

**INTERIM REPORT No. 2
26 April–9 May 2008**

Executive Summary

- The Central Election Commission (CEC) continued active preparations for the elections. It has registered all 12 candidate lists. Training of District Election Commissions (DECs) and Precinct Election Commissions (PECs) is underway or has been concluded. While the CEC is required by law to act in a collegial manner, in practice this is not the case.
- The CEC extended the scrutiny period for voter lists by three days. The opposition continues to express concerns regarding the accuracy of the voter list, claiming there are deceased persons in the lists, multiple records, and non-existing registration addresses.
- Campaign activities have intensified during the reporting period. The United National Movement (UNM) has been campaigning actively, and campaigning by some opposition parties has also got under way. Some leaders of the United Opposition–National Council–New Rights (United Opposition) have verbally attacked the CEC Chairman in a highly abusive manner. In addition, United Opposition youth demonstrated outside the CEC Chairman’s home.
- The OSCE/ODIHR Election Observation Mission (EOM) has received numerous allegations of widespread intimidation, illegal campaigning by public servants, and abuse of administrative resources. Several allegations of intimidation could be substantiated. The UNM majoritarian candidate in Tsageri withdrew after a recording appeared to show him threatening public officials with dismissal if they did not secure 80 per cent support for the UNM. The President and the Interior Ministry have issued strong statements calling on public officials and law-enforcement bodies not to interfere in the election process.
- Formal complaints and appeals so far primarily relate to decisions and actions of election commissions, with few complaints regarding campaign violations. Election commissions and courts have not given due consideration to complaints and appeals, particularly those against UNM and public officials. In various cases, they have refused to hear relevant witnesses or view documented evidence, failed to address all relevant facts, applied unsound interpretations of the law, ignored its spirit, or failed to provide legal reasoning.
- Regular talk shows and debates between political parties and candidates on the Georgian Public Broadcaster (GPB) as well as national and regional private broadcasters have provided contestants with an important forum for an exchange of views. In addition, contestants have been able to utilize airtime for free-of-charge presentations and spots on both GPB and private broadcasters. The OSCE/ODIHR EOM’s preliminary media-monitoring results indicate a lack of balance, in favour of one party or the other depending on TV channel, in the prime-time news coverage of political subjects and candidates on most monitored TV stations, with the exception of public TV.
- The share of women on the proportional lists of the major political parties and blocs varies between eight and 32 per cent. In addition, about 13 per cent of the candidates running in single-mandate constituencies are women. Several contestants have fielded members of national minorities as candidates. The CEC presented election documents and materials in minority languages. While voter lists will be available in minority languages on election day, they were only available in Georgian during the public scrutiny period.

The Political and Campaign Environment

Campaign activities have gained momentum during the reporting period. The incumbent United National Movement (UNM) has been campaigning intensively, including leading figures on the party list, candidates for single-mandate constituencies, and local party activists. Campaigning by some opposition parties has also got underway, notably by leading politicians in the single-mandate constituencies in which they are candidates. The main form of activity has been relatively small-scale events, rather than large-scale rallies. Billboard political advertisements are particularly in evidence in Tbilisi, mostly for the UNM. Some opposition parties claimed they did not have equal access to commercial billboards. Billboard owners assert that they are open to all election subjects.

The UNM's campaign has focused on promises to eradicate poverty, through such measures as raising pensions and promoting agriculture and small businesses, as well as on the Government's record. There has also been some issue-based campaigning by opposition parties. Both the UNM and opposition parties frequently stress local issues. The campaigning of some opposition parties has been very negative in tone, highlighting mistrust in the fairness of the electoral process, and focusing on alleged violations and plans by the authorities to manipulate the elections.

Some leading figures from the United Opposition have used very strong language when attacking President Mikheil Saakashvili and the UNM. Furthermore, they have attacked the CEC Chairman in a highly personalized and abusive manner. On 1 May, United Opposition leaders led a march to the CEC, which resulted in violent scuffles with police. They have also called for demonstrations outside the CEC on the evening of election day. On 3 May, United Opposition youth activists demonstrated outside the CEC Chairman's home.

The election campaign has been influenced and partly overshadowed by renewed tensions with the Russian Federation over Abkhazia. Opposition leaders accused the UNM of exploiting these developments for their own electoral gain.

The OSCE/ODIHR EOM has received numerous allegations of violations from opposition parties and NGOs. These include widespread intimidation, among others of candidates, party activists and state employees, especially teachers; illegal campaigning by public servants¹; and abuse of administrative resources. Among numerous specific allegations of intimidation, several have been substantiated by the OSCE/ODIHR EOM. For example, a teacher in Kakheti, who had switched her support from the UNM to the Republican Party, was warned by the school director that she would be dismissed if she did not remain with the UNM. The local UNM candidate allegedly offered to double her salary if she remained with the UNM. There have been widespread allegations that people with relatives in pre-trial detention have been told that they could secure their release if they collected pledges of votes for the UNM. A credible witness told the OSCE/ODIHR EOM how a UNM candidate in Tbilisi had told a woman that her arrested son would be released if she could deliver several hundred signed pledges to vote for the UNM.

On 5 May, the United Opposition presented an audio recording that appeared to show the UNM majoritarian candidate in Tsageri threatening state officials with dismissal if they did not secure 80 per cent² support for the UNM. OSCE/ODIHR EOM long-term observers (LTOs) heard numerous allegations that such pressure on public-sector employees was widespread. The UNM candidate withdrew from the election and the Prosecutor's office opened an investigation on 9

¹ The Unified Election Code distinguishes between political officials and other public servants; whereas the former are permitted to campaign while conducting official duties, the latter are prohibited from doing so.

² The UNM candidate's estimate of the percentage of the population employed in public service in Tsageri.

May. President Saakashvili, who had on 3 May called on public officials not to interfere in the electoral process, reacted strongly in the Tsageri case, warning against illegal practices. On 5 May, the Interior Ministry warned its officers not to interfere in the election and to restrict themselves to ensuring a secure environment for all parties to campaign in.

Under a government program, fuel vouchers are distributed in rural areas for agricultural support. At times, the distribution of the vouchers has been combined with campaign activities for the UNM, blurring the distinction between state activities and campaigning, in contravention of paragraph 5.4 of the 1990 OSCE Copenhagen Document. In Ponichala, a village in the Krstanisi district of Tbilisi, the UNM candidate joined the Mayor of Tbilisi while he distributed fuel vouchers and engaged in campaigning. UNM activists in Tkibuli acknowledged to OSCE/ODIHR EOM that they had been distributing fuel vouchers from the UNM office.

There have been numerous allegations that regional governors have engaged in campaigning for the UNM, which, as they are public servants and are not political officials, is prohibited. In villages near Kareli on 5 May, the Governor of Shida Kartli engaged in campaigning together with the UNM majoritarian candidate. In Kvenatkotsa, the campaign event was held in a village school. The school director, who is also the Chairman of the PEC located in the school building, closed the school and ordered the children to join in the welcome of the Governor and the UNM candidate. The PEC was full of UNM campaign posters. Opposition parties further allege that the UNM enjoys unequal access to administrative resources. For example, the Republicans were denied use of the Armenian theatre in Isani (Tbilisi), while a UNM candidate was able to establish an office there.

The Election Administration

During the reporting period, the Central Election Commission (CEC) continued active preparations for the parliamentary elections. The CEC was holding frequent sessions which were open for observers, proxies and media. The CEC has registered the candidate lists of all 12 election subjects, approved the forms of a number of election materials, including the display summary protocol, ballot paper, and the PEC election-day record book.

The issue of which single-mandate constituency votes cast in the DEC covering Upper Abkhazia should be allocated remains unresolved. Despite a final court decision that the votes cast for the majoritarian component should be counted in the neighboring Mestia DEC, opposition-appointed CEC members have blocked three attempts to pass the relevant decree with the required two-thirds majority.³ Although under the law the CEC is required to act as a collegial body, this is not the case in practice; for example, the CEC Chairman informed the General Prosecutor in writing of the failure to pass the decree and attached the minutes with the voting behavior of individual CEC members.

The process of installing video cameras in polling stations has started. On 7 May, the opposition-appointed CEC members demanded to regulate that process by CEC decision, particularly defining the regions in Georgia where the cameras should be installed and stipulating that footage from previous elections should be kept and new information should not be recorded over them. However, the demand was not supported by the required number of CEC votes. The OSCE/ODIHR EOM was informed by the CEC Chairman that the footage of PECs which were

³ Article 15 of UEC stipulates that Upper Abkhazia DEC does not have a majoritarian contest; however the court held that to preserve the constitutional right to vote, the voters of this DEC should be attached to Mestia DEC for the majoritarian component of the election, and ordered the CEC to issue a decree to this effect.

contested in the recent presidential election will be kept, while recordings of other PECs will be overwritten.

One-day trainings for DEC members were conducted from 1 to 3 May, and on 4 May, trainings of PECs started. OSCE/ODIHR EOM LTOs assessed the training positively. According to them, DEC members are in general well aware of their duties. However, opposition-party appointees are at times excluded⁴ from DEC members' activities and DEC members are not acting as collegial bodies.⁵ DEC meetings are held on an ad-hoc basis, and although they are generally open, observers and party proxies complained of a lack of transparency in several DEC members.⁶

The CEC has established 3,358 regular PECs and 72 special polling stations⁷ on Georgian territory, as well as 47 polling stations abroad. While OSCE/ODIHR EOM observers reported that PECs were generally functional, they assessed the level of preparedness of PECs in some areas⁸ as very low. Specifically, they noted a lack of knowledge of the recent UEC amendments and a reluctance to play an active role in informing voters how to proceed if they are affected by inaccuracies in the voter list.

The OSCE/ODIHR EOM has been informed of a number of personnel changes among party-appointed PEC members. While many changes were explained as a consequence of the inability of opposition parties to identify suitable candidates, OSCE/ODIHR EOM observers also received a number of allegations that party-appointed PEC members were pressured to resign.⁹

For the first time, the CEC published a compendium of legal acts which contains the UEC, regulations of election commissions of all levels, decrees and ordinances adopted by the CEC during the election period, and court decisions to which the CEC was a party.

The CEC launched its voter information campaigns, using TV spots and leaflets to provide information on voter lists, registration of voters abroad, use of administrative resources, secrecy of the vote and applications for mobile voting.

Voter Registration

On 5 May, the CEC extended – upon the request of opposition-appointed CEC members – the period of public scrutiny of voter lists by three days, to 8 May. According to data provided by the CEC, around 13,000 citizens checked their names in the list through a CEC telephone hotline, some 8,000 used a special SMS service, and more than 29,000 voters applied to DEC members and PECs requesting corrections, which are currently being reviewed. The CEC held frequent press briefings to inform voters about the extension of the deadline. Media passed on the message to the electorate.

⁴ Opposition-appointed DEC members have complained to the OSCE/ODIHR EOM that opposition-appointed DEC members are not always given access to all relevant documentation and are not always informed about when DEC sessions are to be held. OSCE/ODIHR LTOs have confirmed this information.

⁵ Vani, Gurjani, Khelvachauri and Tetrtskaro DEC members.

⁶ Dusheti, Bolnisi and Tsalka DEC members.

⁷ At military barracks/units, detention centres, hospitals etc., where the number of voters is more than 50. Two polling stations were established for Georgian military serving in Iraq.

⁸ For instance in rural areas of the regions of Kvemo Kartli (Gardabani, Marneuli DEC members) and Guria, as well as in Krtsanisi DEC in Tbilisi.

⁹ For instance in Mtskheta and Batumi DEC members.

OSCE/ODIHR EOM observers reported that while voter lists were generally displayed at PECs, making it possible for voters to check their names, voters did not use this right actively. Commissions were generally not proactive in checking the voter lists; however, the observers reported that some PECs received from the CEC lists of problematic entries to be checked.

Opposition parties continue to express concerns regarding the accuracy of the voter lists, claiming specifically that the number of voters is inflated due to the presence of deceased persons, multiple records, and non-existing buildings as registration addresses. The Republican Party informed the OSCE/ODIHR EOM that after checking the voter list provided to them by the CEC, they found numerous cases of between 18 and 80 voters being registered in one and the same apartment. Some of these cases could be substantiated in Tbilisi and Batumi, where the owners of the apartments were not aware of the fact that so many persons were registered in their flats. According to the Ministry of Justice, a total of 376 addresses, at which more than ten voters are registered, were identified in Tbilisi. The Civil Registry sent a notification to the owners of these flats, encouraging them to deregister some of these registered people, as appropriate. Consequently, 44 people were deregistered. Furthermore, there are 692 addresses without apartment numbers in Tbilisi's Saburtalo district where more than ten voters are registered. The total number of these voters is 12,119.

The Media

Regular talk shows and debates between political parties and candidates on the GPB and national and regional private broadcasters have provided contestants with an important forum for an exchange of views. A debate organized by GPB, with the participation of the United Opposition and the UNM, is planned for 15 May. In addition, political parties and blocs have been able to utilize airtime for free-of-charge presentations and spots on both GPB and private broadcasters.

By law, all contestants are entitled to buy airtime/space for political advertising under equal conditions. Some political parties, however, complained to the OSCE/ODIHR EOM that the very high cost for paid political advertising on television (approximately ten times higher than commercial rates for non-political advertisement) limits their possibilities to campaign in the media. So far, only three political parties or blocs – the UNM (on Rustavi 2, Mze and Kavkazia), the United Opposition (on Kavkazia) and the Christian-Democratic Movement (on Rustavi 2) – have bought airtime.

The OSCE/ODIHR EOM's preliminary media-monitoring results indicate a lack of balance in the prime-time news coverage of political subjects and candidates on most monitored TV stations. Only public TV has so far offered its viewers a more balanced picture of the campaign. Between 10 April and 7 May, public TV devoted similar proportions of its political and election news coverage to the United Opposition (20 per cent) and the UNM (16 per cent). While 65 per cent of the UNM's coverage was positive, 31 per cent neutral in tone and four per cent negative, 22 per cent of the main opposition bloc's coverage was assessed as positive, and 78 per cent as neutral. Public TV continued to devote significant and favorable coverage to activities of the authorities, outside the campaign context, thus benefiting candidates with a pro-Government orientation.

Two private TV channels with nationwide outreach, Rustavi 2 and Mze, boycotted the activities of the United Opposition in their news programs – Mze until 26 April and Rustavi 2 until 28 April.¹⁰ During the boycott, both channels devoted concentrated and favorable coverage to activities of the incumbents. From 10 to 28 April, Rustavi 2 devoted 67 per cent of its political

¹⁰ See OSCE/ODIHR EOM Interim Report No. 1 (www.osce.org/documents/odihr/2008/04/30927_en.pdf).

and election news coverage to activities of the President (27 per cent), the Government (19 per cent) and the UNM (21 per cent). This coverage was overwhelmingly positive or neutral in tone. After lifting the boycott, Rustavi 2 and Mze started to cover activities of the main opposition bloc in their news – but still much less than those of the authorities and the UNM.

After winning a public tender, TV Mze signed a contract on 31 March with the Tbilisi City Administration to produce a TV program which should “provide a broad perspective of the ongoing activities in Tbilisi, new projects and the Tbilisi local government decisions and future plans.” Consequently, since April 1, Mze has broadcast a ten-minute daily program (on weekdays) called “Mzera Tbilisi”, which features local news from Tbilisi. In this program, the UNM candidates running in the Tbilisi single-mandate constituencies have been shown extensively, participating in various events covered by the program; other candidates running in the same constituencies did not receive such coverage.

Adjara TV, which is owned by the Adjara regional authorities, adopted a similar approach as Rustavi 2 and Mze and devoted the bulk of its political and election prime-time news coverage to the activities of the UNM. In particular, Adjara TV has allocated intense and favorable coverage to a UNM candidate running in the Batumi single-mandate constituency. No other candidate has so far received comparable coverage.

In contrast to the three channels mentioned before, the local Tbilisi TV station Kavkazia has so far served as a platform for the opposition. It has allocated the bulk of its campaign coverage to the United Opposition and strongly criticized the UNM.

Complaints and Appeals

Complaints and appeals filed with the election administration and courts so far primarily relate to decisions and actions of election commissions, with few formal complaints on campaign violations.¹¹ Although opposition parties allege numerous campaign breaches, use of the media appears to be the preferred strategy for highlighting issues, with some criminal matters reported to law enforcement bodies. The election administration has so far failed to exercise its authority to address violations on its own initiative. Citizens do not have a right to file complaints on breaches of election law and there seems to be a general attitude in the judiciary that the number of complaints deemed eligible for consideration should be kept to a minimum so as not to overburden the courts.

Election commissions and courts have so far not given due consideration to complaints and appeals, particularly those against UNM and public officials. In various cases they have refused to hear relevant witnesses or view documented evidence, failed to address all relevant facts, applied unsound interpretations of the law¹², ignored its spirit, or failed to provide legal reasoning. CEC lawyers have often proposed arguments in court which lack any basis in legislation. In one case, the CEC lawyer did not defend the CEC as a collegial body, showing allegiance only to its non-opposition members. In the same case, the lawyer argued that members are permitted to vote on complaints according to their “internal beliefs” and are not bound by the law.¹³

¹¹ The approximate number of complaints and appeals filed as of 9 May is: to DECAs – 50, to the CEC – 15, to the Tbilisi City Court – 20, to the Tbilisi Court of Appeal – eight and to other courts – two.

¹² For example ruling that only registered candidates and party proxies are prohibited from vote buying; thus, other campaigners are permitted to do so.

¹³ In politically sensitive cases, CEC members appear to vote according to political interests.

Notably, three opposition parties filed complaints in court requesting annulment of the CEC decree that registered the UNM party list, alleging the list had not been submitted in line with legal procedure. The complainants requested permission to call witnesses who could provide evidence to substantiate the allegations. The judges refused to hear any witness citing these unjustifiable grounds: lack of time in an election period; the witnesses were not relevant; and no CEC member had attached a dissenting opinion to the CEC session minutes.¹⁴ In rejecting the cases, the court then wrote that the complainants “should have provided relevant evidence for the purpose of proving circumstances mentioned in the claim, which they have not done.”¹⁵

The Georgian Young Lawyers’ Association (GYLA) filed several complaints related to vote buying by UNM candidates and involvement of public servants in campaigning. Rejecting the cases, the courts provided extensive interpretations of the relevant legal provisions that ignored both the letter and spirit of the law, and which offer broad latitude for campaigners to unduly influence voters and for public servants to mix official duties with campaign activities. The court ruled, for instance, that only registered candidates and party proxies are prohibited from vote buying; thus, other campaigners are permitted to do so.¹⁶ The court also held that while carrying out official duties, public servants are only prohibited to expressly request citizens to vote for a candidate; by implication, any other form of campaigning while on duty is permitted.

Participation of Women and National Minorities

Three political parties registered for these elections – all of them parts of electoral blocs – are led by women.¹⁷ Among the major political parties and electoral blocs, the percentage of women candidates in the proportional lists is: Christian-Democratic Movement – 32 per cent, Labour Party – 28 per cent, Republican Party – 22 per cent, United Opposition – 15 per cent, and UNM – eight per cent. In the majoritarian elections, 58 women, equaling some 13 per cent of all majoritarian candidates, are running in 45 constituencies.

Several parties and blocs have included members of national minorities in lists and as candidates for single-mandate constituencies. The Republicans nominated five minority representatives on their party list; the Labour Party one; the UNM eight; and the United Opposition seven. The Christian-Democratic Movement did not nominate any minority representatives on its list. The Republicans and the UNM placed minority representatives relatively high on their lists, the highest being at number nine and number 29, respectively, whereas the United Opposition’s highest placed minority representative is in 85th place in their candidate list for the proportional election. One minority representative on the United Opposition proportional candidate list withdrew on 5 May. Several parties have nominated minority candidates in regions where minorities form a substantial part of the population. For example, in Marneuli, five candidates, including from the UNM and the Republicans, are ethnic Azeris. In the majoritarian constituency of Ninotsminda, the respective candidates of the UNM and the Republicans are ethnic Armenians.

On 5 May, the CEC presented election documents and materials translated into Armenian, Azeri, Ossetian and Russian. These included ballot papers, protocols, the UEC and PEC instructions. The CEC Chairman informed the OSCE/ODIHR EOM that voter lists would also be translated into minority languages for use on election day. However, voter lists were only available in

¹⁴ Article 22(12) of the UEC provides that an election commission member has the right to express a dissenting opinion in written form.

¹⁵ Tbilisi City Court 26 April 2008, upheld by the Tbilisi Court of Appeal 28 April 2008.

¹⁶ Ruling by Tbilisi City Court on 22 April 2008 and upheld by the Tbilisi Court of appeal 24 April 2008.

¹⁷ Georgia’s Way, Women’s Party and Movement for a United Georgia.

Georgian during the public scrutiny period. Voter education is being carried out by the CEC, in cooperation with non-governmental organizations, in minority languages.

Domestic and International Observers

The registration of domestic and international organizations is ongoing. As of 8 May, the CEC had registered 31 domestic and 13 international organizations, as well as three embassies. One local organization, called the Social Research Centre, was denied registration on the grounds that its charter did not include provisions on election monitoring and/or the protection of human rights, as required by the UEC. This organization, which had been registered by the CEC for the January elections, went to court but lost the case. During the reporting period, GYLA, together with the Council of Europe's Venice Commission, organized a seminar on the rights and duties of domestic observers.

OSCE/ODIHR EOM Activities

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting state officials, including the Inter-Agency Task Force for Free and Fair Elections, party representatives, candidates, the election administration, court officials, representatives of the media and civil society, and diplomatic missions. LTOs deployed throughout the country continue to observe electoral preparations and the campaign in the regions and are preparing for the deployment of short-term observers. A second briefing for members of the diplomatic community and international organizations accredited in Georgia was held on 8 May.