



Office for Democratic Institutions and Human Rights

GEORGIA

PARLIAMENTARY ELECTIONS

21 May 2008

OSCE/ODIHR Election Observation Mission
Final Report



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I. EXECUTIVE SUMMARY

Upon invitations from the Speaker of Parliament and the Ministry for Foreign Affairs of Georgia to observe the 21 May 2008 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to Georgia on 10 April 2008, consisting of 14 election experts and 28 long-term observers, further supported by the arrival of 360 short-term observers prior to election day. The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments, other international standards and domestic legislation. For election-day, the OSCE/ODIHR joined efforts with the OSCE Parliamentary Assembly, Parliamentary Assembly of the Council of Europe, European Parliament and NATO Parliamentary Assembly, forming an International Election Observation Mission (IEOM). The IEOM was comprised of over 550 short-term observers from 48 participating States.

In its Statement of Preliminary Findings and Conclusions, the IEOM concluded that “overall, these elections clearly offered an opportunity for the Georgian people to choose their representatives from amongst a wide array of choices. The authorities and other political stakeholders made efforts to conduct these elections in line with OSCE and Council of Europe commitments.” However, the IEOM “identified a number of problems which made this implementation uneven and incomplete.”

The Constitution and Unified Election Code (UEC) were last amended only two months before the elections, with substantive changes to the election system, impacting upon the election administration, campaign regulations and complaints and appeal procedures. The amendments took account of a number of OSCE/ODIHR recommendations, but others remain unaddressed. While the UEC is generally conducive to conducting democratic elections, it contains new provisions which created an unequal playing field in favour of the ruling party, the United National Movement (UNM), especially with regard to administrative resources and campaigning by “political officials”. Gaps, inconsistencies and ambiguities in the UEC impeded its effective implementation.

The Parliament of Georgia is elected according to a mixed system, for a four-year term. Seventy-five members of Parliament are elected under a list-based proportional system in one nationwide constituency, and another 75 are elected in 75 single-mandate constituencies. The UEC does not require single-mandate constituencies to be of equal or comparable size. The number of voters in individual constituencies ranged from around 6,000 to over 140,000; such large variations are not in line with the principle of the equality of the vote.

The elections were administered by a three-tiered election administration: the Central Election Commission (CEC); 76 District Election Commissions (DECs); and over 3,500 Precinct Election Commissions (PECs). The recent UEC amendments extended party representation to DECs specifically for these elections, bringing their composition in line with the CEC and PECs. The UNM had a *de facto* majority on election commissions at all levels.

The CEC held frequent sessions which were open to observers, party proxies and the media, and generally operated in a transparent manner. It was active in technical preparations, adopting instructions for PEC members, training DECs and PECs, and conducting a large-scale voter information campaign. However, the CEC did not act in a collegial manner. On contentious issues, CEC members failed to act independently as required by law, and decisions were voted on along

political lines. At district level, DEC held meetings which were generally open, but there was a lack of transparency in several DECs. The DECs did not always act as collegial bodies, and at times opposition-nominated members were excluded from DEC activities. At precinct level, opposition parties were under-represented in PEC managerial positions. A considerable number of party-appointed PEC members were replaced, in some cases reportedly as a result of intimidation.

The CEC is responsible for the maintenance of the centralized voter register. The latest UEC amendments abolished election-day registration and extended the period for public scrutiny of voter lists from 12 to 19 days. Many stakeholders continued to express concerns regarding their accuracy, claiming the number of voters to be inflated. In some districts, the number of registered voters increased significantly since the January 2008 presidential election. The total number of registered voters was 3,456,936, including many of whom may have migrated internally or emigrated.

Candidate registration was overall inclusive and transparent, with nine parties and three electoral blocs registered by the CEC. The latest UEC amendments reduced the number of signatures which non-parliamentary parties must submit. The candidate registration process was overshadowed by events at the CEC; following the last-minute withdrawal of Nino Burjanadze (who was to head the UNM list), opposition-appointed CEC members requested access to the list in order to check whether the UNM had changed it after the legal deadline, but access was seriously delayed.

The election campaign was conducted in a highly polarized political environment. While overall, all parties were able to campaign, there were credible reports of obstruction of opposition campaign events. The campaigning of some opposition parties was negative in tone, highlighting mistrust in the state authorities and the election administration, and focusing on alleged violations and plans by the authorities to manipulate the elections. This expression of mistrust was compounded by reports of widespread intimidation of opposition candidates, party activists and state employees in many regions. Of the numerous specific allegations examined by the OSCE/ODIHR EOM, several were clearly found to be credible, including a number of verified cases of pressure exerted by local officials on opposition supporters, including in particular teachers, to desist from campaigning.

One UNM candidate withdrew after the United Opposition presented an audio recording that appeared to show him threatening state officials with dismissal if they did not secure wide support for the UNM. President Saakashvili reacted strongly, warning against illegal practices.

The distinction between state and party was frequently blurred. There were cases of state officials conducting official duties in combination with campaign events of UNM majoritarian candidates, or government social programmes being combined with UNM campaign activities. Opposition parties also alleged that the UNM had privileged access to administrative resources, and that regional governors engaged in campaigning for the UNM, in contravention of the law.

Generally, the media provided voters with a diverse range of political views, allowing them to make a more informed choice. However, even accounting for the pluralistic media environment, most outlets remain under the influence of their owners and political patrons, and the main TV channels were under some influence from candidates and political parties. The new Board of Trustees of the Georgian Public Broadcaster (GPB) initiated a memorandum of understanding between GPB and all election subjects on GPB's campaign coverage. Public TV, in particular, offered the electorate a valuable opportunity to compare parties and candidates. However, the OSCE/ODIHR EOM media monitoring showed that the campaign coverage in the news of most monitored TV stations, apart from public TV, lacked balance both in terms of time allocation and tone of coverage.

The five parties and blocs which won mandates in the new Parliament overall had 21 per cent of women in their proportional lists, but few near the top of the list. In single-mandate constituencies,

12 per cent of contestants were women. Only one of 13 CEC members was a woman, but women were better represented in DEC and in the majority on PECs.

Some 16 per cent of Georgia's citizens belong to national minorities. While most parties and blocs nominated candidates belonging to national minorities, only six were ultimately elected, all from the UNM. Election material, including ballots, was made available to PECs in minority languages, upon request of the respective DECs. However, during the period of public scrutiny of voter lists, they were only available in Georgian, which many members of national minorities cannot read.

The UEC provisions on domestic non-party observers have largely been brought in line with those for international observers. The CEC registered observers from 37 domestic organizations, 46 international organizations and 17 embassies. On election day, IEOM observers reported numerous cases of local observers and party proxies being intimidated and pressured, or ejected from polling stations and DECs.

Although the complaints and appeals procedures were recently simplified and clarified to some extent, they remain unnecessarily complex, contradictory and ambiguous. The deadlines for filing and consideration of complaints and appeals were shortened and do not fully guarantee due consideration. For the most part, the election administration and courts did not give due consideration to complaints and appeals in the pre-election period, with an apparent bias in favour of the UNM and public officials. In various cases, they refused to hear witnesses or view documented evidence, failed to address all relevant facts, applied unsound interpretations of the law, ignored the spirit of the law, or failed to provide complete or clear factual-legal reasoning.

Election day was generally calm, and according to CEC data, 53 per cent of voters turned out to vote. Overall, voting was assessed positively by a large majority of IEOM observers. Organizational and procedural shortcomings were noted, in particular with regards to inking procedures, a safeguard against multiple voting. In some regions, IEOM observers assessed the environment as tense and problematic, and a limited number of serious violations, including ballot box stuffing, were reported. Many significant shortcomings were observed during the vote count, including failure to follow reconciliation procedures. IEOM observers also reported cases of tampering with voter lists, results and protocols. Many PECs had problems completing the results protocols, which were in many cases not posted for public scrutiny.

The tabulation process at DECs was assessed negatively by many IEOM observers, especially with regard to transparency in some regions. Many DECs stopped their work on the morning of 22 May, before all protocols were received and processed. The time when DECs reconvened was not always announced in a transparent manner, and at times, observers were misled as to when a DEC would resume its work. An analysis of PEC protocols revealed problems in almost all districts. The CEC promptly posted election results and protocols on its website.

Approximately 1,400 election day-related complaints and appeals were filed, alleging a range of irregularities in voting, counting and tabulation of results, including serious violations, with requests for annulment of several hundred summary protocols. There were widespread and significant irregularities in the handling of these complaints by PECs and DECs. The summary protocols of 38 PECs were annulled by DECs and courts, mostly for serious irregularities. In adjudicating complaints on DEC summary protocols, the CEC and courts improperly refused to consider the validity of PEC summary protocols. Many decisions and judgments included flawed evaluation of the evidence and lacked sound and thorough factual-legal reasoning.

The OSCE/ODIHR examined a series of post-election day beatings of several opposition activists, many of whom were taking legal action against alleged cases of election-related irregularities. The Public Defender issued a statement condemning the attacks.

The OSCE/ODIHR stands ready to support the efforts of the Georgian authorities to address the challenges outlined in this and previous reports, in order to bring the election process closer in line with OSCE commitments.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following invitations from the Speaker of Parliament and the Ministry of Foreign Affairs of Georgia to observe the 21 May 2008 parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights deployed an Election Observation Mission on 10 April 2008. The OSCE/ODIHR EOM was headed by Ambassador Boris Frlec and consisted of 14 election experts and 28 long-term observers (LTOs) from 24 OSCE participating States, who were based in Tbilisi and ten regional centers. The OSCE/ODIHR EOM was further enhanced by the arrival of 360 short-term observers (STOs) prior to election day.

For election-day observation, the OSCE/ODIHR EOM joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament and the NATO Parliamentary Assembly (NATO PA) to form an International Election Observation Mission. Mr. João Soares, Vice-President of the OSCE PA and Head of the OSCE PA delegation, was appointed by the OSCE Chairman-in-Office as Special Co-ordinator to lead the OSCE short-term observers. Mr. Mátyás Eörsi headed the PACE delegation, Ms. Marie Anne Isler Béguin led the European Parliament delegation, and Mr. Bruce George headed the NATO PA delegation.

On election day, the IEOM was comprised of over 550 observers from 48 OSCE participating States, who observed the opening of 160 polling stations, the voting in around 1,700 of the 3,630 polling stations, and the counting in some 150 polling stations. The IEOM also observed the handover of election material and the tabulation of results in 73 of the 76 DECs.

The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, and domestic legislation. This final report follows a Statement of Preliminary Findings and Conclusions which was released at a press conference on 22 May 2008 and is available on the OSCE/ODIHR website (www.osce.org/odihr).

The OSCE/ODIHR EOM is grateful to the Ministry of Foreign Affairs, the Central Election Commission, the authorities, political parties and civil society for their co-operation. The OSCE/ODIHR EOM also wishes to express its appreciation to the OSCE Mission to Georgia, and diplomatic missions of OSCE participating States, for their co-operation throughout the observation period.

III. POLITICAL CONTEXT

On 21 March 2008, the President of Georgia, Mikheil Saakashvili, called parliamentary elections for 21 May 2008. Initially planned for later in 2008, the elections were brought forward following a plebiscite held simultaneously with the 5 January extraordinary presidential election. President Saakashvili proposed the plebiscite following opposition demonstrations in November 2007.

Following the highly polarized January presidential election, there was a brief period when dialogue between the ruling United National Movement (UNM) and opposition parties appeared to make headway. The main opposition bloc put forward 17 demands in late January, and the UNM responded by putting forward its proposals. Progress was made in discussions on a new electoral system, the reform of which was a key opposition demand. However, 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 on 25 March, with most of these demands not being met. In March, Parliament passed amendments to the Constitution and the Unified Election Code, including controversial changes to the election system, which ignored the main opposition concerns. In making these changes, the authorities abandoned the search for consensus with the opposition on the electoral system.

The political landscape has changed frequently since independence in 1991. However, a persistent feature of Georgian politics has been that a dominant ruling party has faced a fragmented opposition. The emergence during the November 2007 demonstrations of a large United Opposition bloc meant that the 5 January presidential election and the 21 May parliamentary elections were the most genuinely competitive elections in Georgia to date. Nevertheless, the opposition remained fragmented in the 21 May parliamentary elections, especially in the single-member constituencies.

IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The legal framework for elections consists of the Constitution (1995), the UEC (2001, amended numerous times), other legislative acts including the Criminal Code and Administrative Offences Code, and legal acts of the election administration.

Only two months prior to the elections, on 11 and 12 March 2008, major changes to the parliamentary election system were introduced into the Constitution. In addition, the UEC was amended on 21 March to include the changes to the election system, as well as amendments to the election administration, campaign regulations, and complaints and appeals procedures.¹ These amendments take into account a number of recommendations made by the OSCE/ODIHR, although others remain unaddressed. Opposition parties, domestic observer organizations and the Public Defender voiced dissatisfaction at the inadequate level of consultations and lack of transparency during the amendment process.

Although the UEC is generally conducive to the conduct of democratic elections, it contains a number of new provisions which liberalize campaign restrictions, resulting in an unequal playing field in favour of the ruling UNM party. In particular, Article 76 now allows use of administrative resources for campaign purposes² and Article 76 prima 1 permits political officials³ to mix campaign activities with official duties. These provisions fall short of OSCE commitments.⁴ These

¹ Changing the nature of an election system within a year prior to elections (as opposed to technical amendments to the election law as proposed by OSCE/ODIHR) is not in line with the European Commission for Democracy Through Law (Venice Commission) Code of Good Practice in Electoral Matters, paragraph 65.

² This provision allows use of state-funded buildings, communication means, and vehicles provided that equal access is given to all election subjects. This is not workable in practice, thus is essentially a privilege to the ruling party.

³ Under the UEC, political officials include, among others, the President, ministers, deputy ministers, members of Parliament and heads of local self-government bodies. Beyond these, there are varying interpretations among stakeholders as to which other public officials are legally considered to be political officials.

⁴ Paragraphs 5.4 and 7.6 of the 1990 OSCE Copenhagen Document; the former calls for a clear separation between the State and political parties and the latter commits the state to “provide... necessary legal guarantees to enable [political parties] to compete with each other on the basis of equal treatment before the law and by the authorities.”

amendments were introduced by the majority without any consultation with key stakeholders. In addition, remaining gaps, inconsistencies, and ambiguities in the UEC resulted in uncertainties and varying interpretations among the stakeholders, thus impeding effective implementation of the law.

The new Parliament consists of 150 members elected for a four-year term. Under the March 2008 amendments, 75 members are elected under a list-based proportional system in one nationwide constituency, and another 75 are elected in 75 single-mandate constituencies.⁵ The election system was modified without reaching a consensus between the UNM and opposition parties.⁶ 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 of votes cast, is elected. 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.

The UEC does not require 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 the administrative districts, ranged from around 6,000 to over 140,000. Such large variations undermine one of the main principles of electoral rights, namely the equality of the vote.⁷ In amending the Constitution and the UEC, Parliament did not try to address this imbalance.

V. THE ELECTION ADMINISTRATION

The elections were administered by a three-tier election administration comprising the Central Election Commission, 76 District Election Commissions and 3,558 Precinct Election Commissions. In addition, 72 special polling stations were established in military bases, hospitals, pre-trial detention centers and prisons (for prison staff)⁸. A district for voting abroad, administered directly by the CEC, was also established, and 47 polling stations were opened at Georgian diplomatic missions abroad. Finally, two special precincts for Georgian military personnel serving in Iraq were established.⁹ Election subjects registered at the CEC had the right to appoint two proxies to every election commission. The UNM held a *de facto* majority in election commissions at all levels.

A. THE CENTRAL ELECTION COMMISSION

The CEC is a permanent body appointed for a five-year term. It is composed of a chairperson and 12 members. The chairperson and five members are nominated by the President and elected by the Parliament, while seven members are appointed by political parties financed from the state

⁵ Under the system used in the 2003–2004 elections, 150 members were elected under a proportional system, and 75 in single-mandate constituencies. Later in 2004, the Constitution and UEC were amended, introducing a system in which 150 deputies were to be elected: 100 under a proportional system and 50 by a multi-mandate majoritarian system with the first-past-the-post rule.

⁶ Opposition parties had strongly opposed single-mandate constituencies, which they saw as benefiting the UNM, given the fragmentation of the opposition, and had favoured regional proportional constituencies.

⁷ Paragraph 7.3 of the 1990 OSCE Copenhagen Document commits OSCE participating States to “guarantee universal and equal suffrage to adult citizens.” The Venice Commission’s Code of Good Practice in paragraph 2.2 recommends that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15%, except in special circumstances.”

⁸ According to Georgian Constitution (Art. 28.2) and the UEC Art. 5), persons who are in prison under a final sentence are not entitled to vote, but persons in pre-trial detention centres awaiting their trial or awaiting sentencing are permitted to vote.

⁹ The voters abroad and military in Iraq voted only for the proportional component of the elections.

budget.¹⁰ The CEC did not act in a collegial manner; on contentious issues, CEC members failed to act independently as required by law, and many decisions were voted on along political lines and not based on the law. For instance, the CEC Chairman informed the General Prosecutor in writing of the CEC's failure to pass a decree,¹¹ attaching the minutes with the voting behavior of individual CEC members.¹² Another such case concerned the installation of video surveillance cameras and the specific polling stations where the cameras were to be installed, which was not decided by CEC as a body. Instead, these issues were decided unilaterally by the commission management.¹³

The CEC held frequent sessions which were open to observers, party proxies and the media, and generally operated in a transparent manner. However, transparency would have been enhanced by making all materials and documents available to all members immediately upon request. 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 listed increased transparency as a top priority, it was undermined by events at the CEC on 21–22 April, when some CEC members were denied timely access to information (see Section VII, Candidate Registration).

The CEC adopted the instructions for PEC members, drafted in co-operation with the United Nations Development Program (UNDP) and IFES, which was also used as training manual. The CEC organized training sessions for DEC and PECs, which were conducted by trainers who had been trained by the CEC, UNDP and IFES. The training was assessed overall positively by OSCE/ODIHR EOM observers; however, attendance of trainings was in some cases low. Election day revealed problems related to the understanding of the counting and summarization procedures, underscoring the need for more training specifically on filling in protocols, as well as tabulation at DEC.

The CEC was active in technical preparations, and conducted voter information campaigns on voter lists, registration of voters abroad, use of administrative resources, secrecy of the vote and applications for mobile voting. For the first time, the CEC published a compendium of legal acts containing the UEC, regulations pertaining to election commissions at all levels, CEC decrees and ordinances adopted during the election period, as well as court decisions in which the CEC was a party. The CEC website was quite informative and was updated regularly.

B. DISTRICT ELECTION COMMISSIONS

Specifically for these elections, the composition of DEC was changed to provide for party representation. The DEC membership was increased from five to 13 members, with the five initial members plus one additional member appointed by the CEC, and a further seven additional members nominated by political parties financed from the state budget, bringing it in line with that of the CEC and PECs.¹⁴ According to OSCE/ODIHR EOM observers, DEC members appointed by

¹⁰ These are parties which received at least 4 per cent of the vote during the previous parliamentary elections. Based on the results of the 2003–2004 parliamentary elections, these were the United National Movement, New Rights, Industrialists, Labour, Freedom, Republican and Conservative parties.

¹¹ Article 15 of the UEC stipulates that the Upper Abkhazia DEC does not have a majoritarian contest, and the CEC drafted a decree that voters of this DEC should be attached to Mestia DEC for the majoritarian component of the elections. However, opposition-appointed CEC members blocked the adoption of the relevant decree, for which a two-third majority was required. The court held that to preserve the constitutional right to vote, the CEC should issue such a decree; however the opposition appointees again voted against. Letter N 01-02/780 dated 21 April 2008.

¹² Letter N 01-02/780 dated 21 April 2008.

¹³ The case was appealed up to the Tbilisi Court of Appeals and was ultimately rejected.

¹⁴ According to the CEC, no new elections for DEC chairpersons, deputy chairpersons and secretaries were conducted, since the new DEC members were appointed for these elections only.

opposition parties were at times excluded from the DEC's activities¹⁵, and DEC's were not always acting as collegial bodies. Although DEC meetings were generally open, OSCE/ODIHR observers, domestic observers and party proxies noted a lack of transparency in several DEC's, in particular in Dusheti, Bolnisi, Tsalka, Marneuli, Zugdidi, Senaki, Khobi, Poti, Keda, and Khelvachauri.

According to the recent amendments to the UEC, the role of DEC's was increased by providing them with the possibility to change and annul PEC summary protocols during the tabulation of results. However, there remained a lack of detailed procedures for DEC's, and there were neither special training sessions for the tabulation of results nor instructions for DEC's.

C. PRECINCT ELECTION COMMISSIONS

The PEC's are composed of 13 members who are appointed before an election and whose term of office expires upon the approval of the summary protocol in the corresponding DEC. Six PEC members are elected by the majority of members of the relevant DEC, while the seven remaining PEC members are appointed by the political parties financed from the state budget. Opposition parties were under-represented in managerial positions at the PEC level. Out of 3,558 posts of chairpersons, 203 chairs were UNM appointees and only five were nominated by opposition parties; the remaining 3,350 chairperson positions were held by members appointed to the PEC by the respective DEC's, and *de facto* the majority of them were affiliated with the UNM. The division of positions of deputy chairpersons and secretaries was similar.

Under the amendments to the UEC, each election precinct had a maximum of 1,500 voters, down from the previous maximum of 2,000. While only the boundaries of urban precincts were redrawn before the January presidential election to adjust the maximum number of voters, the readjustment was extended to rural precincts for the 21 May parliamentary elections.

A considerable number of party-appointed PEC members were replaced just before the legal deadline. Opposition parties told the OSCE/ODIHR EOM that such changes were a result of problems in identifying suitable candidates, or to avoid intimidation of their PEC members. The OSCE/ODIHR EOM heard a number of allegations that party-appointed PEC members were intimidated and pressured to resign. Around 25 such claims were examined by the OSCE/ODIHR EOM and found to be credible.¹⁶ This trend also persisted on election day, when IEOM observers reported 15 cases of intimidation of PEC members and proxies; in 4 per cent of observations of the vote count, observers or PEC members were expelled from polling stations.

Despite the trainings conducted prior to these elections, election day revealed some problems which PEC's faced in terms of lack of professionalism of their members, such as knowledge of voting and especially counting and protocol compiling procedures. Moreover, last-minute changes of commission members, when the training sessions were nearly completed, did not contribute to the effectiveness of the PEC's' work.

¹⁵ Opposition-appointed DEC members complained to the OSCE/ODIHR EOM that they were not always given access to all relevant documentation and were not always informed about when DEC sessions were to be held. OSCE/ODIHR LTOs have confirmed this information.

¹⁶ In Kakheti, there were cases of PEC members being intimidated or pressured to resign. In Shida Kartli, a PEC member was told to "close her eyes" if she saw any violations or fraud on election day. In Imereti, a teacher who was a PEC member was threatened that she would lose her job if she continued her political activities.

VI. VOTER REGISTRATION

The CEC is responsible for the maintenance of the centralized voter register. The general voter list is compiled based on information provided by the Civil Registry Office of the Ministry of Justice, local self-government bodies, the Ministry of Defence, the Ministry of Internal Affairs, consular institutions of Georgia and other relevant bodies and institutions. The latest UEC amendments abolished election-day registration and extended the period for public scrutiny of voter lists from 12 to 19 days (17 April to 5 May for these elections). Voter lists were available for public scrutiny at PECs. Voters could also check their names through the Internet, a CEC telephone hotline or SMS. OSCE/ODIHR observers reported that voter lists were generally displayed at PECs, enabling voters to check their names. However, a relatively limited number of voters used this right actively. According to data provided by the CEC, around 13,000 citizens checked their names in the list through the CEC telephone hotline, some 8,000 used the special SMS service, and more than 29,000 voters applied to DEC and PECs requesting corrections.

On 15 April, the CEC announced the total number of registered voters as 3,473,190. According to the CEC, 66,740 new entries were added to the voter lists since the January presidential election; of these, 21,674 came from additional lists compiled on election day during the presidential election. The process of incorporating the names of voters from the January additional lists into the general list was described as non-transparent by domestic observers: only 21,674 of these voters were added to the voter list, out of a total of around 85,000 voters added to additional lists.¹⁷ On 5 May, the CEC extended – upon the request of opposition CEC members – the scrutiny period by three days, to last until 8 May. The CEC held frequent briefings to inform voters about the extension of the deadline. On 16 May, within the legal deadline, the CEC announced that the updated total number of registered voters was 3,456,936. Many of these voters are believed to not live at their place of registration since they have migrated internally or have emigrated.

Despite the decrease in names in the overall voter lists between mid-April and mid-May, a comparison of the number of voters registered during the presidential and parliamentary elections shows an overall increase. In some districts, the increase between the presidential and the parliamentary elections was surprisingly high. For example, in Zugdidi DEC the number increased by about 6,000 voters, which constitutes a six-per cent increase. In Kutaisi DEC, the number of registered voters increased by about 4,000, and in Khelvachauri DEC – by nearly 3,000. The number of voters included in the special voter lists also increased by 8,564.

Despite efforts to improve the quality of voter lists, inaccuracies still remain to be addressed. IEOM observers reported that in some 21 per cent of polling stations visited on election day, voters were refused the right to vote because their names were not in the voter list. Many stakeholders continued to express concerns regarding the accuracy of the voter list, claiming specifically that the number of voters was inflated due to the presence of deceased persons, multiple records, and non-existent 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 where between 18 and 80 voters were registered in

¹⁷ According to the Inter-Agency Task force for Free and Fair Elections, out of 85,000 voters included in additional list on 5 January, 42,321 voters were not in the general voter list. The rest were on closer inspection found in the voter list. Of the ones not present in the voter list before the 5 January election, 20,674 voters had reached voting age or obtained IDs after the closure of the general list and they were present in the 1 February update of the Civil Registry and were automatically transmitted to the general list. The remaining cases of people among the 85,000 voters on the additional list were people who had erroneously been excluded from the list, but who could prove their residence and identity and that they were hence entitled to be on the voter list.

one and the same apartment. OSCE/ODIHR EOM observers could substantiate some of these cases 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 where more than ten voters are registered were identified in Tbilisi.¹⁸ Furthermore, according to the Ministry of Justice there were 692 addresses without apartment numbers in Tbilisi's Saburtalo district where more than ten voters are registered; the total number of these voters is 12,119¹⁹.

Some opposition parties alleged numerous cases where shortly before election day, people were registered in the same apartment and issued with ID cards on one and the same day. They claimed that the purpose was to register likely UNM voters in closely-fought districts. According to the opposition, some 400 people were registered in that way in Saburtalo district. OSCE/ODIHR observers were able to confirm three cases in Saburtalo, whereby between two and eight people were registered in the same apartments, where they were unknown, and were able to verify that in one of these cases the registration date was 4 May.

VII. CANDIDATE 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 nominations, in breach of international commitments.²⁰ The latest UEC amendments reduced the number of support signatures which non-parliamentary parties have to submit in order to be registered from 50,000 to 30,000.

Initially, 60 parties expressed their desire to participate in the elections. Among them, 13 were represented in the outgoing Parliament²¹ and were all registered, one through court decision.²² Moreover, 28 non-parliamentary parties submitted lists of supporting signatures to the CEC. After checking the signatures, ten parties were registered and 18 were denied registration due to an insufficient number of valid signatures; five of these parties applied to the court, but all lost their case. Consequently, 12 election subjects – nine parties and three electoral blocs – were registered for these elections. They included the Republican Party, which was part of the main opposition bloc for the presidential election but stood alone in these elections; the Labour Party of Georgia; the governing UNM; the United Opposition – National Council – New Rights (United Opposition), whose candidate Levan Gachechiladze came second in the January presidential election; and the recently formed Christian-Democratic Movement (CDM).

The generally inclusive and transparent registration process was overshadowed by events which took place at the CEC on 21–22 April. Following the last-minute withdrawal of Nino Burjanadze

¹⁸ The Civil Registry sent a notification to owners of these flats to deregister some of these people if they wished to do so. Consequently, 44 people were deregistered.

¹⁹ Data based on the response of the Ministry of Justice to an enquiry by the Republican Party.

²⁰ Paragraph 7.5 of the OSCE Copenhagen Document 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.

²¹ It was enough for one sitting Member of Parliament to sign a letter stating that he or she was a member of a given political party to consider that party a parliamentary one.

²² The Political Union "Christian Democratic Alliance" initially did not provide the CEC with a document stating that it was represented in the outgoing Parliament, and was given documents for the collection of support signatures. The party presented a document from one sitting MP stating that he was a member of the party, but only after the deadline for submitting such statements (which is different from the deadline for submitting supporting signatures) had expired. The CEC therefore refused to register the party. The party appealed the CEC decision in court, where it was overturned.

(who was to head the UNM list), opposition-appointed CEC members demanded to see the UNM list, in order to check if the UNM would change their list after the legal deadline, but were refused access to it for a protracted period. These events were characterized by a serious lack of transparency, as some CEC members and staff restricted timely access to information for other CEC members, and thus undermined the trust of some stakeholders in the election administration.

VIII. THE ELECTION CAMPAIGN

The elections took place in a highly polarized political environment. Opposition politicians expressed deep mistrust in the state authorities and in the election administration, as well as a lack of confidence in the electoral process overall. This mistrust was heightened by the events at the CEC on 21–22 April, which reinforced doubts among the opposition about the impartiality of the CEC. Two leading United Opposition politicians warned of rebellion in case the elections were not fair. The polarization and lack of trust, as well as widespread intimidation in many regions of the country, did not contribute to an environment conducive to a constructive campaign.

In general, all parties were able to campaign throughout the country. Nevertheless, there were several allegations of obstruction of opposition campaign events, including cases in Kakheti, Imereti and Adjara that were assessed as credible by the OSCE/ODIHR EOM. For example, prior to a scheduled meeting of the CDM at a sports ground in Kutaisi, two local officials threatened those attending that services provided by the local administration would be withdrawn from them. The officials further insisted that the CDM could not hold a rally in the sports ground built by the UNM government. In the end, the meeting was held outside the sports ground. According to reports received by the OSCE/ODIHR EOM, obstruction of opposition campaign activities was more prevalent in rural areas.

The main forms of campaign activity were relatively small-scale events and canvassing, rather than large-scale rallies. Campaign billboards were particularly in evidence in Tbilisi and some other large towns, mostly for the UNM. Some opposition parties claimed they did not have equal access to commercial billboards, asserting that all billboard spaces were reserved by the UNM, and that the prices of billboards for political advertising were set prohibitively high. Following an appeal from President Saakashvili on 3 May for opposition parties to be given access to billboards, a modest increase in the number of billboards for some opposition parties was observed.

Provisions in the UEC on the placement of campaign posters were inconsistently applied. Although local government bodies were supposed to allocate places where posters could be placed, not all local authorities fulfilled this requirement, for example in Tbilisi and Batumi. Nevertheless, the placement of posters appeared to be widely tolerated, and large numbers of them were placed by several parties. While it is an offence to remove, deface or cover up posters, unless they are placed in a prohibited place, all three practices were widespread. The United Opposition claimed that police tore down their posters in Khulo.

Unusually, the Georgian election legislation does not include any general campaigning curfew or any prohibition against election-day campaigning in the vicinity of polling stations. Moreover, UEC Art 75.4 lists the buildings where it is prohibited to post campaign material, but polling stations are not mentioned among these. Campaigning on election day was reported by IEOM observers in around 4 per cent of observations. This included posters placed inside and outside polling stations, the handing out of leaflets, as well as activists urging people to vote for the UNM, including inside polling stations at times.

The UNM's campaign focused on measures to eradicate poverty, such as raising pensions, promoting agriculture and small businesses, and improving healthcare and infrastructure, as well as on the government's record. Some opposition parties also campaigned on issues such as economic and constitutional reforms. Local issues were frequently stressed. However, the campaigning of some opposition parties was highly negative in tone, highlighting mistrust in the electoral process, and focusing on alleged violations and plans by the authorities to manipulate the elections. Some leading opposition figures used strong language when attacking President Mikheil Saakashvili and the UNM.

The election campaign was influenced and partly overshadowed by tensions with Russia over Abkhazia. Opposition leaders accused the UNM of incompetence in their handling of the crisis, and exploiting it for electoral gain, thus endangering national security.

Some opposition leaders directed particularly strong criticism at the CEC Chairman, who was attacked 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. On 3 May, United Opposition youth activists demonstrated outside the CEC Chairman's home.

The campaign was marred by widespread allegations of intimidation, among others of candidates, party activists and state employees. Among numerous specific allegations examined by the OSCE/ODIHR EOM, several were found to be credible.²³ Such cases were reported particularly from Kakheti, parts of Mtskheta-Mtianeti, Shida Kartli, Imereti, Guria and Adjara. These included a number of verified cases of pressure on opposition supporters by local officials to desist from campaigning. Teachers in particular were subjected to such forms of pressure. There were a number of verified cases of threats by school principals and UNM officials to teachers that they would lose their jobs if they continued to work for opposition parties. 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 offered to double her salary if she remained with the UNM.

A United Opposition activist in Mtskheta-Mtianeti was told by his employer that he should organize 20 voters who would vote openly for the UNM, or else he would be dismissed. His mother, a school teacher, was warned by her school director that if her son did not cease his activities for the opposition, she would be dismissed. Finally, while he was distributing invitations to an opposition meeting, he was warned that he would face arrest if he continued his work for the opposition, and that he should cease those activities if he cared about his health. In some cases confirmed by the OSCE/ODIHR, opposition activists succumbed to pressure and discontinued their election activities. For example, a CDM member in Guria left the region following pressure on him and his family by members of the local authorities.

There were also allegations that people with relatives in pre-trial detention were 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. In Guria, a group of young men were taken to a police station and warned that they would face arrest unless they obtained pledges of support for the UNM.

²³ Such practices are inconsistent with paragraph 7.7 of the 1990 OSCE Copenhagen Document, which requires that campaigning be conducted in a fair and free atmosphere without administrative action, violence or intimidation.

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 cent²⁴ support for the UNM was presented by the United Opposition. The opposition claimed such pressure on public-sector employees was widespread. The candidate withdrew from the elections. President Saakashvili reacted strongly, warning against illegal practices. The Interior Ministry warned its officers to restrict themselves to ensuring a secure campaign environment.

The distinction between state and party was frequently blurred.²⁵ For example, government social programmes such as the distribution of fuel vouchers in rural areas were at times combined with campaign activities for the UNM.²⁶ For instance, in Ponichala, in the Krtsanisi district of Tbilisi, the UNM majoritarian candidate joined the mayor of Tbilisi while he distributed fuel vouchers, and engaged in campaigning. UNM activists in Tkibuli acknowledged to the OSCE/ODIHR EOM that they had been distributing fuel vouchers from the UNM office. There were allegations by opposition parties and NGOs of vote buying by UNM officials, including by distribution of flour in villages and of confectionaries to children.

There were several cases of state officials conducting official duties, and combining them with campaigning together with a UNM majoritarian candidate. For example, President Saakashvili opened a renovated cinema in Tbilisi together with the local UNM majoritarian candidate. The mayor of Tbilisi opened a swimming pool and a park in Tbilisi, in each case together with the local UNM majoritarian candidate.

Opposition parties also alleged that the UNM had privileged access to administrative resources. In Kakheti, the UNM enjoyed privileged use of several state buildings. Among others, the UNM used the Cultural Centre in Telavi without paying for it, while opposition parties were charged various rates for its use²⁷.

There were numerous allegations that regional governors engaged in campaigning for the UNM, which, as they are public servants, and not political officials, is prohibited. In villages near Kareli on 5 May, the OSCE/ODIHR EOM observed the Governor of Shida Kartli campaigning together with the UNM majoritarian candidate.

The post-election environment was marred by a series of violent attacks by unknown assailants on opposition activists, which took place daily between 29 May and 2 June. The United Opposition listed 13 cases of attacks during this period, and the Public Defender issued a statement condemning the attacks. Many of these victims were involved in taking legal action against alleged cases of election-related irregularities. Some opposition leaders accused the authorities and the ruling party of responsibility for the attacks.

The OSCE/ODIHR EOM visited seven of the opposition activists concerned, and confirmed that six of them had been beaten (the seventh had been hit by a car). In one severe case, a United Opposition candidate's leg was broken by unknown attackers, after his car was first forced to stop. Two of the cases followed up by the OSCE/ODIHR EOM concerned opposition figures who had been PEC members or party observers, and had made allegations of ballot stuffing. In both these cases, one of which concerned a young woman who suffered a dislocated shoulder and a broken finger, the persons in question reported receiving repeated threats before the attacks took place.

²⁴ The UNM candidate's estimate of the share of the population employed in the public service in Tsageri.

²⁵ In contravention of paragraph 5.4 of the OSCE Copenhagen Document.

²⁶ Government officials said they had decided not to implement such programmes during the election period, to avoid such cases. Nevertheless, instances of combining voucher distribution and campaigning were observed.

²⁷ As confirmed by an official of the Centre.

The OSCE/ODIHR EOM was informed that investigations had been launched in these cases. Regardless of who is behind such unacceptable attacks, they cannot but have a detrimental effect on the electorate's trust in the electoral process, and therefore it is essential that the perpetrators be found and brought to justice without delay.

The provision in the UEC that information on campaign financing should be provided on a monthly basis (Art. 48/4) proved inadequate given that the deadline for electoral blocs to be registered was only slightly over one month before the election, detracting from the purpose of this provision to ensure transparency. In line with Art. 48/10 of the UEC, the CEC established a financial monitoring group, tasked with monitoring the financial statements which all election subjects should supply to the CEC no later than one month after the publication of the election results, and the reports which the winning election subjects should submit within eight days of election day (UEC, Art. 48/6). The group's effectiveness was limited by the fact that its mandate is not defined in the UEC, with the result that there was confusion about the scope of its responsibilities. Effective monitoring of campaign financing was further circumscribed by the fact that, in the case of some parties, a significant proportion of donations to campaign funds came from the parties themselves, with the result that it was not clear who had originally donated the funds.

Four of the five election subjects which won seats in the new Parliament supplied their financial statement within the eight-day deadline. The Republican Party did not, arguing that it was not obliged to do so since it only won majoritarian seats, and did not pass the five-per cent threshold in the proportional election. While the UEC does not define what is required in this case, the financial monitoring group and the CEC Chairman took the view that the Republicans should have provided a financial statement within the eight-day deadline. The usefulness of the reports supplied after eight days was reduced as the election subjects provided financial information on a cash basis, so that expenses which had been incurred during the campaign, but had not yet been paid for, were not included. According to these statements, the UNM spent around 12 million GEL (5.4 million euro), and the United Opposition around 480,000 GEL (210,000 euro).

IX. THE MEDIA

A. BACKGROUND

Approximately 70 television and radio companies, and some 200 print media, are registered in Georgia. Television is the most influential source of news and information, with the Georgian Public Broadcaster and the private channels *Rustavi 2*, *Imedi TV* and *Mze* having a nationwide outreach. Batumi-based *Adjara TV*, which is owned by the Adjara regional authorities, also broadcasts nationwide. The opposition-leaning TV *Kavkazia* covers only Tbilisi. Newspaper coverage is mostly limited to urban areas, and most newspapers have a small circulation.

Despite the pluralistic media environment, most outlets remain under strong influence from their owners and political patrons. For election coverage, this meant that all five main TV channels were under some influence from candidates and political parties, which was an obstacle to non-discriminatory coverage of all election subjects, as provided by law.²⁸

While *Imedi TV*, a popular broadcaster perceived as pro-opposition, which had been off the air since December 2007, resumed broadcasts during the campaign, it decided to start broadcasting news and talk shows only after the elections. News and information programs on another popular broadcaster, *Rustavi 2*, were the most widely watched. Due to verbal and physical attacks on

²⁸ Article 54 of the Law on Broadcasting.

Rustavi 2 and *Mze* journalists²⁹ by some representatives and supporters of the main opposition bloc, both TV channels boycotted the activities of the United Opposition in their news programs – *Mze* until 26 April and *Rustavi 2* until 28 April. The opposition bloc had in turn boycotted *Rustavi 2* and *Mze* – in connection with the March opposition hunger strike – accusing them of bias in favour of the authorities, and only agreed to give live interviews.

B. LEGAL FRAMEWORK FOR THE MEDIA

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” subjects (political parties or blocs that are represented by a faction in the Parliament, or received at least four per cent of the proportional vote in the last election) and “unqualified” subjects which must demonstrate public support through opinion poll results in order to enjoy free airtime/space. GPB allocated 60 seconds per hour for free-of-charge spots of qualified subjects and 30 seconds per hour for unqualified subjects. The date and order of appearances in debates and of free-of-charge presentations were determined by drawing lots.

The cost of paid political advertising on television was very high. The main channels charged approximately ten times as much as for non-political, commercial advertisements. Some political parties complained that this limited their possibilities to campaign in the media. Consequently, they intensively utilized airtime for free-of-charge presentations and spots on both GPB and private broadcasters. GPB offered free airtime to all parties and blocs, and deserves credit for also offering it to such parties and blocs which it was not legally obliged to offer it to, while private broadcasters offered it only to qualified subjects.³⁰ It should be noted that despite the boycott by *Rustavi 2* and *Mze* of United Opposition campaigning in their news broadcasts, both TV companies did comply with their legal obligation to offer all qualified subjects free airtime.

Article 73 prima 1.11 of the UEC obliges the CEC to conduct media monitoring in order to control the allocation of free airtime as well as other provisions of the law regulating media coverage. Article 73 prima 1.1 of the UEC stipulates that “requirements concerning the equal allocation of airtime, creating equal conditions in debates and election advertising refer only to qualified election subjects.” Article 29 of the UEC empowers the CEC to control the implementation and ensure the equal application of the election legislation.

The Georgian National Communication Commission (GNCC), the key regulatory body for the broadcast media, is in charge of licensing and overseeing activities of the broadcast media. Article 54 of the Law on Broadcasting stipulates that both public and private broadcasters should ensure pluralistic and non-discriminatory coverage of all relevant views in their news programs. By law³¹, the GNCC is authorized to apply sanctions³² if public or private broadcasters breach the broadcast media legislation or the commission’s decisions, or if they violate license conditions. The CEC conducted its own media monitoring, through a commercial company, and released four media-monitoring reports. While the results indicated imbalances in the news, the GNCC took no remedial action. The CEC and GNCC reported receiving no media-related complaints.

²⁹ *Mze* is a part of the same media holding as *Rustavi 2*.

³⁰ Article 73 prima 1.2 of the UEC stipulates that public and private broadcasters are obliged to equally allocate free airtime of 90 seconds within every three hours for each qualified subject. Unqualified subjects are not entitled to such free airtime.

³¹ Articles 71–74 of the Law on Broadcasting.

³² Sanctions may range from a warning, to financial penalties, or suspension of a license.

C. MEMORANDUM OF UNDERSTANDING

Following opposition criticism of GPB in connection with the coverage of the January 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 election subjects. The memorandum, signed on 16 April, foresaw "balanced, objective and impartial" coverage of all contestants and divided GPB news programs into an "Election Chronicle", covering activities of the competing parties and blocs, and an "Official Chronicle" focusing on the activities of the state administration. GPB organized televised debates between political parties and blocs two times per week (from 21 April to 20 May) and allocated time to each party or bloc for free-of-charge presentations (three times per week) in the framework of a program called "Commentary of the Day". In addition, GPB organized a weekly talk-show program called "Monitor" in which members of the GPB Board of Trustees, representatives of political parties and blocs, NGOs and others discussed the media coverage of the elections.

D. OSCE/ODIHR EOM MEDIA MONITORING

From 10 April to 20 May 2008, the OSCE/ODIHR EOM monitored five TV stations³³ and four daily and weekly newspapers³⁴. Media monitoring included quantitative and qualitative analysis of the coverage, assessing both the amount of time and space allocated to each candidate and the tone of the coverage.

The media in general provided voters with a diverse range of political views, thus allowing them to make a more informed choice on election day. Public TV, in particular, offered the electorate a valuable opportunity to compare parties and candidates through talk shows, free-of-charge presentations, news reporting of the campaign, and televised debates, including one between the UNM and the United Opposition. Private broadcasters also organized talk shows with the participation of parties and blocs, giving them an opportunity to introduce their candidates.

However, the campaign news coverage lacked balance on all monitored TV stations apart from public TV, with the UNM receiving the most coverage on almost all stations. Most monitored TV channels, including public TV, devoted significant and favourable coverage to activities of the authorities. For example, four main TV channels broadcast live a 22-minute prime time news item about a meeting of the President, cabinet ministers and regional officials in Kutaisi. Such substantial coverage went beyond the need and duty to inform the public about government activities. Appearances of the President, government ministers and local government representatives in the media coverage of ceremonial events such as openings of new bus lines, soccer fields, roads or factories, or in activities such as the distribution of vouchers, computers or other gifts, usually in the presence of UNM candidates, indirectly benefited the UNM campaign.

During the monitoring period, public TV devoted similar proportions of its political and election prime-time news coverage to the United Opposition (18 per cent) and the UNM (17 per cent). While the ruling party was given overwhelmingly positive coverage, the coverage of the main opposition bloc was mainly neutral. The biggest share, however, was devoted to the President and the government (together 32 per cent) and was overwhelmingly positive in tone.

³³ 1st Channel (Georgian Public Broadcaster), Rustavi 2, Mze TV, Adjara TV and Kavkazia TV.

³⁴ *Rezonansi*, *24 saati*, *Alia* and *Kviris Palitra*.

Rustavi 2 and *Mze* devoted extensive, favourable coverage to the incumbents. After lifting their boycott, both TV channels started to cover activities of the main opposition bloc in their news, but such coverage was much more limited than that of the authorities and the UNM. For example, *Mze* on weekdays broadcast a ten-minute local Tbilisi news program called “*Mzera Tbilisi*” (paid for by the Tbilisi municipal government), which during the monitoring period overwhelmingly featured the UNM candidates running in the Tbilisi single-mandate constituencies; other candidates running in these constituencies did not receive such coverage. Adjara TV adopted a similar approach. Local Tbilisi TV station *Kavkazia*, in contrast, served as a platform for the opposition, allocating the bulk of its coverage to the United Opposition and strongly criticizing the UNM and the authorities.

The print media monitored by the OSCE/ODIHR EOM presented a diverse range of opinions. While *24 saati* tilted slightly in favour of the incumbents, *Rezonansi*, *Alia* and *Kviris Palitra* showed their support of the main opposition bloc and criticized the UNM and the government.

X. PARTICIPATION OF WOMEN

The Georgian Constitution states that all citizens have equal status.³⁵ However, there is no adequate legislation protecting women against gender-based discrimination. In July 2006, Parliament adopted a ‘State Concept on Gender Equality’ aimed at encouraging the equal and effective implementation of rights and opportunities for men and women in the political, economic and social spheres. Nevertheless, not having legal force, the concept can be regarded only as a political statement setting a policy framework for the executive branch of government.

In May 2008, the ‘Georgian Women NGOs Coalition’ presented over 32,000 signatures in support of an amendment to the Electoral Code, proposing the introduction of a mandatory quota system in party and electoral bloc lists, which is expected to be discussed by the new Parliament.

Although women comprise 53 per cent of Georgia’s population³⁶, these elections took place against a backdrop of very few women holding key positions in public and political life. In the last Parliament, only 9 per cent of the deputies were women, and in the government, only three out of 17 ministers were women.

The visibility of female candidates was generally low, with only a few female contestants mounting high-profile campaigns. The five parties and blocs which won mandates in the new Parliament overall had 21 per cent of women in their proportional lists, but none had more than one woman among the top ten on their respective list. In total, nine women were elected – six from the UNM, two from the United Opposition, and one from the CDM.

Within the election administration, women were under-represented at the top level, with only one female in the 13-member CEC. In DECs, 15 of the 76 Chairpersons were women. In the polling stations visited by IEOM observers on election day, 44 per cent of PEC chairpersons were women, as were 66 per cent of PEC members.

³⁵ Art. 14 of the Constitution states: “Everyone is free by birth and is equal before the law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belongings, origin, property and title, place of residence”.

³⁶ 2007 Statistical Yearbook of Georgia, Ministry of Economic Development, Department of Statistics.

XI. PARTICIPATION OF NATIONAL MINORITIES

National minorities constitute 16.2 per cent of Georgia's population.³⁷ The most significant minorities are Azeris (6.5 per cent) and Armenians (5.7 per cent), which are concentrated in the regions of Kvemo Kartli and Samtskhe-Javakheti, respectively. Other minorities include Russians, Ossetians, Greeks, Chechens, Jews, Abkhazians and Kurds. A Roma population exists, but is not officially recognized as a minority group, and its numbers are unclear.

National minorities enjoy full political rights under the Constitution, including the right "to use their mother tongue in private and in public". Georgia is a party to all major international human rights conventions. Under the Constitution, international treaties are directly applicable in the Georgian legal order and take precedence over any conflicting piece of legislation apart from the Constitution. However, Georgia lacks a comprehensive national legal framework for the protection and promotion of minority rights³⁸, and it has not adopted any special measures to facilitate the effective political participation and representation of minorities.

Issues of national minorities and inter-ethnic relations did not feature prominently in the election campaign. The language of campaigning was not subject to restrictions, and minority languages were widely used by parties and candidates in minority areas. The most active party in Samtskhe-Javakheti and Kvemo Kartli was the UNM. Opposition forces campaigned little in these regions, claiming a lack of funds and hurdles placed by the authorities. Nonetheless, several opposition leaders visited Samtskhe-Javakheti and Kvemo Kartli during the campaign.

Most parties and blocs nominated candidates belonging to national minorities. According to the Public Movement "Multinational Georgia"³⁹, the UNM had ten minority representatives on its proportional list, some of them placed relatively high on the list.⁴⁰ The United Opposition had six minority representatives on its list⁴¹, the Republicans had five,⁴² and the Labour Party one⁴³. The CDM was the only party which did not include any minority representatives on its list. Several parties nominated members of national minorities as majoritarian candidates in regions where minorities form a substantial part of the population.⁴⁴ Only six minority representatives were ultimately elected, all from the UNM.⁴⁵

The CEC produced election material in four minority languages – Armenian, Azeri, Ossetian and Russian. This material was made available to PECs upon the request of the respective DEC and included ballots, the UEC, protocols, PEC instructions, voter invitation cards, information for voters and training manuals. Most PECs in minority areas received training in a combination of Russian and either Azeri or Armenian. The CEC also produced voter education material in minority languages, which was widely disseminated in minority areas. On election day, voter lists were available in minority languages in areas where minorities are concentrated. However, during the period of public scrutiny, voter lists were only available in Georgian, which many members of

³⁷ According to the 2002 census, which did not include Abkhazia and South Ossetia.

³⁸ This is despite the fact that Georgia committed itself to adopt a law on national minorities when it joined the Council of Europe in 1999.

³⁹ "Multinational Georgia" is an umbrella NGO for more than 20 ethnic-minority organizations.

⁴⁰ In positions 29, 31, 50, 64 and 66.

⁴¹ The highest placed in position 85 on the list.

⁴² In positions 9, 15, 31, 60 and 68.

⁴³ In position 153 on the list.

⁴⁴ For example, in Marneuli, five candidates, including from the UNM and the Republicans, were ethnic Azeris. In Ninotsminda, the UNM, United Opposition and Republican candidates were all ethnic Armenians.

⁴⁵ Three were elected on the UNM proportional list, and three in single-mandate constituencies.

national minorities cannot read because of the different alphabet. No information on the ethnic composition of election commissions at various levels was available.

XII. DOMESTIC AND INTERNATIONAL OBSERVERS

Georgia has a vibrant civil society, with several renowned NGOs active in domestic election observation efforts. The authorities also invited a broad range of international observer organizations. The UEC provisions on domestic non-party 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 registration deadline for local observer organizations was changed from 30 to ten days before election day. However, the UEC does not provide the possibility for observer organizations to correct their applications if any mistakes are identified.

The CEC registered 37 domestic and 46 international organizations, as well as 17 embassies, to observe these elections. The main domestic observer organizations were the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers' Association (GYLA), Transparency International Georgia and New Generation – New Initiative. ISFED and GYLA conducted long-term observation. For these elections, many local observer groups recruited their observers in the big cities and later deployed them to other locations in order to limit cases of intimidation and pressure. However, OSCE/ODIHR observers reported numerous cases of local observers and party proxies being intimidated and pressured, and during the counting and tabulation, there were cases when domestic non-party observers were forced to leave polling stations or DECs.⁴⁶

The impartiality, knowledge of election procedures and adherence to the principle of non-interference by some local observers were at times questioned by IEOM observers. In Signaghi DEC, IEOM observers witnessed numerous observers wearing false accreditation documents, and in some cases those observers did not hide their political interests and affiliation.⁴⁷

XIII. PRE-ELECTION DAY COMPLAINTS AND APPEALS

There was a general lack of will on the part of the election administration and courts to deal with complaints and appeals in a serious and impartial manner. For the most part they did not give cases due consideration, with an apparent bias in favour of the ruling party and public officials. In various cases, they refused to hear witnesses or view documented evidence, failed to address all relevant facts, applied unsound interpretations of the law, ignored the spirit of the law, or failed to provide complete or clear factual-legal reasoning. It is noteworthy that the Supreme Court Chairman, reacting to an OSCE/ODIHR Interim Report, expressed to the OSCE/ODIHR EOM that the judiciary is never to be the subject of criticism. In politically sensitive cases, commission members appeared to vote based on political interests, with non-opposition-appointed members voting in favour of the ruling party.⁴⁸ In one case lodged by the opposition, the judge blatantly brought politics into the court by asking the CEC lawyer which political party had appointed the CEC member who had initiated the ordinance in question.

⁴⁶ Signaghi, Mskheta, Khashuri, Lagodekhi, and Gardabani DECs.

⁴⁷ IEOM observers witnessed observers from the domestic organization Union "Ratio Legi" presenting themselves as representatives of the CEC and interfering in the work of PECs. "Ratio Legi" fielded the highest number of observers on election day but had no visibility before or after election day.

⁴⁸ Article 19(3) provides that an election commission member does not represent his or her appointing subject, and must act independently and subordinate only to the law.

Election commissions did not discuss and analyze complaints in a thorough, systematic and legalistic manner, with insufficient provision for complainants to present their cases and often in the absence of respondents. They almost never adopted the factual-legal reasoning of decisions. Moreover, the CEC has not created a sufficient standard operating procedure for internal handling and hearing of complaints by the administration, which would have contained the full range of procedural safeguards, including the right to be notified of reasoning of decisions.⁴⁹

Although the complaints and appeals procedures were recently simplified and clarified to some extent, they remain unnecessarily complex, contradictory and ambiguous, which caused confusion for complainants and decision-makers, and hindered consideration. A significant number of complaints were not considered due to procedural reasons, such as unauthorized complainant or submission to a body without jurisdiction. Procedures for submission of complaints related to vote buying were particularly unclear; as a consequence, all eleven of those complaints were left unconsidered by the commissions.⁵⁰ The law proved to be unclear as to what remedial measures could be ordered by adjudicative bodies and regarding which body is authorized to deregister a candidate or political entity and under which circumstances. There was a lack of concerted co-operation between the CEC and courts, political entities and domestic observers, to reach common understandings on issues related to the complaints and appeals procedures.

The deadlines for filing and consideration of complaints and appeals were shortened by the recent amendments, and are in themselves too short (1–2 calendar days) to fully guarantee the adversarial nature of proceedings and due consideration, required even in a time sensitive election period.⁵¹ The CEC leadership expressed that its one-day deadline was too short to guarantee due process. In practice, complainants and decision-makers were not always able to meet the tight deadlines, or could not do so without compromising due consideration.⁵²

The relatively high cost of filing court cases is also reported as a deterrent to lodging complaints and appeals.⁵³ The law does not provide private citizens with the right to file complaints to the election administration or courts on breaches of the election law or against decisions of the election administration.⁵⁴ Complainants especially in the regions sometimes lacked the necessary skills to prepare thorough complaints.

Complaints and appeals filed with the election administration and courts, almost all by opposition parties and domestic observers (with only one filed by the UNM), primarily related to decisions and actions of election commissions, with a number alleging campaign violations.⁵⁵ Law enforcement bodies launched more than 50 election-related criminal investigations during the pre-election period.⁵⁶ However, the election administration at all levels failed to fulfill its broad legal responsibility to ensure the implementation of the election law, having not, on its own initiative, undertaken the examination of the legitimacy of decisions and actions of election commissions,

⁴⁹ The OSCE/ODIHR EOM recognizes that late in the election process, the CEC made some effort to enhance the quality of its complaints and appeals regulation.

⁵⁰ In one case, the CEC refused jurisdiction over a vote buying case on advice from a CEC lawyer, and then in the same case in court the CEC lawyer argued that it was the CEC and not the court that had jurisdiction.

⁵¹ Additionally problematic is that the appeal deadline starts from issuance, not notification, of the decision.

⁵² For instance, in a few cases, judges verbally stated that during an election period there is no time for witnesses.

⁵³ The fee for filing court cases is 100 GEL for first instance courts and 150 GEL for appeal courts (approximately 45 and 70 Euro, respectively).

⁵⁴ Except applications to correct or include their name on the voter list prior to election day.

⁵⁵ The approximate number of pre-election day complaints and appeals filed is: to DEC's – 69, to the CEC – 27, to the Tbilisi City Court – 32, to other City/Rayon Courts – 8, to the Tbilisi Court of Appeal – 15, to the Kutaisi Court of Appeal – 4, and to the Constitutional Court – two.

⁵⁶ These relate to physical assault, threats, intimidation, property damage, theft, bribery and interference in the work of election commissions.

investigation and address of campaign breaches, or submission of vote buying cases to court.⁵⁷ There appears to be a general attitude in the judiciary that the election law and its interpretation should serve to minimize the number of complaints eligible for consideration so as not to overburden the courts.

In a court case filed by the UNM against a CEC decision not to pass a decree, the CEC lawyer did not defend the CEC as a collegial body, showing allegiance only to the non-opposition-appointed members who had voted in favour of the decree.⁵⁸ Failing to provide a legal argument to defend the CEC decision in court, the lawyer merely stated that CEC members are permitted to vote on decisions according to their “internal beliefs” and are not bound by law. The UNM was successful in this case, its only complaint. In contrast, almost all complaints filed by domestic observers and opposition parties against decisions and actions of election commissions were unsuccessful, and none of their campaign-related complaints were satisfied. In cases filed by opposition parties and domestic observers, the CEC lawyers, who are meant to be hired on a professional basis by the CEC Chairman, overzealously, and with unsound legal opinion, defended the actions of UNM candidates, public officials and government-appointed CEC members.

In a notable case, three opposition parties filed complaints in court requesting annulment of the CEC decree that registered the UNM party list, alleging that the list had not been submitted in line with legal procedure. The judges refused to hear any witnesses proposed by the complainant to substantiate the allegations⁵⁹, citing these unjustifiable grounds – lack of time in an election period, the witnesses were not relevant, and that no opposition-appointed CEC member had attached a dissenting opinion to the CEC session minutes.⁶⁰ The court then rejected the cases because the complainants “should have provided relevant evidence for the purpose of proving circumstances mentioned in the claim, which they have not done.”

A number of complaints of vote buying by UNM candidates and campaigning by public servants were filed by domestic observers and opposition parties and were all rejected by the election administration and courts. Providing extensive interpretations of the relevant legal provisions that ignored both the letter and spirit of the law, the courts missed a crucial opportunity to reinforce important standards for the conduct of democratic elections. They offered broad latitude for candidates and campaigners to unduly influence voters through vote buying, for campaign activities to overlap with government initiatives, and for public servants to mix official duties with campaign activities, thus contributing to unequal campaign conditions favouring the incumbent and blurring the line between the state and ruling party.

The court held in one case that while conducting official duties, public servants are only prohibited from expressly asking citizens to vote for a candidate, thus public introduction of a candidate, or for that matter other forms of campaigning while on duty, were not forbidden. In a case alleging vote buying by the UNM, the court held that only registered candidates and party proxies are prohibited to buy votes on behalf of a political party, while others are permitted to do so. The courts also held that prospective candidates (not yet registered but publicly announced to run) are not prohibited

⁵⁷ These responsibilities and authorities are found in articles 29(1)(a) and (m), 34(2)(a) and (f), and 77.1(15). The latter article authorizes election commissions to submit to court, on their own initiative, cases of vote buying.

⁵⁸ The UNM challenged the CEC decision that voted down a decree to allow Upper Abkhazia voters to vote for the majoritarian candidate in the Mestia district since under the Article 15.1 of the UEC, the Upper Abkhazia district does not have its own majoritarian candidate.

⁵⁹ The complainants petitioned to call as witnesses, among others, the CEC Chairman, CEC registry staff, and international and domestic observers.

⁶⁰ Article 22(12) of the UEC provides that an election commission member has the right to express a dissenting opinion in written form to any decision made by the commission. The independent, non-political legal character of commission members, noted in Article 19(3), means that the non-existence of a dissenting opinion can have no bearing on the consideration of a complaint filed by a political entity.

from vote buying. In other cases the courts held that to constitute vote buying for a candidate, the money or goods must be directly financed by the candidate, the candidate must transfer the goods personally or expressly instruct someone to do so, the transfer must be specifically proven as for the purpose of gaining votes, i.e. accompanied by an express call to vote for the candidate, and it must be proven that the material item was sufficiently valuable to persuade the person in question to vote for the candidate. Gifts to children or groups of citizens from a candidate did not constitute vote buying.⁶¹ The courts ignored how citizens might have actually viewed the origin of the transfer or promise of money or goods, i.e. if they were led to believe that the gifts and promises were on behalf of the candidate.

The courts imposed an impossible standard of proof to substantiate vote buying. In one case, a CEC lawyer unreasonably argued that since the vote is secret, vote buying could never be proven. Such interpretations devalue Articles 73(5), 73(9)(a) and 76 prima 1, subparagraph (1), of the UEC which prohibit public servants from campaigning while exercising official duties and broadly forbid vote buying.

A new provision in the UEC regulating the use of official video recordings from polling stations unnecessarily restricts access to complainants, thus limiting the use of the recordings as evidence of offences, one of its intended purposes.⁶² Prior to the elections, GYLA and the Public Defender submitted lawsuits to the Constitutional Court requesting the invalidation of this provision on grounds that it violates the constitutional right to freedom of information. Since the court has up to nine months to hear the case, a petition was also filed requesting an immediate interim decision that obligates the election administration to provide complainants with full access to the tapes following the elections. The day before the elections, the court rejected the petition.

XIV. VOTING AND COUNTING

Election day was generally calm, although in some regions, IEOM observers assessed the voting environment as tense and problematic. The vote count and the tabulation of results were assessed more negatively by IEOM observers. On election night, the CEC announced that the elections in 13 polling stations had been annulled due to “grave violations”, with more precincts cancelled later on.

A. OPENING AND POLLING PROCEDURES

Opening procedures were assessed positively in 85 per cent of polling stations visited, with less problems noted in urban areas. Instances of procedural shortcomings observed included failure to record the number of voters in the protocols (12 reports, or 8 per cent), seal the ballot boxes (7 cases, 4 per cent), record the serial numbers of seals (10 cases, 6 per cent) or insert control sheets in the ballot boxes (2 cases, 1 per cent). Unauthorized persons were identified in 14 polling stations where opening was observed (8 per cent), but only in four cases were they directing or interfering in the work of the PECs. IEOM observers reported delays in the opening of 42 per cent of polling stations observed, with most polling stations opening with no more than 30 minutes delay.

IEOM observers assessed the voting process as good or very good in 92 per cent of polling stations visited. However, the process was assessed more negatively in some regions, specifically Kakheti (15 per cent bad or very bad), Shida Kartli (14 per cent), Samtskhe-Javakheti and Guria (12 per cent

⁶¹ The prohibition of vote buying in Article 73(9)(a) is very broad and does not include a minimum value or stipulate that the transfer must only be to an individual or an adult. In the recent amendments, the word “voters” was replaced with “citizens.”

⁶² Article 129.8(10), provides that the video footage is not public information and that requests are limited to a maximum of 15 minutes of footage, with the precise time and allegation to be specified in the request.

each) and Kvemo Kartli (11 per cent). By contrast, only 1 per cent of observations from Adjara assessed the process negatively. The PECs' and voters' understanding of procedures was assessed positively in the overwhelming majority of polling stations visited.

The most widespread procedural violations concerned inking safeguards; in 11 per cent of polling stations visited voters were not always checked for traces of invisible ink, and in 9 per cent, inking was not always applied.⁶³ IEOM observers reported from five polling stations that voters who had already been inked were still allowed to vote. Other violations included ballot boxes which were not sealed properly (4 per cent), series of seemingly identical signatures on the voter list (2 per cent), proxy and multiple voting (2 per cent each), group voting (5 per cent) and the same person "assisting" numerous voters (2 per cent). IEOM observers witnessed 13 cases of ballot box stuffing and reported nine cases of possible carousel voting. In 5 per cent of polling stations visited, not all voters marked their ballots in secrecy.

IEOM observers also noted problems with mobile voting. Specifically, they reported from 2 per cent of polling stations that voters who had requested mobile voting had not been marked on the general or special voter list. According to the UEC, the voter list supplement is compiled on the basis of the general and special voter lists. The name of the voter is entered in the voter list supplement based on a written request or verbal statement made by the voter by phone. The transfer of the voter to the supplement shall be recorded in the general or special voter list and certified by the signatures of the PEC Chairperson and Secretary.

In many polling stations, the number of voters on the supplementary list was unusually high; this figure exceeded 10 per cent in 10 per cent of polling stations visited. Overall, some 4 per cent of voters registered in polling stations visited by IEOM observers had been added to the supplementary list.⁶⁴ In a few polling stations, IEOM observers witnessed voters showing up only to find out that their name had been added to the supplementary list without their knowledge and that sometimes, other persons had already voted on their behalf.

In 21 per cent of polling stations visited, not all voters found themselves on the voter list; while this underscores the need to further improve the accuracy of the voter lists, the number of voters affected was usually limited. In 1 per cent of polling stations, voters were denied the right to vote for inappropriate reasons. Ballots in minority languages were generally available where minorities reside.

Notwithstanding the overall positive assessment of polling, circumstances in and around polling stations were at times problematic. Tension inside polling stations was reported from a significant 6 per cent of visits, and tension or unrest in the vicinity, from 3 per cent. In 1 per cent of polling stations visited, intimidation of voters, observers, proxies or PEC members was noted, and in 3 per cent, observers saw persons trying to influence voters. Campaign material was noted inside 3 per cent of polling stations visited⁶⁵. IEOM observers also reported cases of overcrowded polling stations or a large number of voters waiting to vote outside polling stations (6 per cent each).

Domestic non-party observers were present in 83 per cent of polling stations visited, and proxies in 99 per cent. The IEOM noted instances where observers and proxies were prevented from carrying out their tasks, pressured, intimidated, or expelled from polling stations. They also noted cases where domestic observers and proxies exceeded their authority, assisting or interfering in the

⁶³ IEOM observers reported that in some polling stations, checking for ink was difficult because bright sunlight impacted on its visibility.

⁶⁴ This number was significantly lower in Tbilisi (1.6 per cent) than in the rest of the country (5.2 per cent).

⁶⁵ Polling stations are not explicitly mentioned in the UEC among places where campaign material is not allowed.

process. Unauthorized persons, mostly police and party activists, were seen in 4 per cent of polling stations; there were 16 reports of such persons interfering in or directing the work of the PEC.

In 12 per cent of polling stations visited, official complaints had been filed, with such cases increasing towards the end of voting. NGOs and parties reported that observers and proxies were prevented from filing complaints; IEOM observers directly witnessed seven such cases.

B. COUNTING PROCEDURES

The vote count was assessed less positively than the polling process. A significant 22 per cent of IEOM observers assessed the overall counting process as bad or very bad. Adherence to procedures was considered bad or very bad in 18 per cent of counts observed, and PECs' performance and understanding of procedures were each assessed negatively in 17 per cent. In 8 per cent of counts observed, IEOM observers noted a lack of transparency.

In 26 per cent of counts observed, IEOM observers reported significant procedural errors and omissions. In 5 per cent of counts, they observed tampering with voter list entries, election results, or results protocols. IEOM observers reported eight cases of outright falsification. They also reported four cases where the ballot box seals were not intact, seven cases where the serial numbers of seals did not match those recorded in the PEC Record Book when the boxes were sealed, and three cases where the control sheets in the ballot boxes differed from the copies kept by the PEC.

A considerable number of PECs (almost one in five) did not perform basic reconciliation procedures before opening the ballot boxes, such as counting and entering into the protocols the number of signatures on the voter lists or of unused and spoiled ballots. The mandatory mathematical consistency checks before the opening of the ballot boxes and at the end of the actual count were skipped in 23 and 14 per cent of counts observed, respectively. Around 37 per cent of PECs did not carry out the various stages of the count in the required order.

In 38 per cent of counts observed, voters' choices were not announced aloud during the count. In a few isolated cases, PEC members, observers and proxies were not allowed to examine ballots upon request, in violation of the law. Determination of ballot validity was not always reasonable and consistent (6 and 7 per cent of counts observed, respectively). In 15 polling stations observed, the PEC did not announce and enter into the protocols the number of invalid ballots.

Party proxies were present during 94 per cent of counts observed, and domestic non-party observers, in 77 per cent. Unauthorized persons were present during 12 per cent of counts. In 18 of the counts observed, non-PEC members participated in the process.

A significant 25 per cent of PECs had problems filling in the results protocols. In 17 per cent of counts observed, PECs revised data which had been entered into the protocol earlier, sometimes without filling in a correction protocol as required by law. IEOM observers reported 14 cases where protocols had been pre-signed by PEC members. Those entitled to them received copies of the protocols in almost all cases, but almost one in three PECs did not post copies of the protocols for public scrutiny, as required by law. A few PECs did not transfer the election material directly to the DEC as required. In one case, IEOM observers reported that the material was first taken to the local UNM office, and only then to the DEC.

XV. TABULATION AND ANNOUNCEMENT OF ELECTION RESULTS

IEOM observers followed the tabulation process in 73 out of 76 DEC's and observed the processing of some 2,500 protocols. In 16 per cent of observations, the tabulation process was assessed negatively, and 9 per cent of reports mentioned a lack of transparency of the process. The presence of unauthorized persons was reported in 10 per cent of observations. In 8 per cent of observation reports, PECs were noted filling in protocols at DEC premises, and in 15 per cent, election materials were arriving at DEC's unsealed and unpacked.

IEOM observers assessed the process at DEC level most negatively in Mtskheta-Mtianeti, Shida Kartli, Kvemo Kartli and Kakheti. In the DEC's of Mtskheta-Mtianeti, the process was often described as chaotic, with PECs initially entering closed rooms inside DEC's, where their election material and protocols were checked by unauthorized persons before they were submitted to the DEC's. In this region in particular, IEOM observers had difficulties in obtaining copies of protocols. In Shida Kartli, the process was described as noisy, non-transparent and unfriendly towards IEOM observers⁶⁶. In Kakheti, the process lacked full transparency. In Kvemo Kartli, DEC's were often unable to process the flow of protocols arriving after midnight. In Dmanisi DEC, IEOM observers were prevented from observing the tabulation of 20 PEC protocols, since they were asked to leave the premises of the DEC. In Tsalka DEC, a number of protocols were corrected in a locked room in the presence of unauthorized persons.

Many DEC's did not proceed with the tabulation of protocols in a continuous manner. In many cases, DEC's stopped their work on the morning of 22 May, before all protocols were received and processed. Some DEC's resumed their work within some hours, but the time at which the DEC would reconvene was not always announced in a transparent manner⁶⁷, and in some cases, IEOM and domestic observers were misled about the time when the DEC would resume its work⁶⁸.

The fact that the summary protocols were "simplified" by not including important data⁶⁹ makes it difficult to reconcile the number contained in the protocols. An analysis of around 1,300 PEC protocols⁷⁰ revealed problems with the reconciliation of the figures contained in the protocols of PECs in almost all districts.⁷¹ Most of these problems concerned the total sum of the votes for election subjects and invalid votes being less than the number of signatures; however, there were cases where the total number of votes for the election subjects and invalid votes exceeded the number of signatures in the voter list, which could be an indication of ballot stuffing.⁷²

⁶⁶ In Kareli DEC of Shida Kartli region, IEOM observers noticed frequent amendments of protocols without official DEC decisions and a number of pre-signed and pre-stamped blank protocols.

⁶⁷ Kazbegi, Senaki, Poti, Khoni, Tskaltubo, Zugdidi, Ozurgeti, Lanchkhuti, and Samtredia DEC's.

⁶⁸ For example, on 22 May the Chairperson of Bolnisi DEC assured IEOM observers that the DEC would resume its work at 18:00 hrs and when the observers came back to the DEC just before 18:00 hrs, the DEC Chairman informed them that the session had already taken place and that 12 complaints had been addressed.

⁶⁹ The number of voters in the voter list supplement and the number of ballots in the ballot boxes were not included in the protocol. Moreover, the fact that the number of envelopes is not tracked and recorded in the protocols makes their use pointless.

⁷⁰ The analysis is based on the protocols collected by IEOM observers from PECs and DEC's.

⁷¹ For example, in 37 PEC's of Saburtalo DEC, in 12 PEC's of Mtatsminda DEC, in seven PEC's of Vake DEC, in 18 PEC's of Khelvachauri DEC, in 19 PEC's of Shuakhevi DEC, in 20 PEC's of Khulo DEC, in 21 PEC's of Batumi DEC, in seven PEC's of Akhmeta DEC, eight PEC's of Terjola DEC, 19 PEC's of Gardabani DEC, in eight PEC's of Ozurgeti DEC the sum of votes received by parties/blocs + invalid ballots does not correspond to the number of voters who voted. The difference ranges from one to 467.

⁷² For instance, in PEC 23 of Mtatsminda DEC, PEC 57 of Samgori DEC, in PEC 24 of Keda DEC, in PEC 36 of Batumi DEC, PEC 19 of Dedoplistskaro DEC, in PEC 19 of Tsalenjikha DEC, PEC 28, 47, 52 and 83 of Marneuli DEC, PECs 22 and 24 of Dmanisi DEC, there were between two and 467 more ballots cast than signatures in the voter list.

Complaints requesting the annulment of about 300 PEC protocols were filed; the summary protocols of 38 PECs were annulled either by DEC members or courts, most for serious violations such as ballot stuffing, or pressure or intimidation of domestic observers. A number of these annulments were based on formal and informal complaints made by international observers or related to incidents witnessed by international observers. The total number of voters registered in the annulled polling stations was 48,381, thus many voters were disenfranchised due to serious violations. However, none of the annulled protocols affected the election results. In addition, DEC members conducted 31 recounts. Due to the lack of details in procedures on the annulment and conduct of recounts, DEC members were not considering the cases in a consistent and uniform manner.⁷³ In a number of cases, PEC and DEC members were given warnings or were sanctioned, including by imposition of fines.

The summary protocols of 11 DEC members were appealed to the CEC, with requests that the results in those districts be annulled. None of these cases were satisfied, and consequently five cases were appealed to the court, where they were all rejected.

The CEC started posting polling station results and protocols on its website shortly after midnight on 22 May. According to the CEC, protocols from PECs in Tbilisi were received manually; overall, about one third of the protocols were transferred from PECs to the CEC by fax, mainly via the Civil Registry network. In 269 polling stations, not all PEC members signed the summary protocols, and in 54 PECs, commission members attached dissenting opinions. On 23 May, the CEC announced preliminary results based on 3,270 PEC protocols. CEC data put voter turnout at 53 per cent. In several DEC members, turnout was considerably higher than the national average.⁷⁴

On 5 June, the CEC declared the final election results. The CEC did not approve the summary protocol by a vote; instead, it was signed by the CEC Chair and Secretary only. A CEC lawyer explained that there was no requirement to approve the CEC summary protocol by a vote of the CEC. After the 5 January presidential election, the wording of the Art. 64.1 of the UEC was amended from “the CEC ... approves the summary protocol by ordinance” to “the CEC ... determines the summary protocol”. Even though the amended wording of this article does not explicitly mention that an ordinance should be drafted, the article clearly stipulates that the CEC determines the summary protocol. The CEC consists of 13 members and any decision or document should be adopted by the CEC as a body and not by some of the members. One dissenting opinion regarding the summary protocol was presented and attached to the minutes of the session.⁷⁵

The CEC summary protocol was unsuccessfully appealed to the Tbilisi City Court by the Labour party. A subsequent appeal to the Tbilisi Court of Appeal was also rejected.

XVI. ELECTION DAY-RELATED COMPLAINTS AND APPEALS

The procedures for filing election day-related complaints and appeals are overly complicated and ambiguous, which contributed to confusion and varying interpretations by stakeholders. There were widespread and significant irregularities in the handling of such complaints by PECs and DEC members. To some extent, there was a lack of will exhibited by the election administration to readily accept and

⁷³ For one and the same type of violation, some polling station results were annulled, while in other cases the complaints were not satisfied although the violations had been proven.

⁷⁴ Mtskheta DEC – 71 per cent, Khashuri DEC – 74 per cent, Akhaltsikhe DEC – 85 per cent, Adigeni DEC – 83 per cent, Aspindza DEC – 86 per cent, Akhalkalaki DEC – 79 per cent, Ninotsminda DEC – 82 per cent.

⁷⁵ The dissenting opinion was submitted by the CEC member appointed by the Conservative Party.

give due consideration to complaints.⁷⁶ Also, the election administration did not, for the most part, exercise its broad authority to investigate and remedy election-day irregularities on its own initiative.

The approximate number of election day-related complaints and appeals filed is: PECs – 1,000, DEC’s – 300, CEC – 20, city/district courts – 47, and courts of appeal – 27. They alleged a range of irregularities in voting, counting and tabulation, including serious cases of ballot stuffing, multiple and proxy voting, pressure and intimidation of voters, domestic observers and PEC members, interference by unauthorized persons, and protocol irregularities. The majority of complaints were filed by domestic observers, particularly GYLA, ISFED and TI, and, to a lesser extent, opposition parties. No known complaints were filed by the UNM. Voters also filed complaints, although the law does not expressly permit them to do so.⁷⁷ About 30 criminal investigations were launched related to events on and subsequent to election day, including cases of physical assault, intimidation, election material theft, ballot fraud, and obstruction of election commissions.

There were widespread credible reports of local observers and party proxies being obstructed by PEC members from filing complaints, including refusal to provide standard complaint forms, with many of these incidents involving threats and intimidation and expulsion from polling stations. In some areas, observers appeared to refrain from filing complaints, possibly due to such intimidation.⁷⁸ NGO observers reported that PEC members and proxies were afraid to provide witness testimony in support of complaints, including instances of co-complainants abstaining from testifying or changing their testimony during the respective hearing. A number of serious cases were unsuccessful at the DEC’s and courts apparently for those reasons.⁷⁹ In several credible cases, complaint witnesses were intimidated and physically assaulted.

Complainants noted that most irregularities and offences occurred at polling stations where official video cameras had not been placed, thus limiting the usefulness of video footage in support of cases. Few requests to view video recordings were filed with the election administration and courts, with a number reported to have been denied or not considered.

There were cases where PECs left complaints unconsidered and failed to notify complainants of their right to appeal to the relevant DEC. In one known case, a PEC did not forward complaints to the DEC. There were some cases of DEC’s refusing to register complaints and a very high number of complaints with technical mistakes were left unconsidered or rejected, most without allowing complainants to correct the errors. In some DEC’s, complaints were left unconsidered on the mistaken ground that they were incorrectly filed with the DEC (instead of the PEC) or that they should have been filed in duplicate at the PECs. Some DEC’s did not consider any complaints forwarded by PECs or refused to consider complaints that would not affect the election results.

⁷⁶ The day before the elections, the outgoing Speaker of Parliament, Nino Burjanadze, publicly called on the election administration “not to leave a single justified appeal without adequate and due reaction”, and noted that this is “one of the key preconditions for holding elections in a stable and democratic environment”.

⁷⁷ A court left unconsidered a complaint that alleged vote buying on behalf of the UNM at a polling station, on grounds that private citizens are not legally permitted to file such complaints.

⁷⁸ At midnight on election day at Lagodekhi DEC, the Republican Party withdrew 12 complaints alleging ballot stuffing and other grave irregularities, some of which IEOM observers had also witnessed.

⁷⁹ Complainants are not permitted to provide witness testimony in civil and administrative proceedings, according to general court interpretation of the Civil Procedures Code. Thus, accredited observers and party proxies who file complaints on incidents they witness are not allowed to provide supporting testimony in the case. Since observer organizations and political entities are not entitled to file complaints related to election day (only individual observers and proxies), it is very difficult to prove witness-based cases if the complainant is not authorized to testify and other observers abstain from testifying due to intimidation.

There were cases of complainants not being properly informed of session times at which their complaints would be considered and of opposition-appointed DEC members being hindered from viewing complaints. In some DEC, there was no reasonable discussion of complaints, merely political arguments, with voting along party lines and CEC-appointed members partial to the UNM. The majority of complaints were rejected by the DEC, often without adequate investigation of evidence, including refusal to hear witnesses, or clear and sound reasoning. Some of these cases included serious irregularities, a number of which were witnessed by IEOM observers. Many were rejected on grounds that they were not significant or because they would not affect the results. The DEC ordinances on complaints, for the most part, did not provide the factual-legal reasoning of decisions. Some DEC wrongly notified complainants that these ordinances could be appealed to the CEC (instead of court) or did not notify to which body these ordinance could be appealed. In some cases, DEC provided complaint ordinances to complainants too late to allow for appeals to court.

Several DEC decisions were appealed to the CEC instead of court and were therefore not considered, while a number of other complaints were left unconsidered due to an unauthorized complainant.⁸⁰ While adjudicating complaints on the validity of DEC summary protocols, the CEC and courts improperly refused to consider the validity of PEC summary protocols⁸¹. Further, the CEC and courts considered that if no DEC members had attached a dissenting opinion to the protocol, then the complaint could not be satisfied. Almost all complaints were left unconsidered or rejected by the CEC, often without adequate investigation or sound factual-legal reasoning. CEC ordinances lacked clear and thorough reasoning.

The courts annulled a number of DEC decisions for improper consideration or insufficient investigation of evidence in the case. They upheld the vast majority of PEC summary protocols in question, including cases with serious irregularities, some witnessed by IEOM observers. Many judgments included flawed evaluation of the evidence and lacked sound and thorough factual-legal reasoning. In several cases, courts held that although sensitive election materials, including protocols, had been delivered unsealed and unstamped to the DEC, such violations did not raise doubt as to the legitimacy of the results in the protocols. In one appeal against a DEC summary protocol, the court held it was irrelevant that the reason the complainant was unable to meet the complaint deadline was that the DEC failed to provide the protocol to him on a timely basis.

XVII. RECOMMENDATIONS

The following recommendations are offered for consideration by the authorities, political parties and civil society of Georgia, in further support of their efforts to conduct elections in line with OSCE commitments and other standards for democratic elections. A number of these recommendations have already been offered in previous OSCE/ODIHR final reports but remain to be addressed. The OSCE/ODIHR stands ready to assist the authorities and civil society of Georgia to further improve the electoral process.

A. LEGAL FRAMEWORK

1. Changes to the current election system could be reconsidered on the basis of broad consultation among all major political entities, and in consultation with key civil society organizations. If a majoritarian component is retained, electoral district boundaries should be revised so that there is no more than some 10 per cent variation in numbers of registered

⁸⁰ In one case, the CEC refused to consider a complaint about a DEC summary protocol because a party representative, instead of the leader, had signed the complaint. This decision was upheld by the court.

⁸¹ The DEC summary protocols are based on a consolidation of the PEC summary protocols.

voters between districts in order to protect the equality of the vote. Alternatively, the election system should be designed in such a way that overall proportionality is ensured.

2. Parliament could constructively enact a new Election Code in the near term, and ahead of the next nationwide election, taking into account past and present recommendations made by the OSCE/ODIHR and European Commission for Democracy Through Law (Venice Commission) of the Council of Europe. This is best accomplished according to an open and transparent process of consultation with key stakeholders that aims to reach a broad consensus.
3. The election law should be reviewed in order to address the issue of political officials (not only public servants) from combining campaigning activities with official duties, and the blurred distinction between government initiatives with campaign activities. Such a prohibition is needed in order to avoid the violation of equality of opportunities among the contestants, and to ensure implementation of paragraph 5.4 of the 1990 OSCE Copenhagen Document. Furthermore, the law could usefully include clearer and broader definitions of campaigning and vote buying. Prohibitive campaign provisions generally take effect as of the announcement of elections, and not later than when electoral subjects present to the public their intention to compete in the elections.
4. The election law should prohibit the direct or indirect use of all types of administrative resources – financial, material, technical, and human resources – for campaign purposes by election subjects, public officials, or other campaigners (with exception of buildings for campaign events, which all subjects must be guaranteed equal access to).

B. ELECTION ADMINISTRATION

5. Election commissioners, whether party-appointed or not, must act impartially, in a collegial manner and in accordance with the law. The UEC could safeguard against the dominance of any one political party in managerial positions of election commissions. In order to enhance broad confidence, the CEC Chairperson could be elected from among the CEC members based on inclusive consultations among the political forces.
6. Comprehensive, uniform and timely training of PEC members needs to be further ensured, with particular emphasis on counting and tabulation procedures. Members of upper-level commissions would equally benefit from additional training, especially DEC members with regards to tabulation procedures.
7. Should video surveillance cameras continue to be used, then polling stations where such cameras are installed need to be determined by the CEC as a body. The UEC should provide unrestricted access to official footage at the request of any complainants or public bodies and stipulate that the recordings must be kept for a specified and extended period of time.

C. VOTER REGISTRATION

8. The Civil Registry and the CEC would benefit from the use of compatible software, and the co-operation between two institutions could be enhanced in order to eliminate inaccuracies and discrepancies in the voter list, such as multiple entries and records of deceased people.
9. Voters whose identity and eligibility were confirmed should not be disenfranchised due to an inaccurately entered ID number in the voter list, and such errors need to be noted by the PECs and corrected after the elections.

10. The UEC could usefully stipulate stricter regulations for the inclusion of voters in the voter list supplement (i.e. for mobile voting); for instance, inclusion could be based on a medical certificate or a written statement and not just on a telephone call.

D. ELECTION CAMPAIGN

11. Government authorities have the responsibility to ensure that a clear, consistent message is delivered to all state officials that interference in the electoral process, including any form of pressure, intimidation or violence against political activists, public-sector officials, businesses or voters is unacceptable and will not be tolerated. Any instances that come to light need to be fully investigated, and those responsible should be held accountable in line with the law.

The CEC, in co-operation with civil-society organizations, could consider initiating a Code of Conduct, to be signed publicly by all candidates (in the case of a presidential election) or party leaders (for parliamentary or local elections), promising to conduct the campaign and election day in line with agreed principles and with the law.

12. A campaign silence provision could be introduced in the UEC. The UEC could contain a provision which bans campaigning on election day. In addition, a provision prohibiting campaigning and campaign materials inside polling stations, as well as in the vicinity of them, should be added to the UEC.
13. The UEC provision regarding the obligation of electoral subjects to submit information on campaign financing to the CEC on a monthly basis could be amended so as to enhance transparency and accountability by ensuring this information is submitted and published prior to election day.
14. The CEC should ensure that the statements on campaign financing supplied by the election subjects after the election are audited in line with international auditing standards, including that full details of receipts and expenditure are provided, and checks to ensure that the reports are complete and include all receipts and expenditure. Electoral subjects need to clearly specify the original donors of funds, rather than reporting that funds came from the political parties concerned.
15. The UEC needs to clearly define the role and responsibilities of the Finance Committee that oversees compliance with the rules laid down for campaign financing.

E. MEDIA

16. The freedom and independence of the media should be respected, as objective reporting is essential during an election campaign. State authorities and political parties should always refrain from interfering in activities of the media and journalists as it undermines their independence.
17. The GNCC needs to ensure respect for media-related provisions, including objective, fair and accurate news reporting of the campaign. The monitoring commissioned by the CEC could be used for prompt identification of any inequitable and preferential news coverage of candidates and parties, and prompt corrective action taken when necessary.

18. The independence of the public broadcaster could usefully be further strengthened, including the development of impartial editorial practices, especially in the news programs. Reporting should be balanced and factual, including coverage of the activities of the authorities.
19. To enhance independence of media, it could be considered to elect members of the GNCC and GDP Board of Trustees based on their professional expertise and not political affiliation.

F. VOTING, COUNTING AND TABULATION AND ANNOUNCEMENT OF RESULTS

20. The UEC should provide clear instructions for election-day DEC procedures, with criteria for annulling or changing PEC protocols, and detailed provisions for conducting recounts.
21. The CEC must ensure that ballot boxes are sealed in a uniform manner.
22. To enhance transparency and eliminate problems with reconciliation, the summary protocol needs to include all important data, including the number of voters in the voter list supplement and the number of ballots found in the ballot boxes.
23. The UEC needs to clearly stipulate that the results tabulation at DEC level is to be accomplished in a continuous manner, without interruptions in the process.
24. To increase transparency, the CEC could consider the possibility to require PECs to fill in separate protocols for the votes which are cast in special polling stations and are counted in regular PECs, rather than just mixing those votes.
25. Transparency, accountability and confidence would be enhanced if summary protocols at all levels of the election administration were approved collegially by a vote of the relevant commissions.

G. COMPLAINTS AND APPEALS

26. Parliament should develop a more simplified and clear complaints and appeals process for challenging decisions and actions/inactions of election commissions and electoral violations. The procedures should incorporate a single appeal process, have minimal technical obstacles, incorporate international standards for due process, and have clear remedies.
27. Timeframes for submission of complaints and appeals should be extended to provide sufficient opportunity for complainants to develop effective arguments and prepare relevant evidence. Deadlines should start from the notification of a decision, rather than from the time when a decision was adopted. Time limits for consideration should also be extended to allow electoral bodies and courts sufficient time to review, hear, and issue decisions and provide for due process.
28. The CEC needs to develop comprehensive and detailed internal operating procedures for dealing with complaints and appeals at all levels of the administration, from registration until issuance of decision. These should be in accordance with due process of law and judicial independence requirements established by international instruments, such as the right to be notified in writing of the comprehensive factual and legal reasoning of decisions.

29. The DEC and CEC members and legal staff could usefully be trained in the election law (substantive and procedural matters), adjudication skills, and due process standards. Legal advice of DEC and CEC lawyers must be politically unbiased and legally sound. Discussions and determination of complaints should be systematic and thorough, addressing the facts, law and evidence in a legally sound and non-partisan manner that takes into account the spirit of the law. PECs need to be better trained on complaints procedures.
30. Well in advance of elections, the CEC could initiate with the courts the development of joint instructions, guidelines or resolutions on matters of common concern regarding election disputes. The CEC could initiate co-operation with political entities and domestic observer groups to discuss and come to an understanding on complaints and appeals procedures. A voter education program should inform citizens on complaints and appeals procedures.
31. The CEC and DEC's would greatly benefit from staff investigators to enable a more proactive role in monitoring the implementation of the election law by investigating serious allegations, even in cases of no formal complaint. They could address illegitimate decisions and actions of election commissions and violations on their own or through courts. In criminal matters, they would need to be proactive in collaboration with law enforcement.
32. To increase transparency of the complaints and appeals process, the CEC should maintain a regularly updated database of all complaints and appeals submitted to the election administration, with links to the decisions, to be posted on the CEC website.
33. Courts should decide election-related cases on their merit, fully examine all relevant evidence, and base decisions on reasonable legal interpretations that consider the spirit of the law and international standards for democratic elections. The fee for submission of election-related cases to court should be eliminated, or kept to a minimum, so as not to deter stakeholders from lodging complaints and appeals. A regularly updated database of election-related court cases should be posted on the Supreme Court website.
34. The law should also permit voters, civil society organizations and public bodies to file complaints to election commissions and courts against all types of violations of election law. The law should permit domestic observer organizations and political entities (not only their observers/proxies) to file complaints on election day.
35. In consideration of complaints and appeals, the lack of a dissenting opinion of any election commission member attached to the decision in question should have no bearing to the calling of witnesses or on the determination of the complaint.
36. Consideration could be given to training for party and NGO lawyers on election-related law, investigating violations and collecting evidence, procedures for filing complaints, and skills in drafting and presenting effective complaints. Political parties would benefit from making more effective use of the complaints process by collecting evidence of specific electoral violations, compiling substantiated well-reasoned cases, and submitting them to adjudicative bodies or law enforcement agencies.
37. Continued training of law enforcement and prosecutors on investigation and prosecution of election-related offences could usefully be conducted.
38. Particular care should be taken to conduct an impartial investigation of election-related and politically motivated offences in a transparent and expedient manner, and to remedy any past and prevent any future transgressions.

H. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

39. The strong intent in both the State Concept on Gender Equality and the Action Plan for Implementation of Gender Policy in Georgia 2007–2009 is to promote gender mainstreaming. To achieve this goal, effective and significant steps need to be taken to further facilitate the participation of women in the political process and, in particular, to increase the representation of women as candidates and in Parliament.
40. When amending election legislation, authorities are encouraged to seek consultation with national minorities on issues which concern them. The OSCE High Commissioner on National Minorities' Lund Recommendations on the Effective Participation of National Minorities in Public Life and the OSCE/ODIHR Guidelines to Assist National Minority Participation in the Electoral Process (Warsaw Guidelines) should be taken into account in order to secure effective representation of national minorities in electoral bodies.
41. In areas where election materials are provided in minority languages, it should include the provision of voter lists in these languages as of their scrutiny period. Such materials should also be given to PECs in Georgian, so as to insure that all voters and election administrators have access to such material. Ballots produced for minority areas should be bilingual.

I. DOMESTIC OBSERVERS

42. NGOs would benefit from the possibility to introduce changes in their applications for registration, in case the initial application contains mistakes.
43. The election law should include specific sanctions for obstructing the work of accredited domestic observers and party proxies, including for preventing them from filing complaints.

ANNEX: ELECTION RESULTS

<i>Summary Figures</i>	
Total number of voters	3,465,736
Number of voters who voted	1,850,407
Invalid ballots	56,077

No. on Ballot	Name of Party/Electoral Bloc	Number of Votes (proportional)	Percentage (prop.)	Number of received mandates		
				Prop.	Maj.	Total
1	Political Union of Citizens' "Georgian Policy"	8,231	0.46%	0	0	0
2	Georgian Republican Party	67,037	3.78%	0	2	2
3	"Rightist Alliance, Topadze-Industrials"	16,440	0.93%	0	0	0
4	"Shalva Natelashvili – Georgian Labor Party"	132,092	7.44%	6	0	6
5	"United National Movement – for Victorious Georgia"	1,050,237	59.18%	48	71	119
6	Political Union "Union of Georgian Sportsmen"	3,308	0.19%	0	0	0
7	United Opposition (National Council, New Rights)	314,668	17.73%	15	2	17
8	National Party of Radical Democrats of All Georgia	3,180	0.18%	0	0	0
9	Political Union "Christian-Democratic Alliance"	15,839	0.89%	0	0	0
10	"Giorgi Targamadze – Christian-Democrats"	153,634	8.66%	6	0	6
11	"Traditionalists – Our Georgia and Women's Party"	7,880	0.44%	0	0	0
12	Georgian Political Party "Our Country"	2,101	0.12%	0	0	0

Source: CEC summary protocol and CEC website (<http://www.cec.gov.ge>)

ABOUT THE OSCE/ODIHR

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

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

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

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

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

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

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

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

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