



Office for Democratic Institutions and Human Rights

GEORGIA

EXTRAORDINARY PRESIDENTIAL ELECTION

5 January 2008

OSCE/ODIHR Election Observation Mission Final Report



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I. EXECUTIVE SUMMARY

Following an invitation from the Ministry of Foreign Affairs of Georgia to observe the 5 January 2008 extraordinary presidential election, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 6 December 2007, consisting of 41 experts and long-term observers. The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation. On election-day, the OSCE/ODIHR joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the European Parliament (EP) to form an International Election Observation Mission (IEOM).

In its Statement of Preliminary Findings and Conclusions of 6 January, the IEOM stated that while the election was in essence consistent with most OSCE and Council of Europe commitments and standards for democratic elections, it also revealed significant challenges which need to be addressed urgently. Although this election represented the first genuinely competitive post-independence presidential election, shortcomings were noted. The campaign was overshadowed by widespread allegations of intimidation and pressure, among others on public-sector employees and opposition activists, some of which were verified by the OSCE/ODIHR EOM. The distinction between State activities and the campaign of the ruling United National Movement (UNM) party candidate, Mr. Mikheil Saakashvili, was blurred. In addition, as referenced in a Post-Election Interim Report issued by the OSCE/ODIHR on 18 January, other aspects of the election process, notably vote count and tabulation procedures, as well as the post-election complaints and appeals process, further presented serious challenges to the fulfillment of some OSCE commitments.

The election was administered by a three-tiered election administration consisting of the Central Election Commission (CEC), 76 District Election Commissions (DECs) and 3,511 Precinct Election Commissions (PECs). Following the recent amendments to the Unified Election Code (UEC), the CEC and PECs included members appointed by political parties, while the DECs remained without party representation.

The new formula for the CEC composition resulted in greater inclusiveness; however, many decisions were made along political lines. Although the overall role of DECs was reduced, especially with regards to election day procedures, in reality DECs were active and at times exceeded their authority. Opposition parties were underrepresented in managerial positions in PECs, and the ruling UNM held a *de facto* majority.

The CEC undertook substantial efforts to improve the quality of the voter list, including door-to-door verification carried out in October–November 2007 and the introduction of new software. Despite these efforts, perceived and real inaccuracies in the voter list remained a major concern. Election-day registration of voters was reintroduced for this election, and around 85,000 voters were included in additional voter lists, whose votes were processed under special procedures.

Overall, the UEC serves as an adequate basis for the conduct of democratic elections. While recent amendments generally introduced improvements to the law, they were adopted only weeks prior to the election, which is not consistent with good electoral practice. Furthermore, inconsistencies, gaps, and ambiguities throughout the UEC still leave room for competing interpretations.

Candidate registration was overall inclusive and transparent, with seven candidates registered by the CEC. Only one of seven registered presidential candidates was a woman. Prospective candidates were given two days to eliminate mistakes in their registration documents, including submission of additional support signatures if necessary.

The election campaign was conducted in a highly polarized political environment, and only weeks after the November 2007 mass demonstrations in Tbilisi were violently dispersed and a state of emergency temporarily introduced. Overall, the polarization, lack of trust, allegations of violations, and speculation about post-election demonstrations did not foster a constructive, issue-based election campaign. Nonetheless, all candidates were able to freely campaign around the country, and four candidates did so extensively. However, government distribution of social benefit vouchers was perceived to overlap with the campaign of Mr. Saakashvili, and raised the concerns about an unequal campaign environment. The contentiousness of the issue of the use of state resources was fueled by the lack of a provision that candidates should submit reports on campaign financing before the election.

The UEC provides for allocation of free and paid airtime and space in public and private media, offering greater media access to electoral subjects with proven public support. However, prices for paid political advertisements were considerably higher than for commercial advertisements, making them unaffordable to most candidates. According to OSCE/ODIHR EOM media monitoring, campaign coverage in the news of most monitored TV stations, including public television, lacked balance, with the ruling party candidate generally receiving the most coverage. Imedi TV, one of the largest private broadcasters and considered to be pro-opposition, was taken off the air after the November events and only resumed broadcasting on 12 December. Two weeks later, the station suspended broadcasts, claiming pressure from both the authorities and its co-owner and a candidate in the election, Mr. Arkadi Patarkatsishvili, whom the Government accused of a post-election coup plot. Newspapers provided a diverse range of opinions, with Mr. Saakashvili being the most criticized candidate.

Election day was generally peaceful. Overall, voting was assessed positively by a large majority of IEOM observers, although it was at times disorganized and chaotic in a considerable number of precincts. Organizational and procedural shortcomings were observed, especially with regard to inconsistent application of inking procedures intended as a safeguard against multiple voting. Observers also reported a limited number of serious violations, including ballot box stuffing.

The vote count and tabulation was evaluated less positively. Many PECs had problems completing the results protocols, which were often not posted for public scrutiny. IEOM observers reported cases of tampering with voter lists, results and protocols. The tabulation process at DEC level was slow and often chaotic. Some PEC protocols given to the OSCE/ODIHR EOM differed from those provided by DEC, and many PEC protocols were incomplete or inconsistent. A significant number of PECs reported unusually high turnout in the last three hours of voting, and several DEC reported a turnout considerably higher than the national average.

Only a limited number of official complaints were filed during the pre-electoral period, almost all against the ruling party and its candidate. Although courts generally carried out open

hearings in a professional and thorough manner, some complaints were ruled inadmissible without sound legal basis, and some written judgments did not set out sufficient reasoning. In addition, the CEC and courts tended to stretch the law beyond reasonable interpretation and without regard to its spirit in favour of the ruling party candidate and public officials.

After election day, the election administration and the courts did not fully and adequately consider and investigate a considerable number of complaints regarding irregularities, some of which were of a serious nature. A large number of complaints were also ruled inadmissible or dismissed on technical grounds.

II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from the Ministry of Foreign Affairs of Georgia to observe the 5 January 2008 extraordinary presidential election, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) to Georgia on 6 December 2007. The OSCE/ODIHR EOM was headed by Ambassador Dieter Boden and consisted of 41 experts and long-term observers (LTOs) from 25 OSCE participating States, who were based in Tbilisi and ten regional centers.

For election-day observation, the OSCE/ODIHR EOM joined efforts with observer delegations of the OSCE PA, PACE and EP to form an International Election Observation Mission (IEOM). Congressman Alcee Hastings, President Emeritus of the OSCE PA and Head of the OSCE PA delegation, was appointed as Special Co-ordinator by the OSCE Chairman-in-Office to lead the OSCE short-term observers. Mr. Mátyás Eörsi headed the PACE delegation, and Ms. Marie Anne Isler Béguin led the European Parliament delegation.

On election day, the IEOM deployed 495 observers from 44 OSCE participating States¹, who observed the opening of 175 polling stations, voting in over 1,770 of 3,511 polling stations, and counting in 180 polling stations. The IEOM also observed proceedings in most DEC's.

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 6 January 2008, and a post-election interim report covering the period between 6-18 January 2008. These documents are available on the OSCE/ODIHR website (www.osce.org/odihr), as are reports of previous election OSCE/ODIHR observation missions deployed since 1999.

The OSCE/ODIHR EOM is grateful to the Ministry of Foreign Affairs of Georgia, the Central Election Commission, the authorities, political parties and civil society of Georgia for their co-operation. The EOM also wishes to express its appreciation to the OSCE Mission to Georgia, the diplomatic missions of OSCE participating States and international organizations resident in Georgia for their support throughout the mission's duration.

¹ Out of the total number of IEOM observers, 320 short-term observers were seconded to the OSCE/ODIHR by 33 OSCE participating States.

III. POLITICAL BACKGROUND

On 7 November, six days of demonstrations organized by a newly formed bloc of opposition political parties ended in the violent dispersal of protesters by the police. The protesters demanded, *inter alia*, the rescheduling of parliamentary elections from autumn to spring 2008, constitutional changes to transform Georgia into a parliamentary republic, and the resignation of then-President Mikheil Saakashvili. On the same day, a state of emergency was imposed by the President, who asserted that the protests were part of an attempt to overthrow the Government. The state of emergency was lifted on 16 November.

On 8 November, the then-president proposed to shorten his mandate and subsequently stepped down on 25 November, enabling Parliament to call an extraordinary presidential election for 5 January 2008. The Speaker of Parliament, Nino Burjanadze, became Acting President.

A political dialogue led to some concessions by the authorities on the legal framework for the conduct of elections, and to the calling by the President of a plebiscite on the timing of next parliamentary elections. This was held simultaneously with the presidential election. A second plebiscite was also held on Georgia's ambition to join NATO.

The last presidential election, held in January 2004, was won by Mr. Saakashvili with 96 per cent of the vote, in a largely uncontested race in which the main opposition figures did not stand. The significance of the 5 January election lay in the fact that it was the first genuinely competitive post-independence presidential election. The municipal elections of October 2006 produced a majority of votes for the ruling party (UNM).

IV. THE LEGAL FRAMEWORK AND ELECTION SYSTEM

The Constitution of Georgia of 1995 guarantees fundamental civil and political rights necessary for the conduct of democratic elections. The primary legislation regulating elections is the Unified Election Code, which was adopted in 2001 and amended numerous times since. Overall, the UEC serves as an adequate basis for the conduct of democratic elections. Other relevant laws include the Law on Assemblies and Manifestations (1997), the General Administrative Code (2000), the Administrative Offences Code (2000), the Criminal Code (2000), and Decrees and Ordinances of the election administration.

Shortly after the announcement of the election, the ruling party, in response to opposition demands, initiated a series of amendments to the UEC pertaining to important aspects of the election. These amendments were enacted only weeks prior to the election, some even after the election had been called.² While some opposition parties expressed satisfaction with the amendments introduced, others raised concern over their swift adoption shortly before the election and voiced regret that the process was not sufficiently inclusive.

Although these latest amendments generally brought improvements to the law and appear to address a number of recommendations offered in the OSCE/ODIHR and Venice Commission's 2006 Joint Opinion on the Electoral Code³ and in the reports of earlier OSCE/ODIHR EOMs, enacting modifications to election legislation so close to an election is generally inconsistent

² These amendments were adopted on 22 November and 7 December 2007.

³ The OSCE/ODIHR–Venice Commission Joint Opinion on the Electoral Code is available at http://www.osce.org/documents/odihr/2006/12/22781_en.pdf.

with good practice in electoral matters.⁴ In addition, there remain pertinent inconsistencies, gaps, and ambiguities throughout the UEC, which leave room for uncertainty and divergent legal interpretations by the election administration, courts, and stakeholders.

The President is elected under a majoritarian system, for a five-year term. To be elected in the first round, a candidate must receive an absolute majority of valid votes cast. If no candidate receives an absolute majority of votes, a second round is held two weeks after the first round, between the two candidates who received the highest number of votes.⁵ The candidate who receives the higher number of votes in the second round is considered elected.

Under the UEC, to be eligible to run for the presidency, one must be a citizen of Georgia with the right to vote, be at least 35 years of age, and have lived in Georgia for at least 15 years, including the last two years before the election. The same person cannot be elected as President for more than two consecutive mandates. Voting rights are granted to citizens of at least 18 years of age, except persons recognized as incapacitated, and persons serving a sentence in penitentiary institutions, following a final decision of a court.

Article 89 of the UEC specifically addresses the conduct of extraordinary presidential elections, stipulating that in case of early termination of authority of a President, the Parliament announces elections at least 45 days before election day.

V. THE ELECTION ADMINISTRATION

The 5 January 2008 extraordinary presidential election was administered by a three-tiered election administration comprising the Central Election Commission (CEC), 76 District Election Commissions (DECs) and 3,511 Precinct Election Commissions (PECs)⁶. Following the latest amendments to the UEC, the composition of the CEC and PECs has been changed to include members appointed by the political parties funded from the state budget⁷. Based on the results of the 2004 parliamentary elections, seven political parties qualified for representation at CEC and PEC levels⁸. Each party or initiative group which nominated a presidential candidate had the right to appoint two proxies to every election commission.

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. Although the new CEC composition formula resulted in greater political inclusiveness, the commission's members were often not observing the neutrality required of election administration, and many decisions were voted on along political lines, and not based on reasonable interpretation of the law.

⁴ See the recommendation in section II.2.b of the Code of Good Practice in Electoral Matters of the Venice Commission of the Council of Europe ([www.venice.coe.int/docs/2002/CDL-AD\(2002\)023-e.pdf](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023-e.pdf)).

⁵ Recent amendments to the UEC eliminated the one-third turnout requirement for the second round of a presidential election to be valid.

⁶ Of these, 73 were special polling stations opened in military bases, hospitals and pre-trial detention centers. Furthermore, a district for out-of-country voting was established, comprising 44 polling stations.

⁷ These are parties which are represented by a faction in the current Parliament or received at least 4 per cent of the vote during the previous parliamentary elections.

⁸ United National Movement, New Rights, Industry Will Save Georgia, Labour, Freedom, Republican and Conservative parties.

Preparing for the election, the CEC held frequent meetings open to representatives of political parties, media and observers. However, the conditions under which CEC sessions were conducted were not always conducive to observation. The results of voting by its members were not always announced, and it was at times unclear whether a decision was adopted. The Commission was supported in its work by general staff from eight administrative departments. There was lack of coordination between different CEC departments, and the division of responsibilities between them was sometimes unclear.

The CEC organized training for DEC and PEC members. According to OSCE/ODIHR EOM observers, the preparedness of trainers and the quality of training provided varied, and the attendance of trainings in many cases was low. The initial CEC instruction on election-day procedures was not comprehensive and failed to address in sufficient detail issues not covered by the UEC. Some ten days before the election, a PEC manual on election-day procedures was produced. While it covered all stages of voting and counting in detail, it was only available when training of PEC members was nearly completed, which reduced its usefulness.

As in the 2006 municipal elections, some thousand polling stations were equipped with two video cameras each recording election day procedures. Addressing widely raised concerns that the use of such cameras may undermine the secrecy of the vote, the CEC carried out a voter information campaign aimed at explaining that the purpose of such cameras was to prevent and/or sanction malpractices. However, during the adjudication of complaints after election day, footage from these cameras was not reviewed, since there were no clear and detailed instructions on how and when recordings could be used.

The CEC also conducted a voter education campaign through the national media on issues such as voter lists, secrecy of the vote, falsification of IDs and multiple voting. Some ten days before election day, the CEC produced stickers with the text “Where will you be on 5 January?”, with the number “5” in a red circle visually resembling that used on Mr. Saakashvili’s campaign materials⁹. Such stickers were widely distributed among young voters and were in evidence in polling stations on election day.

The official CEC website in Georgian language is informative and updated regularly. However, the website in the days after the election, particularly of election results pages, was not functioning properly apparently due to problems of a technical nature.

The problems and irregularities that arose during counting, tabulation and publication of results, as well as the lack of transparency in the work of election commissions, particularly of the CEC, during the tabulation process, were not conducive to increasing public confidence.

B. DISTRICT ELECTION COMMISSIONS

The composition of DEC remains without formal party representation and they consist of five members selected in an open competition and appointed by the CEC for a five-year term. Prior to election day, DEC in general appeared well organized, holding ad hoc sessions open to observers and media. Although the powers and election day-related duties of DEC were reduced by the latest UEC amendments, in practice DEC were rather active and undertook actions which at times exceeded their authority, such as making corrections to PEC protocols. In

⁹ Mikheil Saakashvili appeared under number 5 on the ballot during this election. See also page 10 of this Report.

DECs with a high number of PECs, a lack of human resources for processing all the information received from PECs on election day was evident.¹⁰

In a number of districts, opposition-party nominees were not informed of the inaugural meetings of PECs by the respective DECs¹¹. In DEC No. 23, for example, the majority of protocols from the first PEC meetings were only signed by either seven or eight out of a total of 13 PEC members. The DEC confirmed that it only notified the PEC members which it had itself appointed. The United Public Movement (UPM) filed a complaint in this case, claiming that 23 polling stations were already closed by the time their members arrived for the inaugural meetings¹². The CEC annulled the protocols of the first meetings of 16 PECs in DECs No. 12, 15, 28 and 61, due to the fact that these meetings were held in violation of prescribed procedures.

C. PRECINCT ELECTION COMMISSIONS

PECs are composed of 13 members appointed specifically for each election. Six PEC members are elected by the majority of members of the relevant DEC. Seven remaining PEC members are appointed by the political parties financed from the state budget. In PECs formed for this election, the ruling UNM held a general *de facto* majority, and opposition parties were underrepresented in managerial positions¹³.

For this election, the CEC created 3,511 precincts. Under the latest amendments to the UEC, the number of voters in each polling station was reduced from 2,000 to 1,500 invoking the necessity of precinct boundary re-delineation in larger population centres. In the absence of a proper address system in villages, where voters are simply listed alphabetically on the voter list, the boundaries of rural precincts were not redrawn for this election.

Election day revealed that many PEC members were not adequately trained to perform their duties. This was particularly evident during vote count and compilation of result protocols.

VI. VOTER REGISTRATION

The CEC is responsible for the maintenance of the centralized voter register. In October–November 2007, the CEC conducted a country-wide door-to-door voter list verification exercise. As a result, some 65,000 voter records were added to the voter list and the names of 28,000 deceased persons were removed. Despite this effort, perceived and real inaccuracies in the voter list and its incompleteness remained a major concern of many stakeholders. Domestic observer organizations criticized the verification exercise as inefficient and not well implemented. The CEC recognized that one third of voter records were not checked at all.

OSCE/ODIHR EOM observers received numerous allegations across the country that a high number of deceased persons remained on the list. The CEC, together with the Civil Registry of the Ministry of Justice, undertook an initiative under which Civil Registry Offices were to be

¹⁰ Under the UEC, a DEC can be supported by up to five staff, regardless of the number of PECs under its jurisdiction.

¹¹ According to Article 221.1, during the inaugural meetings of PECs the commissions' chairpersons, deputy chairpersons and secretaries are elected by the majority of the full commission.

¹² Cases where party-appointed PEC members were not notified of the first PEC meeting were also reported from DECs No. 24 and 26.

¹³ According to the CEC, DEC-appointed PEC members were elected as chairpersons in most PECs, while only two chairpersons were opposition appointees.

notified about cases of deceased persons remaining registered, so that a note to that effect could be included in the list. However, very few citizens used this opportunity to request the removal of names of their deceased relatives from the list.

The CEC reported that the data recording system in the voter register was streamlined and that a new software enabling the tracking of multiple entries was installed. However, political parties and NGOs provided OSCE/ODIHR EOM observers with examples of multiple and incomplete records, omissions of eligible voters and spelling errors. The CEC acknowledged that errors may have remained, citing lack of time due to the unexpected announcement of the election. Opposition parties submitted at least six complaints to the CEC, in which they claimed that over 40,000 voters' records were inaccurate. Although these complaints were submitted after the legal deadline for voter list verification, the CEC stated that cases listed in these complaints were checked and necessary changes were made when inaccuracies were confirmed.

Within the legal deadline, on 6 December, the CEC published the total number of voters included in the general voter list, which at the time was 3,372,836. As prescribed by the UEC, voter list extracts were then posted at DEC and PECs for a week of public scrutiny. During this period, voters could check their records and request amendments through Internet, a CEC hotline, or in person at election commissions. While voter lists were posted for verification at all DEC and PECs visited by the OSCE/ODIHR EOM observers, election commissions did not always make corrections requested by voters. EOM observers witnessed cases where voters were turned away by PEC members and advised to come back on election day to be added to the voter list.¹⁴ Following the verification process, the CEC announced that as of 2 January 2008, 3,352,448 voters were registered. On 2 January, the CEC sent the revised voter lists to PECs.

Election-day registration of voters erroneously omitted from the general voter list was re-introduced by the latest amendments, and was possible upon presentation of an ID proving a voter's residency on a precinct's territory.¹⁵ Voters added to additional voter lists on election day were required to put the envelope with their ballot papers in an additional red envelope, and their votes were processed under special procedures (see Section XV, Tabulation and Announcement of Election Results). In the run-up to the election, the introduction of election-day registration raised concerns among some election stakeholders who feared an increased likelihood of multiple voting. Around 85,000 voters were added to additional voter lists on election day. This significant number testifies to the fact that the voter list remained incomplete.

VII. CANDIDATE REGISTRATION

Candidate registration was overall inclusive and transparent. On 26 November, the CEC presented the list of 22 prospective presidential candidates who submitted applications for registration. The CEC allowed 19 of them to the next stage of the registration process, permitting the collection of the required 50,000 support signatures. Thirteen parties and initiative groups submitted signature lists to the CEC within the legal deadline. In line with the latest amendments, the candidates were given two days to eliminate mistakes in their registration documents, including to submit additional support signatures if necessary. Seven candidates were ultimately registered. Four candidates who were denied registration because of insufficient numbers of support signatures unsuccessfully challenged the relevant CEC decisions in court.

¹⁴ Such cases were observed in Gori DEC (No. 32), PECs No. 8 and 9.

¹⁵ Copies of the ID document used by these voters were to be retained by the PECs, alongside voters' statements requesting to be added to the voter list.

The seven presidential candidates were Mikheil Saakashvili of the ruling UNM; Levan Gachechiladze of the United Public Movement, a bloc of nine opposition parties; Davit Gamkrelidze (New Rights Party); Shalva Natelashvili (Labour Party of Georgia); Giorgi Maisashvili (Party of the Future); Irina Sarishvili-Chanturia (Hope Party); and Arkadi Patarkatsishvili, an independent candidate.

On 11 December, the CEC determined the order of candidates on the ballot by lottery. However, the candidates representing three parties that obtained the highest number of votes in the last parliamentary elections were given the option of choosing between the first, second or third position on the ballot, respectively, or the position that their party held in previous parliamentary elections. These three candidates, Mr. Saakashvili, Mr. Gamkrelidze, and Mr. Natelashvili, availed themselves of the opportunity to choose the numbers which their parties used in the last parliamentary elections (5, 3 and 4, respectively).

VIII. THE ELECTION CAMPAIGN

The election campaign was conducted in a highly polarized political environment. Opposition candidates expressed a deep mistrust in the election administration and a lack of confidence in the fairness of the electoral process. A range of violations was alleged; the OSCE/ODIHR EOM was able to verify a number of cases.

UNM officials claimed that most opposition candidates focused on allegations of electoral violations, rather than on policy issues or on campaigning to win the election, in order to cast doubt over the election result. Certain opposition candidates stated that they would respect the outcome of a fair election, but persistently questioned the fairness of the process.

Overall, the polarization, the lack of trust, the pervasiveness of allegations about violations, speculation about post-election demonstrations, and accusations of preparations for a coup, did not foster a constructive, issue-based election campaign.

In general, all candidates were able to campaign freely around the country. Early in the campaign, opposition candidates claimed they had unequal access to state-owned premises for campaign events. In numerous cases, opposition candidates were able to use state-owned venues. Nevertheless, the EOM confirmed that in one case, Mr. Gachechiladze was denied the use of a theater in Telavi which Mr. Saakashvili had used the previous day.

The intensity of campaigning varied considerably from place to place, and more active campaigning was evident in Tbilisi than in much of the rest of the country. The main activity was the rallies of candidates, four of whom toured the country extensively. The campaign of Mr. Saakashvili was notably more extensive than those of other candidates, although the campaign momentum of other candidates picked up as the election approached, including use of posters and door-to-door distribution of leaflets.

Mr. Saakashvili's campaign focused on social-welfare promises and on his record as President, including increased salaries and pensions, and a more reliable electricity supply. He also stressed his aim to restore the country's territorial integrity. While other candidates also highlighted social issues, a major emphasis was to attack Mr. Saakashvili, sometimes in strong terms. For example, Mr. Natelashvili was observed at a rally denouncing Mr. Saakashvili as "the Anti-Christ". Mr. Gachechiladze laid much stress on the heavy-handed crackdown on

demonstrations in Tbilisi on 7 November, and promised to show greater respect for human rights if elected.

Provisions of the UEC on the placement of campaign posters were inconsistently applied. The OSCE/ODIHR EOM observed cases of campaign posters having been placed on public buildings. Local government bodies were supposed to allocate locations where posters could be placed, and it is an offence to remove, cover up or deface campaign posters. Nevertheless, campaign teams reported that at times they were unsure as to where they could place posters, and complained that sometimes their posters were taken down. A UPM member in Batumi told the OSCE/ODIHR EOM how, on the morning of 4 January, a group of UPM activists putting up posters was severely beaten by masked men.

Whereas the UEC does not prohibit campaigning on election day, the Administrative Offences Code provision prohibiting election-day campaigning is unclear as to whether it also applies to presidential elections. In practice, the OSCE/ODIHR EOM observed widespread campaigning on election day, including at times inside polling stations.

Candidate Mr. Patarkatsishvili was abroad throughout the campaign period. Accused by the authorities of plotting to overthrow the Government, he sought guarantees that he would not be arrested upon his return. The authorities retorted that he enjoyed the same immunity from arrest as every other candidate, and that no further guarantees would be forthcoming. As this immunity could have been overturned by the CEC upon the request of the General Prosecutor, Mr. Patarkatsishvili considered the immunity he enjoyed as a candidate insufficient. On 24 and 25 December, the Government released video recordings that appeared to incriminate Mr. Patarkatsishvili and the head of his campaign headquarters in a post-election coup plot. While Mr. Patarkatsishvili initially announced his intention to withdraw his candidacy, he did not do so officially and later decided to remain in the race.

The blurring of the line between the State and a political party, which is not in compliance with paragraph 5.4 of the 1990 OSCE Copenhagen Document, created an unequal campaign environment and was a cause of contention. The distribution of vouchers for such things as utilities and medical supplies to pensioners and other vulnerable groups was criticized as an alleged use of budgetary funds in support of Mr. Saakashvili's campaign. UNM officials stated that the voucher distribution was planned before the beginning of the campaign. However, there is evidence that the distribution was used for campaign purposes. The vouchers prominently displayed that they were a subsidy from the President. Healthcare vouchers, as well as employment scheme leaflets, featured visually outstanding number "5"s – the number on the ballot under which the UNM has run in elections since 2004. Distributors of vouchers sometimes asked recipients whether they would vote for Mr. Saakashvili, and asked them to sign documents confirming their support.

A local UNM Chairman told the OSCE/ODIHR EOM that UNM activists had distributed vouchers for firewood, and that the same activists later conducted door-to-door campaigning for Mr. Saakashvili. Another witness described to the EOM how vouchers were distributed from a UNM office by Mr. Saakashvili's campaign workers. One pensioner told the EOM how UNM activists visited her with vouchers and campaign materials, and asked her to fill in cards confirming her support for Mr. Saakashvili.

Towards the end of the campaign, a presidential program to distribute tractors to farmers took place in many parts of the country. In a number of places the EOM observed that campaign posters of Mr. Saakashvili were attached to the tractors that were being distributed. At a rally in Akhmeta, five such tractors with campaign posters were positioned near the stage from which

Mr. Saakashvili addressed voters with a speech having highlighted the tractor distribution program.

In response to allegations by the opposition that Mr. Saakashvili used state resources, such as vehicles and helicopters, the UNM responded that the party had paid for such services. Nevertheless, there were instances of use of state resources for Mr. Saakashvili's campaign at the local level. At his rally in Akhmeta, the EOM observed that local administration workers carried out preparations, including erecting the stage. The EOM also confirmed that, in Terjola, municipal busses were used for a UNM rally, with the party having paid only for fuel.

The extensive state security provided to Mr. Saakashvili, as an ex-President, was seen by the opposition as the continuation of his presidential privileges, allowing, for example, for streets to be closed off when he was in the vicinity. The inauguration of a new pipeline by Mr. Saakashvili in Akhalkalaki on 24 December, as well as the official opening of the Tbilisi-Senaki-Leselidze highway lighting system, were given the appearance of presidential events, not consistent with Mr. Saakashvili's ex-President status and as a candidate who did not hold public office at the time.

Accusations of vote-buying were leveled against Mr. Saakashvili and Mr. Patarkatsishvili. Mr. Saakashvili was accused of distributing campaign leaflets that contained free tickets to an amusement park. Mr. Patarkatsishvili was challenged about his promises to spend, if elected, 1.5 billion Lari (650 million Euro) of his own money to pay, among other things, the country's utility bills for 18 months, and for various social benefits.

The contentiousness of the issue of the use of state resources was fuelled by the lack of a provision that candidates should supply reports on campaign financing before the election. The provision that election campaign fund managers should provide information on campaign funding on a monthly basis was inadequate in an election where candidates were registered less than one month before election day. In line with the UEC, the CEC established a financial monitoring group, tasked with monitoring the candidates' campaign expenditures. Candidates have to supply the CEC with financial statements no later than one month after the publication of election results, while the winning candidate should supply his or her statement within eight days of election day.¹⁶ In each case, these financial statements should be audited by an auditing company functioning on the territory of Georgia.

The campaign was overshadowed by widespread allegations of intimidation and pressure, among others on public-sector employees. These included pressure on opposition activists by police and local officials to desist from campaigning or face negative consequences for themselves and their families, including threats of arbitrary arrest, finings and dismissal from employment. An opposition representative in a PEC in Kakheti told the EOM how she was warned by the director of the public-sector institution for which she worked that she would face dismissal if she did not support Mr. Saakashvili. A local UPM Chairman in Shida Kartli told the EOM how he was warned that, if he continued his political activities, his nephew would be dismissed from his employment with the local administration. There were also several allegations that landlords were pressurized not to let premises for use as opposition campaign offices. The landlord of the UPM's office in Kareli told the EOM how he and his family were threatened with arrest if he continued to let the office. Allegations of pressure on business enterprises to support Mr. Saakashvili's campaign were in one case confirmed to the EOM by a

¹⁶ Mr. Saakashvili's campaign headquarters submitted the required documentation within the legal deadline. According to these documents, Mr. Saakashvili's campaign spent around 23 million Lari (10 million Euro).

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

A number of cases of violence against opposition activists, including kidnapping, were reported by individuals and political parties, and were in some cases verified. A Labour Party activist in Chokhatauri told the EOM how, on 9 December, he had been kidnapped by named police officers, pressurized to leave the party, and beaten.

There were a number of cases of break-ins to campaign offices, which the opposition saw as politically motivated. The EOM confirmed that the New Rights campaign office in Samtredia was vandalized early in the morning of 4 January, and that the Labour Party office in Zestaponi was damaged by an explosive device late in the evening of 3 January.

An Inter-Agency Task Force on Free and Fair Elections was established to liaise with international and domestic observation organizations. The EOM observed that, at times, opposition grievances were addressed through the Acting President's intervention. In the last days of the campaign the Acting President and the Interior Minister made strong appeals to UNM activists, police and officials to observe the law and to refrain from any actions that might undermine the integrity of the election.

IX. THE MEDIA

A. BACKGROUND

Georgia has a diverse media environment, including public and private broadcasters and numerous press outlets. Television is the most important source of information, with the Georgian Public Broadcaster (GPB) and the private channels Imedi TV, Rustavi 2 and Mze having a nationwide outreach. Most newspapers have limited circulation.

The key regulatory body for the broadcast media is the Georgian National Communication Commission (GNCC), which is responsible for licensing and overseeing activities of the broadcast media. Established in 2000, it consists of five members appointed by an order of the President for a period of six years. Following the adoption of the Law on Broadcasting by Parliament in December 2004, the State TV and Radio Corporation was transformed into GPB in 2005. It is supervised by a nine-member board of trustees appointed by the Parliament.

In the run-up to the election, the media environment was affected by the state of emergency, during which broadcast media faced restrictions in their news and information reporting and three TV channels were taken off the air. Two channels - Kavkasia and Channel 25 - resumed normal operation after the state of emergency was lifted.

B. LEGAL FRAMEWORK FOR THE MEDIA

The Constitution guarantees freedom of speech and of the press and prohibits censorship. The legislation regulating media and freedom of expression is considered to be among the most liberal in post-Soviet countries.¹⁷ While there are legislative guarantees of freedom of the media, they remain to be fully implemented.

¹⁷ Apart from the Constitution, the media-related legislation includes the Law on Broadcasting, the Law on Freedom of Speech and Expression, and the Freedom of Information Chapter of the General

The Election Code contains provisions governing media conduct during an election campaign, *inter alia* providing for the allocation of free and paid airtime to election contestants in both broadcast and print media. The law distinguishes between “qualified” and “unqualified” subjects, stipulating that requirements pertaining to the creation of equal conditions in debates and free airtime only refer to “qualified” subjects. “Qualified” subjects are candidates of political parties that are represented by a faction in the Parliament or received at least four per cent of the proportional vote in the last election, whereas “unqualified” subjects must demonstrate public support for their candidacies through opinion poll results in order to enjoy free airtime/space.

C. TV DEBATES AND TALK SHOWS

The GPB as well as national and regional private broadcasters aired regular talk shows and debates among candidates and their representatives, providing candidates with an important forum for an exchange of views and enabling voters to learn about candidates` and parties` campaign programs. While the GPB intended to organize separate debates for both “qualified” and “unqualified” subjects, two candidates who fell into the category of “unqualified” subjects, Irina Sarishvili and Giorgi Maisashvili, refused to participate stating that they would only debate with Mr. Saakashvili. Similarly, a debate between four main contestants did not take place as Mr. Saakashvili chose not to take part and his three main rivals had conditioned their participation upon their ability to debate with him. This denied voters an opportunity to see these key candidates exchange policy views in an interactive format, and was compounded by the general reluctance of the media to provide critical reporting.

D. IMEDI TV

On the day when the state of emergency was imposed, Imedi TV, a popular broadcaster perceived as pro-opposition, was raided by the police and was subsequently sanctioned by the GNCC with a warning, a fine and a temporary suspension of license for allegedly calling for a violent overthrow of the Government. While the channel was able to resume broadcasting on 12 December, after the campaign had already started, following the termination by the GNCC of the warning it issued and of the temporary suspension of Imedi’s license, the channel still chose to challenge the legality of GNCC’s initial decisions in court.¹⁸ The case was pending at the Tbilisi City Court at the time this report was finalized.

On 26 December, only two weeks after the broadcaster resumed operation, six leading journalists publicly announced their decision to leave Imedi TV in protest against the involvement of Imedi’s co-owner Arkadi Patarkatsishvili in an alleged plot to overthrow the Government. Imedi TV’s management subsequently decided to temporarily suspend broadcasts in order to “distance themselves from dirty political games”, claiming that pressure had been put on the broadcaster by both Mr. Patarkatsishvili and the authorities.

Administrative Code. The assessments on the media environment and legislation are available in Freedom House 2007 report (www.freedomhouse.hu/images/fdh_galleries/NIT2007final/nit-georgia-web.pdf) and IREX’s Media Sustainability Index 2006/2007 (www.irex.org/programs/MSI_EUR/2006/georgia.asp).

¹⁸ An appeal to court was in part motivated by the fact that in line with Article 39 of the Law on Broadcasting the channel’s license, which is due to expire in April, can only be automatically prolonged if the broadcaster was not sanctioned during the previous term of operation. Imedi TV thus sought to prove that sanctions applied were illegal from the outset.

E. OSCE/ODIHR EOM MEDIA MONITORING

From 7 December 2007 to 4 January 2008, the OSCE/ODIHR EOM monitored five TV stations¹⁹ and six daily and weekly newspapers²⁰. Media monitoring included quantitative and qualitative analysis of the coverage, assessing both the amount of time or space allocated to each candidate and the tone of coverage.

While the media in general enjoy freedom of expression, they are under strong influence from their owners and political patrons. Consequently, all five main TV stations were under a measure of influence from candidates and political parties. The campaign coverage in news programs lacked balance on most monitored TV stations, with Mr. Saakashvili generally receiving the most coverage. On the other hand, the newspapers monitored by the OSCE/ODIHR EOM provided a diverse range of opinions, with Mr. Saakashvili generally being the most criticized candidate.

In the four weeks preceding the election, public TV devoted 27 per cent of its political and election prime-time news coverage to activities of Mr. Saakashvili, of which 98 per cent was positive or neutral. The next most covered candidate, Mr. Patarkatsishvili, received some 18 per cent, mainly in connection with his alleged involvement in a coup plot. Some 33 per cent of this coverage was negative. Mr. Gamkrelidze and Mr. Gachechiladze received 17 and 15 per cent of the coverage, respectively, which was mostly positive or neutral. The news coverage became more balanced in the last two weeks prior to election day, with a notable decrease in the amount of prime-time news coverage devoted to Mr. Saakashvili (27 per cent against 41 per cent in the first two weeks of the campaign). The tone of his coverage, however, remained practically unchanged.

Two nationwide private TV channels, Rustavi 2 and Mze, showed clear support for Mr. Saakashvili and provided him with substantial prime-time news coverage. For example, Rustavi 2, Mze and public TV broadcast live a 28-minute prime-time news item about a meeting of Mr. Saakashvili with teachers at Tbilisi's Rustaveli Theater. While other candidates' campaign activities were also covered (on GPB sometimes also live), they still did not receive such substantial coverage. In addition, no other candidate had a chance to directly address the citizens in a televised New Year greeting which was broadcast live by all three channels.

Imedi TV offered its viewers a different picture of the campaign. Mr. Saakashvili received 31 per cent of the channel's prime-time news coverage, 19 per cent of which was negative in tone. The next most covered candidate, Mr. Patarkatsishvili, received 26 per cent of the coverage, 29 per cent of which was negative. Tbilisi-based local TV Kavkazia offered more critical coverage of Mr. Saakashvili and provided a platform for his main rivals.

The CEC conducted, for the first time, its own media monitoring, through a commercial company, and released three media monitoring reports before election day.²¹ The methodology chosen, as well as the interpretation of the results of the quantitative and qualitative analysis, resulted in a positive assessment of the campaign coverage and did not identify any substantial imbalances in the news.

The CEC reported receiving two media-related complaints, both filed by Mr. Gachechiladze. In the first instance, one of Mr. Gachechiladze's free-of-charge spots, which was submitted to

¹⁹ 1st Channel (Georgian Public Broadcaster), Imedi TV, Rustavi 2, Mze TV and Kavkazia TV.

²⁰ *Rezonansi*, *24 Hours*, *Alia*, *Asaval Dasavali*, *Kviris Palitra*, *Akhali Taoba* and *Georgian Times*.

²¹ A fourth media monitoring report was released on 22 January 2008.

Rustavi 2 and contained an announcement of one of his campaign events, was effectively censored by the CEC Chairperson, who argued it was not pre-electoral advertisement. The CEC rejected Mr. Gachechiladze's complaint without sound legal basis; the CEC decision was upheld by the Tbilisi City Court. The CEC Chairman also rejected the second complaint in which Mr. Gachechiladze requested the fining of three nationwide TV channels for their failure to submit to the CEC the information on the amount and frequency of airtime allocated to Mr. Saakashvili for campaigning.²² The CEC did not consider the complaint as a collegial body, with the Chairman having responded by a letter stating that the CEC had no authority to fine TV stations.

The very high cost of paid political advertising on television limited the candidates' possibilities to campaign in the media. Three of the channels charged approximately ten times more for political advertising than for commercials. Two weeks before the election, public TV decreased its prices to make them more accessible for candidates, however, they still remained twice as high as commercial rates. Only Mr. Saakashvili was able to place paid spots on all four nationwide channels.²³

On 6 January, Mr. Gachechiladze stated that three national broadcasters - the GPB, Rustavi 2 and Mze - had refused to give him airtime for his post-election statement (this particular statement about the refusal was broadcast by GPB and Rustavi 2). On 8 January, he held a rally outside GPB to protest against "media terror by three TV channels" and to announce the start of a hunger strike. Mr. Gachechiladze requested an opportunity to address the citizens in a live broadcast, fearing that his statement might be edited if pre-recorded. He was offered such an opportunity on 10 January, when Rustavi 2 invited him and four other presidential candidates to participate in a live talk show.

X. PARTICIPATION OF WOMEN

There are neither legal barriers to the participation of women in elections, nor legal provisions to promote their participation. Georgia has acceded to the UN Convention on the Elimination of All Forms of Discrimination Against Women. While there are some prominent women in politics, women are under-represented in certain spheres of public life and at the top level of election administration.

Of seven registered candidates, there was only one female, Irina Sarishvili. Of 13 members of the CEC, only one is a woman. According to CEC data, the gender balance was more equal in DEC's (42 per cent women) and PEC's (50 per cent women). In polling stations visited by IEOM observers on election day, 55 per cent of PEC chairpersons were female, and women accounted for two thirds of PEC members.

²² According to Article 73.14 of the Election Code, "if allocating airtime for election campaigning and political advertising, TV and radio companies must announce publicly and submit weekly to the CEC: the start and end date and frequency of the allocated airtime; duration and timetable of the allocated daily airtime, the air tariff; and provided service."

²³ According to documentation provided by Mr. Saakashvili's campaign headquarters to the CEC, he spent almost 12.5 million Lari (around 5.4 million Euro) on TV ads, including production costs (http://www.civil.ge/eng_/article.php?id=16927).

XI. PARTICIPATION OF NATIONAL MINORITIES

According to the 2002 census²⁴, national minorities make up some 16 per cent of the population. The most significant minority groups are Azeris (6.5 per cent) and Armenians (5.7 per cent). Other minority groups 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. The largest national minorities are concentrated in the regions of Samtskhe-Javakheti (Armenians), Kvemo-Kartli (Azeris and Armenians) and some areas in Kakheti (Azeris).

Minorities enjoy full political rights under the Constitution, including the right “to use their mother tongue in private and in public”. Georgia has acceded to the International Convention on the Elimination of all Forms of Racial Discrimination and has ratified the Council of Europe’s Framework Convention for the Protection of National Minorities.

While under the election code DEC members must “freely possess the state language of Georgia”, there is no such requirement for PEC members. National minorities were generally under-represented in DEC members in most parts of the country where they are found in large numbers. The CEC provided PECs in regions with significant minority populations, upon request, with election materials, including ballot papers, voter lists, the UEC, protocols and training manuals, in Russian, Azeri, Armenian and Ossetian. However, there were cases of PECs with materials, including ballot papers, only in a minority language, where ethnic-Georgian voters and election administrators were at disadvantage.

Training of PEC officials was in some cases provided either in minority languages or with minority-language interpretation, although not systematically. However, the late provision of the election materials in minority languages meant that they were not available in time to be used in training sessions, thus diminishing their usefulness. The problems observed on election day in regions with substantial minority populations may in part have reflected the particular shortcomings of the training in minority areas.

XII. DOMESTIC AND INTERNATIONAL OBSERVERS

Georgian election legislation grants both domestic and international observers the right to observe the entire election process. However, domestic observer organizations have to announce in advance which district each individual observer would be present in on election day.

For this election, the CEC registered observers from 34 domestic non-party organizations, 50 international organizations and 18 embassies. The largest domestic observation effort was undertaken by the International Society for Fair Elections and Democracy (ISFED), which was conducting long-term observation in Tbilisi and the regions, and issued five election updates prior to election day. ISFED covered about 3,000 polling stations on election day and conducted a parallel vote tabulation exercise. New Generation – New Initiative (NGNI) also conducted a parallel vote tabulation, covering the PECs in big cities. Another major domestic observer organization, the Georgian Young Lawyers’ Association (GYLA), was active in filing complaints with the CEC and courts regarding different aspects of the election process. GYLA filed about 230 complaints with regard to election day-related violations.

²⁴

This census did not cover the territories of South Ossetia and Abkhazia.

The OSCE/ODIHR EOM was informed about cases when ISFED observers were pressured during the pre-election period. Such cases were reported by the organization in Kobuleti, Lagodekhi and Khelvachauri. In Adjara, ISFED's district coordinator was intimidated by a UNM campaigner; an investigation was initiated and the person was suspended from the campaign.

XIII. COMPLAINTS AND APPEALS

The UEC regulates the procedures for adjudication of election disputes, allowing for complaints and appeals against election commission decisions or breaches of election law to be submitted either to higher-level election commissions or to courts.²⁵ These provisions are, however, particularly complex and inconsistent, and in practice complainants, the election administration, and courts grappled with interpreting and applying them. Furthermore, the provisions do not fully incorporate minimum legal safeguards in adjudication of complaints and appeals, such as the right to open and transparent hearings and proceedings and to a written decision providing its factual and legal basis. In some cases, complaints were filed in duplication to election administration and to courts.

Despite numerous allegations of election-related violations during the pre-election period, a relatively small number of official complaints were submitted to elections commissions and courts. Few complaints were submitted to DEC's and regional courts, with the concentration of cases in Tbilisi.²⁶ Opposition parties and NGOs explained this by the lack of trust in the impartiality of the election administration and courts, as well as by the high cost of initiating court cases.²⁷ Interlocutors informed the OSCE/ODIHR EOM that there is also a public fear to submit complaints and witness statements on politically motivated crimes. Some complainants lacked the knowledge and abilities necessary to draft and present effective complaints. Furthermore, the election administration failed to exercise its authority to investigate serious allegations on its own initiative.

The CEC and courts received complaints from opposition parties and NGOs about the alleged misuse of state and administrative resources and vote buying by the ruling party candidate, whose de-registration was requested. Also submitted were complaints that alleged campaigning by public officials while conducting official duties, which is prohibited by law. Almost all campaign-related complaints were filed against the ruling party candidate or government officials. Both the CEC and courts tended to stretch the law beyond reasonable interpretation and without regard to its spirit, in favor of the ruling party candidate and public officials. Principles of legal interpretation were often not followed and inconsistent legal reasoning was applied. Some complaints were ruled inadmissible without a sound legal basis.

In adjudication of complaints, the CEC failed to follow important procedures provided by domestic laws and international standards.²⁸ Relevant CEC regulations do not adequately address how complaints are to be dealt with. In some cases, decisions on complaints were made

²⁵ Article 77 regulates the complaints and appeals process, as well as Articles 29.1.m, 34.2.f, 61 and 62.

²⁶ During the pre-electoral period, the CEC received approximately 31 complaints, the Tbilisi City Court – 19 cases, and the Tbilisi Court of Appeal – 6 cases.

²⁷ The court fee is 100 Lari (43 Euro) in City Courts and 150 Lari (65 Euro) in Courts of Appeal – a very high cost in the context of the Georgian economy.

²⁸ Resolving election disputes involves international standards that are to be found across a wider spectrum of election-related rights, as well as principles associated with due process and judicial independence.

unilaterally by the CEC Chairperson, and not by the commission as a collegial body.²⁹ Most complaints lodged with the CEC were not adequately investigated. CEC members seemingly lacked adjudication skills and often based decisions on political interests. Sessions in which complaints were considered lacked full transparency as issues, facts, and law were not clearly and thoroughly discussed. CEC lawyers, who presented the cases and legal opinions to the commission, carried out their professional duties in a noticeably biased manner, providing legal opinions which were usually unsound and which favored the ruling party candidate and government officials.

In all campaign-related cases, the CEC members voted along political lines, with six opposition party appointees voting in favor of finding the ruling party's candidate and public officials in violation of campaign laws, and seven other members voting against. The CEC's decisions on complaints did not include the legal reasoning behind a decision, and instead merely stated acceptance or rejection of the complaint. Complainants were also not notified of their right to appeal the decisions to court.

Several complaints submitted to the CEC alleging misuse of state resources by the ruling party candidate were rejected following an unreasonable legal interpretation by the CEC lawyer. Despite a clear provision in the UEC that prohibits candidates from using the material and technical resources of those organizations that are being funded from the state budget for the purposes of campaigning, the legal conclusion of the CEC lawyer stated that this provision only applied to candidates who were in official positions.³⁰ According to the CEC lawyer, as Mr. Saakashvili had stepped down from his position as President, he was not prohibited from using state resources for his campaign. This interpretation negates a significant safeguard for the equality of campaign conditions.

Although courts generally carried out open hearings on election-related cases in a professional and thorough manner, some written judgments did not set out sufficient legal reasoning and most lacked sound legal basis.³¹ All court cases against Mr. Saakashvili and public officials were rejected, while one complaint brought by the ruling party regarding a CEC decision not to establish polling stations for Georgian soldiers in Kosovo and Iraq was satisfied. The ability of the judicial system to function as an independent body to resolve election disputes remains in question.

In one notable court case alleging vote buying by Mr. Saakashvili, in part for distributing complimentary amusement park tickets with his campaign materials, the judge rejected the claim, providing unsound legal reasoning. Despite a clear provision in the law prohibiting candidates from "transferring to voters monetary funds, gifts, or other items of material value"³², the court effectively concluded that candidates are not prohibited from doing so provided that the items do not have high material value, that the distribution is not widespread, or that all candidates have the same opportunity to distribute the free items.

In another case, the court approved a CEC decision that political and appointed officials are not prohibited from combining their official duties with participation in election campaigning. The related complaint (and several others to the CEC) objected to several occurrences in which a number of high-level officials were openly supporting Mr. Saakashvili's campaign, allegedly

²⁹ Article 29.u of the UEC provides that the CEC (as a commission) takes decisions on election-related applications and complaints.

³⁰ Article 76.1 of the UEC is apparently inadvertently placed under a broad title: "Prohibition on Use of Official Position during Election Agitation and Campaign".

³¹ The EOM was not provided with the majority of reasoned court decisions in these cases.

³² Article 73.9.a of the UEC.

while carrying out their official duties. The UEC prohibits public servants of State and local government bodies to take part in election agitation when they are carrying out duties related to their office and work responsibilities.³³ In light of the Law on Public Service³⁴, which provides that all officials paid from the state budget are considered public servants, the reasoning put forward by the CEC lawyers and accepted by the courts was legally unsound.

Reports were submitted to various law enforcement and governmental bodies, with allegations of intimidation, threats, and attacks on opposition supporters and their close family members, some implicating law enforcement officials. The police did not appear to sufficiently investigate such complaints, and the Interior Ministry reported that many cases have been closed for lack of evidence. The OSCE/ODIHR EOM is not aware of any criminal prosecutions being initiated in such cases.

On a positive note, there were a number of initiatives, funded by international donors, to train prosecutors and judges on election law and best practices in investigation and prosecution of election-related crimes. Complaint hotlines were operated by the CEC, Interior Ministry, and NGOs, to receive complaints, and/or to provide legal assistance and advice on election issues.

XIV. VOTING AND COUNTING

On election day, 495 IEOM observers were deployed from 44 OSCE participating States, who observed the opening of 175 polling stations, voting in over 1,770 of 3,511 polling stations, and counting in 180 polling stations. Election day was generally peaceful. In a considerable number of precincts, however, the voting process was at times disorganized and chaotic. More serious problems were observed during the vote count.

A. OPENING AND POLLING PROCEDURES

Opening procedures were assessed overall as good or very good in 88 per cent of polling stations visited, despite a number of procedural problems, including failure to properly seal the ballot boxes (6 per cent) or to insert the control slips (5 per cent). Unauthorized persons were present during the opening in 15 per cent of polling stations, but observers noted such persons interfering in the process only in two instances. In 15 and 19 per cent of polling stations, observers noted that the PEC did not enter the number of registered voters or of ballots received in the protocol. In three per cent of polling stations visited for the opening, the PEC had not received all necessary election materials. IEOM observers reported limited delays in the opening of 35 per cent of polling stations observed.

IEOM observers assessed the voting process as good or very good in 92 per cent of polling stations. However, there were considerable regional variations - in Samtskhe-Javakheti, 19 per cent were assessed as bad or very bad, in Kakheti, 12 per cent, and in Kvemo Kartli, 10 per cent. By contrast, all polling stations visited in the region of Mtskheta-Mtianeti were assessed as good or very good. In line with the country-wide overall assessment, the PEC performance and PECs' and voters' understanding of voting procedures were assessed overwhelmingly positively.

Notwithstanding the overall positive assessment, circumstances in and around polling stations were frequently described as problematic. Some 12 per cent of polling station premises were overcrowded, and outside 18 per cent of polling stations large numbers of voters were waiting to

³³ Article 73.5.h of the UEC.

³⁴ Articles 1–5 of the Law on Public Service.

vote. Physical access for voters was difficult in 11 per cent of polling stations, and 7 per cent of premises visited were not adequate to conduct polling.

Tension outside polling stations was noted in 2 per cent of reports, and inside the premises in 4 per cent. Outside many polling stations, buses transporting UNM supporters to vote were noted. Campaign material was seen inside 3 per cent of polling stations visited, in violation of the law. Also in 3 per cent of polling stations, persons were identified trying to influence voters' choice.

The most widespread procedural irregularities were related to inking safeguards, with not all voters being checked for ink in 15 per cent of polling stations visited, and ink not always being applied in 12 per cent. In addition, IEOM observers reported that during their visits to 14 polling stations, voters who had already been inked were allowed to vote. Other violations included seemingly identical signatures on the voter lists (4 per cent), multiple and proxy voting (1 and 2 per cent, respectively) and group or family voting (5 per cent). In 3 per cent of polling stations, the ballot boxes were not properly sealed. IEOM observers witnessed five cases of ballot box stuffing, as well as five cases of carousel voting, a vote buying scheme.

Secrecy of the vote was not always ensured, with 6 per cent of IEOM observer reports indicating that not all voters marked their ballots in secrecy. Thirty-four per cent of polling stations visited throughout election day were equipped with video surveillance cameras. IEOM observers noted that in 11 per cent of polling station thus equipped (or 63 polling stations), the placement of the video cameras was such that it did not ensure the secrecy of the vote.

In polling stations visited by IEOM observers throughout election day, an average of some 5 per cent of those who voted had been added to the additional voter list on election day. In 2 per cent of polling stations visited, voters were added to the additional list without providing proof that they were registered within the territory of the precinct. In 2 per cent of polling stations, voters were denied the right to vote for inappropriate reasons. In 11 per cent of polling stations visited on election day, observers noted cases of citizens having been turned away because their names were not found on the precinct's voter list. While this last phenomenon appears to be at least in part due to the redrawing of precinct boundaries, it underscores the need for further improvements of the general voter list.

The presence of unauthorized persons, mostly police, was observed in 8 per cent of polling stations. In 18 cases, such persons were interfering in or directing the work of the PEC. Domestic non-party observers were present in 94 per cent of polling stations visited, and candidate proxies, in 96 per cent. Frequently, the number of proxies per candidate exceeded that stipulated in the UEC. IEOM observers reported that domestic observers were sometimes participating in the election process, thus interfering with the activities of PECs.

B. COUNTING PROCEDURES

The vote count was evaluated less positively than the polling process. A significant 23 per cent of counts observed by IEOM observers were assessed as bad or very bad. Adherence to procedures was rated as bad or very bad in 17 per cent of counts observed, and the PECs' understanding of procedures and their performance were rated negatively in 18 and 17 per cent, respectively, of counts observed. In most polling stations observed, the counting process was very slow.

IEOM observers reported that in 8 per cent of counts observed, they had witnessed tampering with voter list entries, election results, or results protocols. In 21 per cent of counts observed, they reported significant procedural errors or omissions. Some 35 per cent of PECs did not

perform various steps of the vote count in the prescribed order.

A considerable number of PECs did not perform basic reconciliation procedures before opening the ballot boxes. Thus, 12 per cent of PECs did not count the number of voters' signatures on the general and special voter lists, and 17 per cent did not count the signatures on the voter list supplement used for mobile voting. Required data was frequently not entered into the protocol before the ballot boxes were opened – 19 per cent of PECs did not enter the number of voters who voted, and 18 per cent did not enter the number of unused or of spoiled ballots.

In 2 per cent of counts observed, the seals on the ballot boxes were not intact, and in another 2 per cent, the control sheets were not found in ballot boxes. In 3 per cent of counts, the content of control sheets found in ballot boxes did not correspond to the copy retained by the PEC during the opening of the polling station.

In 46 per cent of counts observed, voters' choices were not read aloud during the count, and at times, PEC members and observers were not allowed to examine the ballots, in violation of the law. Observers evaluated that the determination of ballot validity was not always reasonable and consistent in 9 per cent of counts observed. In 12 per cent of polling stations where the count was observed, the PECs did not announce and enter into the protocol the number of invalid ballots.

Candidate proxies were present in 97 per cent of polling stations where the count was observed, and domestic non-party observers, in 98 per cent. Unauthorized persons were seen in 7 per cent of counts observed. In 18 per cent of polling stations, persons other than PEC members participated in the vote count.

One out of three PECs had problems completing the results protocol, and 19 per cent of PECs revised figures they had entered into the protocol earlier. Occasionally, protocols were pre-signed (6 per cent) and completed in pencil rather than ink. A few isolated cases were reported where PEC members entered a dissenting opinion concerning the count in the PEC Record Book or where they refused to sign the results protocol.

The results protocols were not posted for public scrutiny in 29 per cent of polling stations where the count was observed, thus reducing the transparency of the process. However, observers and candidate proxies were generally given copies of the protocols upon request (96 per cent of cases observed).

XV. TABULATION AND ANNOUNCEMENT OF ELECTION RESULTS

OSCE/ODIHR EOM observers described the tabulation process at the DEC level as slow, not very well organized, and often chaotic. In some DEC, they noted a tense atmosphere during tabulation. There were cases in which PEC protocols given to the OSCE/ODIHR EOM differed from those provided by DEC. For example, protocols provided by DEC for Batumi (PECs 11 and 73), Lentekhi (PEC 1), and Dmanisi (PEC 30) showed a significant increase of votes cast for Mr. Saakashvili.

Observers from NGNI informed the OSCE/ODIHR EOM that PECs were frequently unaware how to fill in the results protocols. Several PEC protocols from DEC 41 in Ninotsminda reviewed by the OSCE/ODIHR EOM appear to have been completed by one and the same person. Instances were noted where DEC corrected PEC protocols, and such protocols were posted on the CEC website for PECs 5, 22, 24 and 35 in Ninotsminda, alongside the original

PEC protocols. This action was taken despite the fact that the law does not explicitly envisage DEC corrections to PEC protocols, and according to the Electoral Code, DEC has a limited role in the vote tabulation process.

According to IEOM observers and domestic non-partisan observers, a number of protocols lacked required information or PEC stamps and signatures of PEC members. Data frequently showed inconsistencies; CEC staff informed the OSCE/ODIHR EOM that in around 940 of the 3,511 PECs, the number of voters who voted did not reconcile with the sum of valid and invalid votes.

Around 85,000 voters were included in additional voter lists on election day. As foreseen in the law, some 930 PECs did not count ballots cast by these voters themselves and sent their ballots to the CEC, which on 7 January decided to count them³⁵. On 8 January, several groups composed of CEC members and staff started the count. The count took place in chaotic circumstances, and the counting groups did not apply uniform procedures, especially when deciding on ballot validity.

In this context, the OSCE/ODIHR EOM observers noted that a significant number of ballots from some PECs in certain DEC appeared to have been filled out in identical fashion, raising suspicion of wrongdoing. In such cases, the numbers of all candidates on ballots had been circled, or all but one name had been crossed out identically. Such cases in which identical patterns of ballot marking were observed, were noted in DEC 6 (PECs 54 and 56, DEC 32 (PEC 81), DEC 60 (PEC 41), and DEC 61 (PEC 16). While some ballots completed in the above described manner were invalidated, in the majority of cases, these ballots were considered valid based on a new CEC ordinance “On identifying invalid ballot papers cast by voters added to the additional voter lists that are counted at CEC”, which was adopted only on 10 January, when the count at the CEC was well underway. The ordinance offered a more liberal interpretation of ballot validity than that contained in the Electoral Code.

Some PECs did not send copies of IDs to accompany the ballots as required by law³⁶, but the ballots were counted anyway. The CEC compiled only one general protocol for all PECs that sent ballots cast by voters added to the additional voter lists on election day, lacking detailed data for individual PECs, and attaching a separate table with PEC results. On 11 January, the CEC approved the protocol on the count of additional votes, but it was only signed by seven of 13 CEC members.

On 10 January, the UPM at a press conference claimed its members had found sealed envelopes with ballots cast by voters added to additional voter lists on a rubbish tip on the outskirts of Tbilisi. On 12 January, a UPM representative presented these envelopes during a CEC session, but the CEC Chair refused to accept them, arguing that ballots are State documents and that the finder should hand them to the police for criminal investigation.

The CEC started posting results protocols from PECs on its website in the early morning of the day after the election. While this was a positive step, the posting of results proceeded at a slow rate. On 9 January, the CEC Chairperson announced preliminary results based on 3,482 PEC protocols.

³⁵ Under the law, decisions by PECs to count ballots cast by voters registered on additional voter lists on election day at polling stations are taken by two-thirds of votes of a commission. The CEC applies the same procedure.

³⁶ Article 129⁷.5 of the Electoral Code.

The CEC announced that the overall turnout was 56.19 per cent. In several DEC, the turnout was considerably higher than the average. Some 23 PECs reported 100 per cent turnout³⁷, while another 205 commissions reported turnout between 90 and 100 per cent. A significant number of PECs reported unusually high turnout during the last three hours of voting. According to the information produced by the CEC shortly after election day and received by the OSCE/ODIHR EOM, in 79 polling stations, more than 500 voters cast their ballots in each PEC during this period.³⁸ For instance, in Marneuli, 866 people out of 1,576 voters voted in PEC 50 during the last three hours. In Sagarejo, 771 people out of 1,371 voters were processed in PEC 36 in the last three hours, as well as in Akhalkalaki, where 879 people out of 1,830 voters voted in PEC 24. Based on more complete information drawn from protocols posted on the CEC website, as of 17 January, the number of such polling stations stood at 45.

On 13 January, the CEC approved the final election results. The CEC members appointed by opposition parties argued that there were many violations and complaints which the CEC had not reviewed, and that the results could therefore not be approved. Seven members voted to approve the final results, while six opposition-appointed members voted against.

XVI. POST-ELECTION COMPLAINTS AND APPEALS

The election administration at all levels, and the courts, did not fully and adequately consider and investigate a considerable number of complaints regarding irregularities in voting, counting and tabulation of election results. Some complaints included serious allegations of multiple voting, ballot stuffing, and tampering with protocols, with requests for annulment of a significant number of PEC summary protocols. The vast majority of these complaints were submitted by opposition parties and domestic NGOs, with almost none filed by the ruling party. There was an apparent avoidance to substantively consider complaints. The OSCE/ODIHR EOM received individual accounts, as well as NGO reports, that law enforcement bodies, local administration and courts actively discouraged observers and opposition supporters from filing complaints or suggested to withdraw them.

PECs received approximately one thousand complaints, with additional instances when PECs refused to register complaints. DEC received several hundred complaints (also refusing to register some), of which almost all were rejected on grounds of technical inadmissibility or as legally ungrounded. DEC at times arbitrarily applied admissibility requirements, without providing complainants an opportunity to correct technical problems, failed to follow due process in consideration of complaints and did not adequately investigate claims.

The CEC received few complaints, some with serious allegations. It rejected or ruled inadmissible the majority of them³⁹, without providing due consideration or sound legal reasoning. It incorrectly refused to consider several complaints requesting annulment of protocols, on grounds that only the courts had authority to do so.⁴⁰ In addition, the CEC Chair incorrectly declared that the CEC did not have investigative powers. In one instance the CEC

³⁷ This figure does not include 41 polling stations where PECs mistakenly entered the number of voters who voted in the line of the protocol intended for the total number of voters on the voter lists.

³⁸ This figure does not include polling stations which also counted ballots cast at nearby special polling stations, as per information provided by the CEC.

³⁹ According to information provided by the authorities, six complaints were upheld and results of respective polling stations annulled by the CEC.

⁴⁰ Article 29.1.m of the Electoral Code states that the CEC “by its own initiative or under the application/petition check the legitimacy of decisions and acts of election commissions, their officials, and in case of any revealed violation shall invalidate or revise them by its own decree...”

refused to review the official video recording of an alleged incident in a PEC, stating that the CEC had no authority to do so. However, in a 17 January statement the CEC announced that it was then ready to provide parties the opportunity to review video recordings of voting day procedures at polling station level, upon written request, although this decision came after the deadline for the submission of complaints related to election results.

Of more than 50 appeals to city courts, the vast majority were rejected, most as inadmissible for technical reasons. Twelve PEC summary protocols were annulled in total, both by the CEC and the courts, which amounted to the cancellation of results in those polling stations. The OSCE/ODIHR EOM is aware of a number of criminal investigations initiated related to events on election day.

On 15 January, four complaints were filed with the Tbilisi City Court requesting the invalidation of the CEC summary protocol.⁴¹ An additional complaint with same claim on behalf of David Gamkrelidze of the New Rights Party was accepted by the Tbilisi City Court on 16 January, one day after the deadline. The court rejected all five complaints as groundless. On 18 January, the representatives of three candidates⁴² appealed to the Tbilisi Court of Appeal, which upheld the Tbilisi City Court's decision.

After election day, some 30 cases of appeals against decisions of city and rayon courts, most of which had rejected requests for invalidation of PEC and DEC result protocols, were submitted to the Courts of Appeal in Tbilisi and Kutaisi. All these cases were either rejected or not satisfied.

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 international 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. Any outstanding recommendations for legislative amendments previously put forward by the OSCE/ODIHR and Council of Europe should be taken into consideration. A parliamentary drafting working group could be established to conduct a detailed review of the UEC with the aim of eliminating any inconsistencies, gaps and ambiguities and to harmonize the Code with other relevant laws.

B. ELECTION ADMINISTRATION

2. Election commissioners, whether party-appointed or not, must act impartially and in accordance with the law. The UEC should contain safeguards against the dominance of any one political party on managerial positions in election commissions.

⁴¹ The complainants were the representative of Mr. Patarkatsishvili's, the Labour Party of Georgia, the United Public Movement, and the Free Professional Union of Georgia's Teachers and Scientists.

⁴² Candidates Patarkatsishvili, Gachechiladze and Natelashvili.

3. Comprehensive, uniform and timely training of PEC members should be further ensured, with particular emphasis on counting and tabulation procedures. Members of upper-level commissions would equally benefit from additional training, including on complaints and appeals adjudication procedures.
4. Consideration could be given to initiating reforms in the administration of election commissions, in particular of the CEC, with a view to ensuring effective and professional administrative support to commission members. DEC's with a large number of PECs under their jurisdiction should be enabled to recruit more support staff as necessary. The CEC should adopt clear regulations governing its internal work, including with regard to the conduct of its sessions.
5. The CEC should undertake efforts to increase the use of its website as a means of public information. Information to be posted on the CEC website should *inter alia* include detailed election results and financial reports of election contestants. To this end, the technical capacity of the website should be enhanced.

C. VOTER REGISTRATION

6. The CEC should incorporate, as a matter of priority, the data of voters included in additional lists on election day into the general voter list. Furthermore, the CEC should ensure that there is a clear mechanism for incorporating changes requested by voters during the review period. Finally, the CEC should eliminate remaining discrepancies and inaccuracies, such as multiple entries and deceased people in the lists.

D. ELECTION CAMPAIGN

7. Government authorities should ensure that a consistent message is delivered to all state and public officials, including the police, making clear that interference in the electoral process, including any form of pressure or intimidation, is unacceptable and will not be tolerated. Any such instances that come to light should be fully investigated, and those responsible should be sanctioned in line with the law.
8. A clear distinction must be drawn between the state and its activities on one hand and the election contenders and their campaign on the other. This distinction must be fully observed in the conduct of the campaign in order to avoid the violation of equality of opportunities among the contestants, and to ensure compliance with paragraph 5.4 of the 1990 OSCE Copenhagen Document. UEC provisions prohibiting the use of state resources and regulating campaigning by public and political officials should be clarified and elaborated in order to remove any ambiguities.
9. Article 73.9 of the UEC, which prohibits vote buying, should be amended to provide clarification as to what practices are prohibited. This provision should be interpreted and implemented in a strict manner.
10. Consideration should be given to establishing a single date for the official launching of the campaign for all election subjects, starting from the day the candidate registration process closes.
11. The provision in the UEC regarding the obligation of election subjects to submit information on campaign financing to the CEC on a monthly basis should be amended so as to ensure that this information is submitted and published prior to election day.

12. The UEC should contain a clear formulation on when the silence period starts and ends. It should also be clarified whether Article 174⁵ of the Administrative Offences Code, which envisages sanctions for election day campaigning, applies to all or only certain types of elections.
13. Law enforcement agencies and prosecutors should be trained on investigation and prosecution of election-related offences and crimes so as to ensure objective and impartial investigation in the most expedient manner.

E. MEDIA

14. The independence of the Georgian Public Broadcaster (GPB) should 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.
15. It is advisable to establish clear legal criteria for determining the eligibility of election subjects to receive free airtime, particularly of those that would fall under the category of “unqualified” subjects, rather than leaving this decision to the broadcasters, due to possible undue refusals and inconsistencies in implementation.
16. Media should not be held liable for unlawful statements made by candidates or party representatives and broadcast during the course of an election campaign. Individuals should be held solely responsible for any such statements made.
17. The implementation of provisions of the UEC obliging the media to submit information on their election-related arrangements, including the amount of free and paid time or space provided, schedules for airing/publishing campaign materials as well as tariffs, should be systematically monitored by the CEC. Consideration should be given to making this information public. Rates for paid campaign-related airtime and space should not exceed comparable rates for commercial advertisements.
18. The CEC, possibly in cooperation with the Georgian National Communications Commission, should consider reviewing its media monitoring methodology so as to ensure it identifies any possible inequitable and preferential news coverage of candidates and political parties, and enables effective and prompt correcting action when necessary.

F. VOTING, COUNTING AND TABULATION AND ANNOUNCEMENT OF RESULTS

19. Clear step-by-step instructions on election-day procedures should be elaborated by the CEC and communicated to PECs well in advance of election day. The CEC should avoid adopting decisions on election-day procedures close to election day.
20. Should election-day registration be maintained, current unnecessarily complicated procedures for counting the votes cast by voters included in additional voter lists should be simplified and streamlined. Ballot validity criteria should be the same for both regular and additional ballots.
21. The provisions of the law on posting of result protocols by election commissions for public inspection need to be reinforced. Commissions should be obliged to ensure that protocols remain displayed for a sufficient amount of time. The PECs should be

provided with a sufficient number of copies of result protocols to be posted and handed out to observers and proxies.

22. Inking procedures as a safeguard against possible multiple voting, including checking of voters' fingers for traces of ink and application of ink upon issuance of ballots, should be scrupulously followed by election commissions.

G. COMPLAINTS AND APPEALS

23. Article 77 of the UEC should be revised to provide a straightforward, understandable and consistent procedure for protecting electoral rights. The law should provide a clear demarcation of the respective jurisdictions of the courts and electoral bodies, and expressly prohibit complaints to be simultaneously submitted to both. Voters and NGOs should be expressly permitted to file all types of election-related complaints. References in the UEC to general administrative laws should be avoided.
24. The UEC should expressly provide that the CEC must consider complaints and appeals in open sessions, provide claimants with written decisions outlining legal reasoning, notify them of the right to appeal and state relevant deadlines correspondingly. The CEC should amend its regulation to include detailed procedures for handling of complaints and appeals, from registration until issuance of a decision.
25. The election administration should be more proactive in investigating serious allegations brought to its attention. The CEC should have an adequate number of staff to review relevant information and facts, and commission's legal experts must provide their legal opinions in a non-partisan manner and in accordance with the law.
26. The UEC should expressly set out the grounds upon which complaints and appeals are admissible to election commissions and courts. Complainants should be notified in writing of the decision as to whether their petition was considered admissible or not, with reasons given. These bodies should avoid denying admissibility of complaints on purely technical grounds, and provide complainants with an opportunity to correct technical errors.
27. Well in advance of an election, the CEC and the Courts of Appeal, in cooperation with the High Council of Justice, should jointly develop instructions and guidelines on various matters involved in election disputes. These institutions should clarify their respective areas of competence and those of lower-level courts and election commissions.
28. The UEC should be clarified regarding the powers, if any, of the CEC and lower election commissions to issue sanctions for violations of election-related laws as well as their authority to issue protocols to the courts, as provided in Article 239 of the Administrative Offences Code.
29. Efforts aimed at further strengthening the judiciary and ensuring its complete independence should be maintained. The fee for the submission of election-related cases to court should be kept to a minimum, so as not to deter stakeholders from filing complaints and appeals.
30. The UEC should provide that DEC's review all complaints attached or noted in the PEC Record Books, and issue decisions accordingly. The law should also be clarified as to

whether DEC's are obliged to forward all their decisions on complaints to the CEC for approval, or only those that establish violations. There is benefit in requiring the former.

31. The necessity of installation of video cameras at polling stations should be reviewed in light of concern for secrecy of the vote, and the objectives of their usage clarified. As long as video cameras are in use, relevant regulations on the handling and access to video records, as well as on the possibility of using them as evidence in adjudication of complaints and appeals, should be adopted.
32. The UEC provision on validation of final election results should be harmonized with the provisions for submission of complaints and appeals so that all deadlines for appeals and court decisions have passed before the results are validated.

H. PARTICIPATION OF NATIONAL MINORITIES

33. Greater efforts should be undertaken to provide training to election administration staff in minority-inhabited areas in their preferred languages. Election-related information and materials should be provided well before the election, so that they can be used in training.
34. In minority-populated areas, election materials should be available in both Georgian and minority languages.

I. DOMESTIC OBSERVERS

35. Political parties and NGOs should consider providing further training to their lawyers on election-related law, investigation of violations and collecting of evidence, procedures for filing of complaints, as well as on drafting and presenting effective complaints.

ANNEX: OFFICAL ELECTION RESULTS

Summary Figures	
Total number of voters	3,527,964
Number of voters who voted	1,982,318
Invalid ballots	33,129

No. on Ballot	Name	Number of Votes	Percentage
1	Levan Gachechiladze	509,234	25.69%
2	Arkadi Patarkatsishvili	140,826	7.10%
3	David Gamkrelidze	79,747	4.02%
4	Shalva Natelashvili	128,589	6.49%
5	Mikheil Saakashvili	1,060,042	53.47%
6	Giorgi Maisashvili	15,249	0.77%
7	Irina Sarishvili-Chanturia	3,242	0.16%

Annulled and Corrected PEC Protocols	
Corrected PEC Protocols	DEC 14 (Dedoplistskaro), PEC 6 DEC 22 (Marneuli), PEC 2 DEC 79 (Batumi), PEC 55 DEC 81 (Kobuleti), PEC 4 DEC 83 (Khelvachauri), PEC 14 DEC 83 (Khelvachauri), PEC 37
<i>PEC Results Protocols annulled by the CEC</i>	DEC 3 (Saburtalo), PEC 1 DEC 17 (Telavi), PEC 1 DEC 25 (Tsalka), PEC 22 DEC 40 (Akhalkalaki), PEC 4 DEC 47 (Mestia), PEC 38
<i>PEC Results Protocols annulled by Courts</i>	DEC 23 (Bolnisi), PEC 58 DEC 32 (Gori), PECs 7, 12 and 81 DEC 48 (Kharagauli), PEC 10 DEC 51 (Zestaponi), PEC 13 DEC 83 (Khelvachauri), PEC 5

Source: 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 co-ordinates 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).