*.

¹¹ Imedi TV has been off the air since 26 December when the management decided to temporarily suspend broadcasts claiming pressure that had been put on the broadcaster by both Mr. Patarkatsishvili and the authorities. Imedi TV has informed the EOM that it plans to resume its broadcasts on 5 May after the financial debts to the satellite company which transmits its signal in the regions will have been paid by the new owner. In addition, Imedi TV will start broadcasting news programs and political talk shows only after the 21 May elections.

interviews to be broadcast live. At a press conference on 17 April, however, the main opposition bloc decided to stop its boycott and declared that their election headquarters were open for all journalists, including from Rustavi 2 and Mze.

Complaints and Appeals

Opposition parties and domestic observers express a lack of trust in the election administration and courts to provide effective remedies for election-related grievances. The Public Defender held the opinion that citizens fear reporting violations to law enforcement authorities.

The dispute-resolution provisions in the UEC have been significantly revised; although the process has been streamlined, the provisions remain somewhat complicated and ambiguous. The dual jurisdiction of the election administration and courts has been eliminated, with procedures and timeframes more clearly defined. However, the shortening of deadlines (to one day) for appeal of decisions and consideration of complaints in the election administration – with the appeal deadline starting from issuance, and not notification, of the respective decision – is a negative development, which may undermine the guarantee of procedural fairness. The CEC Rules of Procedure do not include minimum procedural safeguards in the consideration of complaints. For example, the rules do not entitle complainants to the adopted legal reasoning of commission decisions which is necessary for filing an effective appeal.

The amendments provide a degree of improvement regarding the consideration of election-day complaints, including the opportunity to correct technical errors in complaints. However, a new provision in the UEC¹² regulating the use of official video recordings from PECs unnecessarily restricts full access to stakeholders, thus limiting the use of the recordings as evidence of offences.

The introduction of staff lawyers at DEC's and increase in CEC legal staff is seen as a positive development, as is a CEC decree describing the complaints and appeals procedures and related training of the election administration. However, this training observed by the EOM did not address international standards for adjudication of complaints and appeals, neither did it enhance skills in legal analysis and interpretation. Regrettably, no training by experts is planned for CEC members and legal staff on the new amendments or on adjudication of complaints and appeals, although the Supreme Court has carried out such trainings for judges. There is a general lack of coordination and cooperation between the CEC and courts on issues of common concern.

Participation of Women and National Minorities

There are neither legal barriers to the participation of women in elections, nor legal provisions to promote their participation. In general, women are under-represented in political life and in the election administration. Of the 13 CEC members, one is a woman, although women are better represented at the lower levels of the election administration. Following the March 2004 repeat parliamentary elections, a total of 22 women were members of parliament (9 per cent).

According to the 2002 census (which did not include the territories of South Ossetia and Abkhazia), national minorities make up 16.2 per cent of the population. The most significant minority groups are Azeris (6.5 per cent) and Armenians (5.7 per cent), concentrated in southern regions bordering Azerbaijan and Armenia. Other minority groups include Russians, Ossetians, Greeks, Chechens, Jews, Abkhazians and Kurds. A Roma population exists, but is not officially

¹² Article 129⁸ point 10 of the UEC. It is only possible to request a maximum of 15 minutes of video footage, with the precise date and time specified in the request.

recognised as a minority; consequently, its numbers are unclear. National minorities enjoy full political rights under the Constitution. The CEC plans to provide election materials in Russian, Azeri, Armenian and Ossetian, upon request from DEC's, in regions with significant minority populations.

Domestic and International Observers

While contradictions remain, UEC provisions regarding domestic non-partisan observers have largely been brought in line with those for international observers, and now clearly stipulate the right of domestic observers to observe at all levels of the election administration. The deadline for registering local observer organizations was changed from 30 to ten days before election day.

As of 24 April, the CEC had registered 19 domestic and three international organizations to observe these elections. The main domestic observer organizations are the International Society for Fair Elections and Democracy (ISFED), New Generation New Initiative (nGnI), and the Georgian Young Lawyers' Association (GYLA). ISFED is conducting long-term observation and plans to deploy some 700 observers on election day. ISFED also intends to conduct 24-hour post-election monitoring of 40 DEC's. nGnI plans to conduct a Parallel Turnout Tabulation (PTT) in areas populated by national minorities.

OSCE/ODIHR EOM Activities

The OSCE/ODIHR EOM opened its office in Tbilisi on 10 April 2008. The Head of Mission has met the Speaker of Parliament, the Minister of Foreign Affairs, the Chairperson of the CEC, the Prosecutor General, the Public Defender and other officials, and Ambassadors of OSCE participating States. The OSCE/ODIHR EOM has conducted initial meetings and established regular contact with the CEC, the Inter-Agency Task Force for Free and Fair Elections, major political parties, civil society, the media and political analysts. A first briefing for members of the diplomatic community and international organizations accredited in Georgia was held on 24 April.