

Final Report

of the Election Observation Mission to the Republic of Georgia for the Parliamentary Elections, October 2016



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The parliamentary elections held in Georgia on 8 October 2016, with repeat voting in a few precincts on 22 October and a second round of voting in a number of single-candidate constituencies on 30 October, were generally in line with international standards. However, the authorities need to investigate and address the serious shortcomings described in this report and by other observer missions.

Overall, our observers assessed the elections, the campaign environment and the electoral framework favourably. A statistical analysis of the bulk of the results of the first round of the elections also suggests that there were no serious irregularities that may have significantly influenced the outcome of the elections.

There were important improvements in the electoral framework prior to the elections. Amendments to the election law addressed the problem of wide discrepancies in size between electoral districts and ensured that the vote was more equal this time than previously. However, the parliament did not adopt a proposal for securing gender balance nor forcefully address the issue of minority representation.

24 of the 150 members of the new parliament are women, while 11 are from ethnic minorities. There are 16 per cent of women in Parliament, which is significantly lower than the UN representation target of 30 per cent. While ethnic minorities constitute around 16 per cent of the population, 7 per cent of MPs come from ethnic minorities.

During the campaign, a number of statements and initiatives in support of “traditional values”, including a proposal to introduce a gender-specific definition of marriage in the Constitution, contributed to a climate of hostility toward the LGBTI community. There was a spike in the number of hate crimes following the elections. The Georgian authorities need to confront this issue by investigating crimes and refraining from rhetoric and acts that contribute to a climate of hostility and discrimination.

According to the election law, repeat voting is only held with respect to candidates elected by majority vote in single-member constituencies. However, the annulment of results in some polling stations may also have had consequences for the election of candidates by proportional representation through nationwide party lists, as several parties were close to the election threshold of five percent. A few votes more or less may have had significant consequences.

The current electoral system enables groups and individuals to influence the outcome of elections by intrusive acts, such as attacking polling stations to disrupt the vote. Moreover, our statistical analysis shows that the ruling party received a suspiciously high number of votes in approximately 185 polling stations: Too few to influence the general outcome of the elections, but enough to possibly have prevented smaller parties from reaching the election threshold.

Incidents of violence and intimidation of voters in some electoral districts marred the overall impression of the elections. The presence of unauthorized individuals out- and sometimes inside polling stations contributed to a climate of surveillance and pressure in certain electoral districts (according to our observers this was in particular the case in Western Georgia). There were also instances where a disproportionately high number of ballots were declared invalid during the vote count in polling stations where votes for opposition candidates and parties were voided because they were not properly stamped and signed by the Precinct Election Commission.

The attack on our observers in Jikhashkari village (at polling station No. 79 in Zugdidi electoral district No. 76) during the first round of the elections is of particular concern. This attack was linked to an attack on the polling station, which appeared to be a professionally executed attempt at disrupting the vote in a contested district (former first lady Sandra Roelofs was running for the main opposition party). Our observers were attacked because they filmed this incident; the perpetrators seized the mobile phones of our observers and destroyed video recordings of their own actions.

What was most worrying about the attack, however, was that police officials who were present in- and outside the polling station did not intervene to safeguard the voting process or protect our observers. This created the impression that the attack took place with the tacit approval of law enforcement authorities. The incident is reminiscent of similar, incidents that have taken place during previous elections, although those often have been more violent in nature.

The overall assessment of the parliamentary elections will also depend on how the relevant electoral bodies deal with the numerous complaints filed during the elections.

Recommendations

The joint election observation mission recommends that the relevant Georgian authorities:

- Investigate the Jikhaskari incident impartially and effectively, including the role of police in failing to protect international election observers from physical violence inside the polling station;
- Amend the election law in order to introduce repeat voting also with respect to candidates elected through proportional party lists when precinct results are annulled;
- Consider establishing a review mechanism to assess the vote in polling stations where the reported results deviate significantly from the overall results, such as in the 185 polling stations where the ruling Georgian Dream party received from 70 to over 90 percent of the vote in these elections (compared to 48 percent in the country as a whole);
- Request the Central Election Commission to publish the turnout per Precinct Election Commission in the same digital format as they publish the results of elected candidates. This will increase the level of transparency and verifiability of the results by way of statistical analysis.

With regard to gender equality, the joint observation mission recommends that the relevant Georgian authorities:

- Support incentives and consider mandatory quota arrangements for political parties to include more women in decision making, and in particular to include more women among the candidates on proportional party lists;
- Step up efforts to develop and implement policies and strategies to improve the opportunities of women with respect to equal participation in political life.

With regard to protection of LGBTI persons, the joint observation mission recommends that the relevant Georgian authorities:

- Properly investigate all reported incidents of hate-motivated violence and take effective measures to protect victims and potential victims;
- Address current shortcomings in LGBTI-related legislation and policies and the corresponding implementation mechanisms;
- Cancel plans to introduce a gender-specific definition of marriage into the Constitution.

On 8 June 2016, in line with a constitutional requirement, Georgian President Giorgi Margvelashvili announced 8 October 2016 as Parliamentary Election Day. The joint international election observation mission of the International Elections Study Center (IESC), the Norwegian Helsinki Committee (NHC), the International Partnership for Human Rights (IPHR) and the European Platform for Democratic Elections (EPDE) was launched in Georgia on 12 September. We would like to thank the Central Electoral Commission for facilitating the work of this mission by assisting with the required documentation and accrediting our observers.

A long-term observer of the mission collected information during the last stage of the pre-election period. During the first round of the elections on 8 October, the mission deployed 36 international observers who visited more than 200 polling stations across the country. During the second round, the mission deployed 16 observers and visited more than a hundred polling stations. This report summarizes the overall findings.

The observers were deployed in those regions of Georgia where problems have previously been documented in terms of election environment, including the Samegrelo, Samtskhe Javakheti, Kvemo Kartli and Kakheti regions. The polling stations were randomly selected from the CEC's list and observers were assigned to election districts before Election Day.

Short-term observers were briefed on election observation methodology, as well as Georgia's election system, and the political context and background. They met representatives from the main competing parties, as well as local civil society organizations working on election observation.

The mission assessed the domestic legal framework in the light of international standards for democratic elections set out in the OSCE Copenhagen Document and other relevant instruments.

All teams of observers were given specifically designed forms to fill in during visits to polling stations, including separate sheets for the opening and closing of the polling stations, and for the count. Based on their findings, each team of short-term observers prepared summary reports, which were used as the basis for the preliminary statement of the joint mission issued on 9 October, as well as for this report.

Our experts also conducted a statistical analysis of the election results after the first round of the elections. In addition, the joint mission carried out thematic research on gender equality and homophobic and transphobic incidents before and after the elections.

Our organizations have a long history of monitoring Georgian elections, stretching back to 1995. Since then the country has seen a popular revolution and an armed conflict. Parts of the country remain under de facto occupation. The Georgian political landscape has changed dramatically over the years, state institutions are now stronger than previously and the human rights situation has improved.

In 2012, there was a peaceful transfer of power after the parliamentary elections as the United National Movement (UNM) and its leader President Mikheil Saakashvili went into opposition and the Georgian Dream party and its leader, Bidzina Ivanishvili assumed power. Yet political polarization continued with both parties accusing each other of abuse of power and corruption. While in many instances warranted, the prosecution of former UNM figures has occasionally been criticized by civil society because of procedural irregularities.

The fact that Georgia, for the second time in a row, managed to hold parliamentary elections that were not characterized by widespread falsification or unrest in 2016 testifies to gradual consolidation of the democratic process. However, this positive development may still be reversed and the 2016 elections left plenty of room for improvement: these issues should be studied in depth and addressed before the next elections.

Georgia has a mixed electoral system. A total of 73 parliamentary seats are allocated by majority vote in single-member constituencies, while another 77 seats are distributed on the basis of partly lists in a nationwide proportional representation system. The elections on 8 October constituted the first round of the parliamentary elections. A run-off election was held on 30 October, in the single-member constituencies where no candidate secured more than half of the votes during the first round.

The key electoral legislation includes the 1995 Constitution, the 2011 Election Code, the 1997 Law on Political Unions, The 2004 law on Broadcasting, the 2008 Law on the State Audit Office, as well as the Criminal Code, the Administrative Offences Code, the General Administrative Code, and decrees and ordinances of the election administration.

NGOs and some political parties have recommended replacing the mixed election system with a fully proportionate election system, but this proposal has not realized. However, the election code was amended prior to the elections, in accordance with recommendations made by the Council of Europe's Venice Commission and a 2015 decision by Georgia's Constitutional Court, to say that the size of single-member constituencies cannot deviate by more than 15 percent from the national average in terms of the number of voters.

While this improvement addressed the key shortcoming of the previous electoral system, other legislative initiatives aimed at improving this system were rejected. The parliament voted against including a provision for securing at least 30 percent representation of each gender on electoral party lists, in line with the UN targets. A total of 84 percent of the deputies in the new parliament are men.

The threshold for parties to gain any seats in the parliament through the proportional representation system was kept at five percent. At the same time, the parliament increased the percent of votes needed for candidates to be elected by majority vote from 30% to 50%+1. Under the new provision, a candidate must obtain at least 50% +1 of the total number of valid votes in the constituency to be elected. If no candidate reaches this threshold, a second round of elections is held between the two candidates who received the highest number of votes.

In some polling stations where there were major irregularities, the results were declared void for both the majoritarian race and the proportional lists. While repeat voting was only held in majority elections, the annulment of the results of the first round of elections may also have had consequences for the election of candidates through proportional party lists in those cases where political parties were close to the nationwide election threshold of five percent. In this case, even few "lost" votes could have significant consequences.

The current system could thus empower groups and individuals who would like to influence election by intrusive acts, such as attacking polling stations. Therefore it is our recommendation to amend the election law to state that repeat voting also will be organized with respect to the proportional list election when the voting results from the first round of elections are annulled.

Election administration

The elections in Georgia are administered by a three-tiered structure of election commissions: the Central Election Commission (CEC) and its staff, the District Election Commissions (DECs) and the Precinct Election Commissions (PECs).¹ The CEC is composed of a chairperson and 12 members, five of whom are appointed by the parliament and seven by qualified political parties.² DECs and PECs also consist of 13 members at all level, seven of whom are nominated by qualified political parties and six of whom are

1 Article 2, par. r of the Election Code of Georgia.

2 Article 10 of the Election Code.

appointed by higher commissions.³ Three of the 13 CEC members, are women, including the chairperson are currently women.

Some NGOs and political parties raised concerns about the lack of impartiality and transparency of the process of electing DEC members, which took place in absence of clear selection criteria.⁴

As for election precincts, the 2016 parliamentary elections were held at a total of 3634 election precincts in 73 majoritarian election districts.⁵ Moreover, in accordance with the election law, 11 special polling stations were established in penitentiary establishments and medical facilities.⁶ Fifty-six election precincts were set up abroad for individuals living outside Georgia. In addition, two military election precincts were created in Afghanistan, namely Bagram and Mazar E-sharif.⁷

The CEC introduced a number of important procedural changes ahead of the 2016 parliamentary elections, including a simplified process for verifying personal data in the unified list of voters⁸ and a new, user-friendly webpage, which is fully adapted for use by visually impaired voters.⁹ For the first time, interested stakeholders had the opportunity to watch the vote count by the CEC online as it was broadcast using a 360-degree video camera.¹⁰ The CEC also took steps to facilitate the participation of persons with disabilities in the elections.

The CEC Training Center organized trainings on relevant aspects of the electoral process for members of DEC and PECs, political parties, domestic civil society observers, media and others. New guidelines for PEC and DEC members were developed and translated into Azerbaijani and Armenian. A distance learning program was also available for electoral stakeholders.¹¹

3 Article 20 of the Election Code.

4 <http://www.isfed.ge/main/1034/eng/> ISFED Report of Monitoring a Competition for Selection of District Electoral Commission Members

5 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

6 <http://cesko.ge/res/docs/gamonaklisi.pdf>

7 <http://cesko.ge/res/docs/gamonaklisi.pdf>

8 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

9 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

10 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

11 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

A total of 19 political parties and 6 election blocs were registered for the 8 October parliamentary elections.¹² Furthermore, 57 initiative groups were registered by the CEC for the upcoming elections. The CEC rejected/revoked the registration of 28 political parties.¹³

Campaign environment

One of the main responsibilities of the authorities during elections is to ensure that election campaigning can be conducted in an open and free atmosphere in which candidates, parties or voters are not subjected to violence, intimidation or retribution of any kind.¹⁴ During the 2016 parliamentary elections, the campaign environment was generally competitive and calm; however, there were some serious incidents. Civil society representatives and various political parties documented and reported alleged cases of intimidation/harassment based on political affiliation, dismissal from work on political grounds, vote buying, participation of unauthorized individuals in the campaign and misuse of administrative resources.¹⁵

The Inter-Agency Task Force for Free and Fair Elections (IATF) is an auxiliary instrument operating under the Ministry of Justice, which was responsible for facilitating the free and fair conduct of the 2016 parliamentary elections.¹⁶ The IATF is chaired by the minister of justice and includes high-ranking officials from various government bodies. Its mandate includes issuing recommendations to state agencies, the CEC and political parties to take “relevant actions in a reasonable timeframe,” according to the election code.

The IATF held weekly sessions during the parliamentary elections and issued four official recommendations to various government bodies. It also referred a number of cases to law enforcement for investigation and prosecution and to the CEC for taking appropriate measures. The role of the IATF was evaluated positively by NGOs and political parties. However, some of them felt that issuing only non-binding recommendations was not a sufficient means of sanctions.

According to civil society representatives, the level of intimidation and political violence decreased compared to previous elections. However, they still reported a number of alleged cases of provocative actions of political parties and their supporters against opponents, including physical attacks.

The IATF took a strong position on violence and intimidation. In particular, the IATF urged political parties and the CEC to “ensure that their activists and supporters refrain from [...] conducting any counter campaign” in order to “prevent any verbal and physical confrontation on political grounds”. Several political parties publicly condemned violence in a joint video statement and pledged not to engage in violence.

The use of other, more sophisticated means of putting pressure on voters was also denounced by civil society. For example, the Georgian Young Lawyers Association (GYLA) described the collection of personal data of voters as a “dangerous tendency of indirect influence on voters”. According to this organization, various political parties recorded personal information, including the name and personal ID number of socially vulnerable citizens (such as representatives of ethnic minorities and IDPs) without stating any reason.

12 As of 8 September 2016, <http://cesko.ge/eng/list/show/109090-tsentruri-saarchevno-komisi-shualeduri-angarishi>

13 As of 8 September 2016, <http://cesko.ge/eng/list/show/109090-tsentruri-saarchevno-komisi-shualeduri-angarishi>

14 1990 Copenhagen Document, para. 6-8.

15 <http://www.isfed.ge/main/1100/eng/p.1>

16 The IATF was established for the 2008 elections, however, its legal framework was set up in 2011.

Use of administrative resources

Georgian legislation prohibits candidates from using administrative resources, exercising official duties or acting in an official capacity during canvassing and election campaigning. Misuse of administrative resources during elections is subject to sanctions.¹⁷ In connection with the 2016 parliamentary elections, the International Society for Free Elections (ISFED) and other civil society representatives expressed concern about the possible use of administrative resources by officials during election campaigning. Civil society also raised concerns over budgetary changes made to local budgets in violation of the election law.¹⁸

Hate speech by officials

There is no universally accepted definition of “hate speech.” However, recommendation 97 (20) on “hate speech” adopted by the Council of Europe’s Committee of Ministers covers “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including nationalism, ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”¹⁹ According to this recommendation, public authorities, institutions and officials “have a special responsibility to refrain from statements, in particular to the media, which may reasonably be understood as hate speech.”²⁰

Xenophobic attitudes were present in the media, the TV channel Obiektivi being an example.²¹ Moreover, homophobic and transphobic attitudes were widely demonstrated by members of the ruling party and others during the pre-election period, in particular in connection to an initiative to introduce a gender specific definition of marriage into the constitution – see the section entitled “Elections followed by spike in homophobic and transphobic incidents”.

Participation of national minorities

Georgia is an ethnically diverse country, with 16 percent of its population made up of national minorities.²² The most numerous minorities are Azeri (6.5 percent) and Armenians (5.7 percent).²³ Although national minorities enjoy legal protection under the Georgian Constitution, the integration of minorities in political or civic life remains limited, especially in regions where minorities are compactly settled.²⁴

In most cases, representatives of ethnic minorities have been nominated as candidates competing for parliamentary seats by majority vote.²⁵ Only a small number of representatives of ethnic minorities have been included on the lists of political parties.²⁶ As a result, national minorities have long been underrepresented in the parliament. There were seven MPs representing ethnic minorities in the parliament from 2012 to 2016 (4.5 percent of the total), and six such MPs in 2008-2012. In 2016 the number increased to 11 MPs, which constitute 7 per cent of the Parliament

Traditionally, one of the main obstacles for minority electoral participation has been the lack of knowledge of the state language since most minorities only speak their own languages. Under national law, Georgian authorities are required to ensure the inclusion of national minorities in the electoral process. During this year’s elections, progress was made in this respect.

17 Article 88 of the Election Code.

18 See GYLA Batumi – increase of municipality budget.

19 The Council of Europe’s Committee of Ministers, Recommendation 97 (20) of 30 October 1997.

20 See the previous footnote.

21 Source ECRI REPORT ON GEORGIA (fifth monitoring cycle), Adopted on 8 December 2015 Published on 1 March 2016, <http://www.coe.int/t/dghl/monitoring/ecri/country-by-country/georgia/GEO-CbC-V-2016-002-ENG.pdf>

22 [http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522341/EXPO-AFET_SP\(2014\)522341_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522341/EXPO-AFET_SP(2014)522341_EN.pdf) p. 15

23 [http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522341/EXPO-AFET_SP\(2014\)522341_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/briefing_note/join/2014/522341/EXPO-AFET_SP(2014)522341_EN.pdf) p. 15 see the map <http://csem.ge/map-series-by-the-centre-for-the-studies-of-ethnicity-and-multiculturalism-csem/>

24 <http://www.wicge.org/uploads/attachments/56NGOSshadowReportICCPR788.pdf>

25 This applies to candidates in Akhalkalaki, Ninotsminda and Marneuli.

26 The first ten candidates on party lists almost never include any representatives of ethnic minorities. MONITORING RESULTS OF IMPLEMENTATION OF THE NATIONAL CONCEPT AND ACTION PLAN ON TOLERANCE AND CIVIL INTEGRATION, p. 15.

For Election Day, the CEC translated ballot papers, posters informing about polling station premises and polling procedures, rules for marking ballots and the unified voters' list (table version and version for publishing at the polling stations) in minority languages.²⁷ A total of 344 bi- or tri-lingual election precincts were created in minority regions.

Media

In the 2015 Freedom House report on Freedom of the Press, Georgia is listed among the partially free countries. It is considered "to have the freest and most diverse media environment in the South Caucasus."²⁸

Television remains the main source of information for most Georgians. Although none of the major Georgia media outlets is known to be directly owned by a politician, questions about ownership and links between media companies and politicians have arisen in two cases. In particular, a legal dispute over the ownership of the TV station Rustavi 2 began in 2015. Despite the civil and private nature of this case, concerns were raised that this trial was more than a simple business dispute.²⁹ Another conflict over ownership took place in late 2015 with respect to Maestro TV. Both of these media outlets were independent from the ruling party. Various studies showed that the media environment remained diverse and free during the 2016 parliamentary elections.³⁰ However, imbalance in the coverage of election participants remains a problem for all TV channels.³¹

Domestic and international observers

As of 23 September 2016, 74 local and 32 international observer organizations had been registered with the CEC or the relevant DEC to observe the parliamentary elections. In addition, 34 media organizations were accredited to cover the elections.³² In general, the authorities were cooperative and welcomed NGO participation. This is in line with international standards for free and fair elections, which underline the central role of domestic and international observers.

However, verbal attacks on civil society by public figures remain a problem in the country. For example, former Georgian Prime Minister and influential political figure Bidzina Ivanishvili made a public comment on 22 September, calling the NGO sector "dirty and polluted."³³ Politicians and public figures should refrain from these types of statements, which may contribute to hostility and attacks against civil society organizations, including those observing elections (as in the case of the observers from our mission – see below).

27 <http://www.cesko.ge/eng/static/2187/informatsia-etnikuri-umtsiresobebistvis>

28 <https://freedomhouse.org/report/freedom-press/2015/georgia>

29 See more at: <http://www.transparency.ge/en/blog/rustavi-2-s-timeline-aftermath-2012-parliamentary-elections>

30 See. http://www.mdfgeorgia.ge/geo/view_gallery/557

31 [http://mediamonitor.ge/files/09-09-2016%20-%20MM%20%E2%80%93%20TV%20News%20by%20CJE%20\(Eng%20%E2%80%93%20Key%20findings\).pdf](http://mediamonitor.ge/files/09-09-2016%20-%20MM%20%E2%80%93%20TV%20News%20by%20CJE%20(Eng%20%E2%80%93%20Key%20findings).pdf)

32 <http://cesko.ge/eng/list/show/109090-tsentraluri-saarchevno-komisiis-shualeduri-angarishi>

33 <http://humanrightshouse.org/Articles/21896.html>

This chapter summarizes the main findings from the first round of the elections held on 8 October 2016.

In the overwhelming majority of the polling stations observed, the voting process was calm and the election procedure was generally observed. However, in several polling stations, our monitors observed irregularities.

While the voting was conducted in an orderly manner in most cases, the situation deteriorated in some cases shortly before the closing of the polls when groups of unidentified individuals gathered around polling stations. Three such incidents were observed by our mission. Just before closing, polling station no. 53 in Zugdidi region was surrounded by aggressive voters who started to fight.

Jikhashkari incident

In the same region, in polling station no. 79 in Jikhashkari village, the vote count was disrupted by unidentified men who physically attacked our observers and stole their phones. One observer was injured. Police officers were present in and around the polling station, but did not intervene in order to protect our observers and their property. When the observers arrived at a local police station to file complaints, they were questioned for 10 hours without any reasonable explanation.

Polling station no. 79 was located in electoral district no. 66 in Zugdidi, Western Georgia. The main opposition party, the United National Movement (UNM) fielded former first lady Sandra Roelofs as their candidate in this district. The high profile candidacy of Ms Roelofs made the seat one of the more contested in Georgia.

The attack took place shortly before midnight and appeared to have been well organized. In addition to destroying ballot papers, the group of approximately 10 attackers forcibly seized and destroyed devices containing footage of themselves, including the mobile phones of our observers. The attackers did not appear intoxicated, as some press reports later claimed.

Police and other uniformed law enforcement officials who were present in- and outside the premises did not intervene to put an end to the attack. While there was no open collaboration between the attackers and police, the passive behaviour of the police officers present suggests a degree of acquiescence. The attack resembles a calculated attempt by forces connected to the ruling party to influence the elections.

Immediately after the attack, our observers went to Zugdidi Central Police Station to lodge complaints and undergo forensic examinations. The impression we got was that the police officers at this station were reluctant to take the case seriously. In the following weeks, all of our observers returned to Zugdidi to provide additional statements, identify suspects and evidence and facilitate an effective investigation to the maximum extent possible. Our observers have cooperated with the police and the investigation in good faith throughout all this time. They are represented by lawyers from Georgia's Young Lawyer Association (GYLA).

A criminal case was opened into the incident on the basis of articles 162 (1) and 163 of the Criminal Code of Georgia (obstructing the expression of the will of the people and obstructing the work of an electoral commission). Our observers were granted the status of victims. However, Criminal Code articles 162 and 163 do not seem to apply to the physical attacks, theft and threats to which our observers were subjected.

Two men have been detained so far. The second one of them was detained on 3 November. He denies involvement, according to press reports, but confirms that he is a representative of Georgian Dream, the governing party, which won the contested seat in electoral district no. 66 in Zugdidi.

The General Inspectorate of the Ministry of Internal Affairs also interviewed two of our observers on 12 October, ostensibly with the aim of determining whether to open a criminal or administrative case into possible dereliction of duty by local police. In late November, one of our observers received a letter in Georgian about the steps taken by the ministry. According to the letter, which is dated 17 November, the general inspectorate is conducting “an internal personnel check”. As far as we understand, this procedure is neither an administrative nor criminal inquiry, and we are concerned that this check does not reflect the gravity of the incident, where Ministry of Internal Affairs and police officials were at least negligent in the execution of their duties.

In the village Kizil-Ajlo in Marneuli district, polling station no. 48 was forced to close after a physical altercation between aggressive unidentified individuals and PEC members and other individuals authorized to be present in the polling station, including police. Our observers, who arrived at the polling station shortly after the incident, were initially denied entrance to the polling station, but were finally allowed to observe the vote count. The vote count at this polling station was carried out with numerous violations.

The observation mission would like to remind the Georgian authorities that the right of international election observers to monitor the electoral process is enshrined both in Georgia’s election code and in international documents that Georgia is bound to respect, such as the OSCE Copenhagen Document. The Georgian government consequently has an obligation to protect accredited international observers. We therefore request that the Georgian authorities investigate the incident in Jikhaskari swiftly and effectively, in order to identify and punish the perpetrators and restore the stolen property to our observers (including footage of the incident and other materials related to election observation).

According to the CEC, all PEC members were trained and observers overall assessed their performance positively. However, in some cases, the opening of polling stations was delayed due to the lack of procedural knowledge of the PEC troika. The inking procedure, aimed at preventing multiple voting, was not systematically implemented.

Especially in regions where national minorities are settled, a number of procedural shortcomings were observed. Such irregularities included the presence of unauthorized individuals or groups of individuals (many of whom were identified as proxies of candidates and parties) in polling stations. Some of these individuals took on a leading role in the work of the election commissions.

In other cases, observers reported procedural irregularities during the vote count. For example, votes were counted silently, although the election code requires that the content of each ballot should be announced, the signatures of the voters who cast ballots were not counted before the votes, and proxies of parties and candidates interfered with the process. In a few cases, apparently invalid ballots were counted as valid in favour of the ruling party.

Poor organization of the vote by election commissions resulted in overcrowding, long queues and tension in many polling stations. Some polling stations were not up to standard: small and poorly equipped premises were reported from all monitored regions. Most of the monitored polling stations did not provide proper access for disabled persons.

Repeat voting

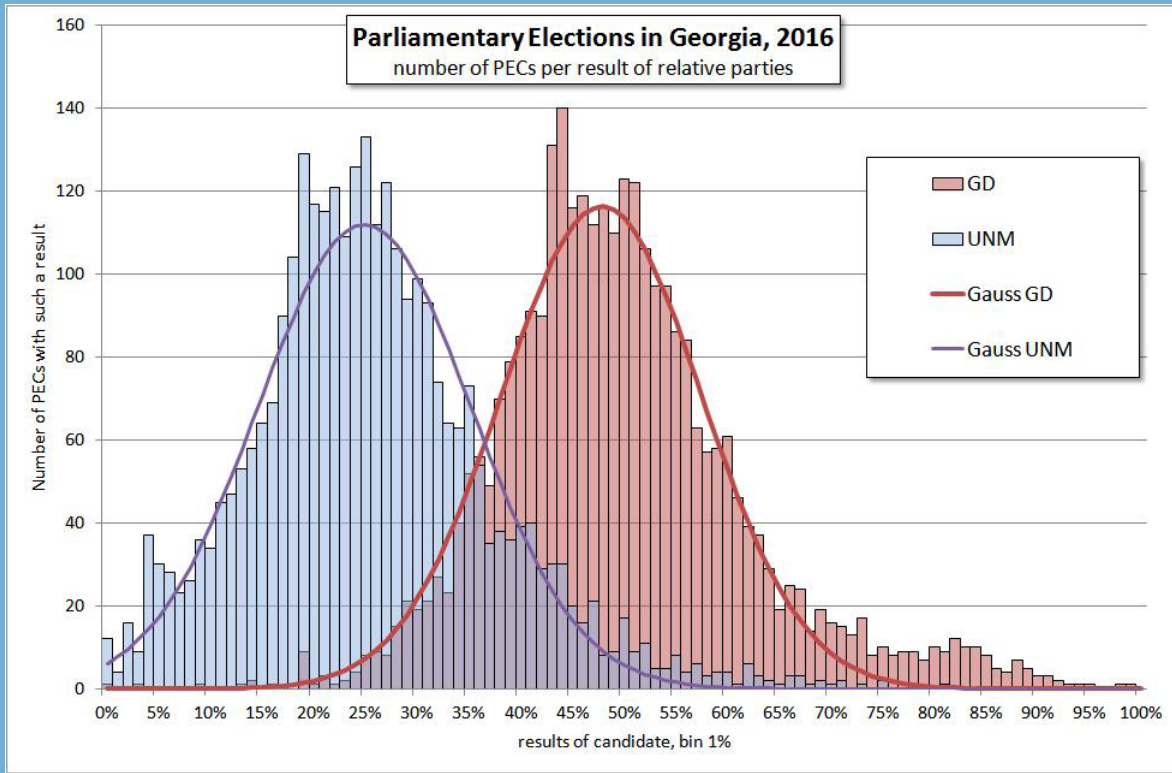
The mission did not observe the repeat voting that took place in a few polling stations on 22 October 2016, including in Jikhaskhari and Kizil Ajlo.

General overview

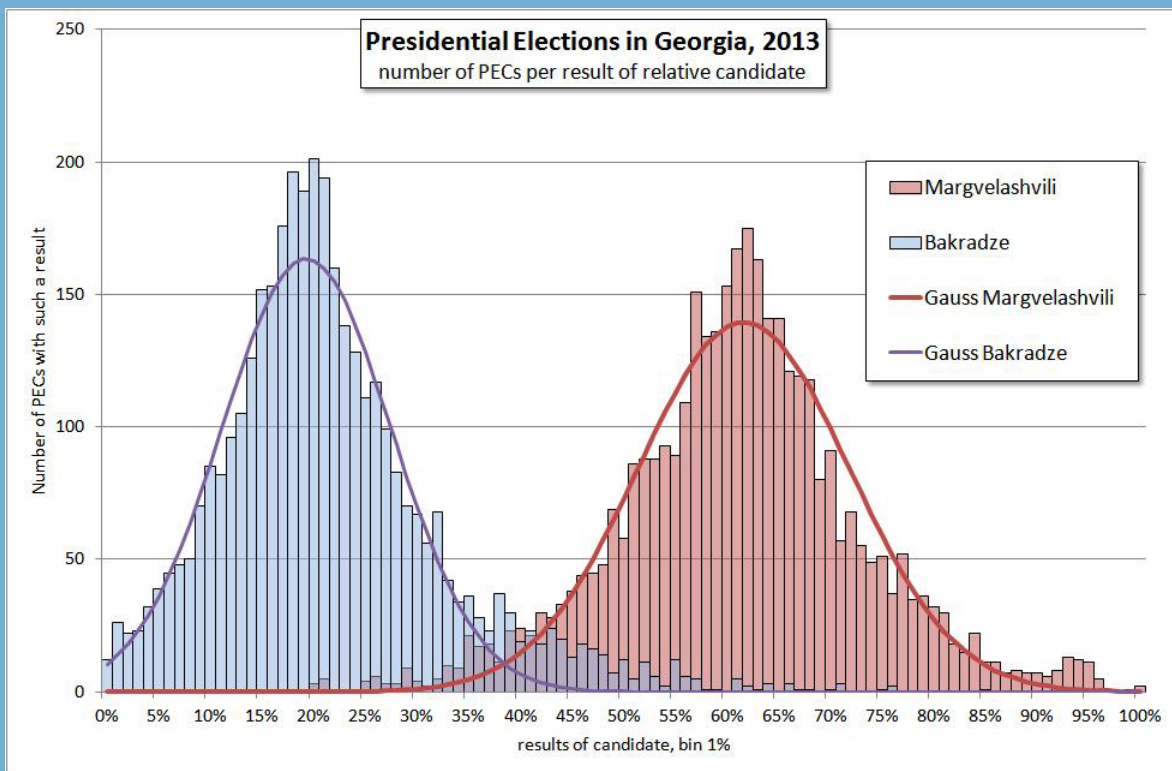
We analysed data from a total of 3045 PECs (about 82 percent of the total), published by the CEC at its website at 15:00 on 9 October 2016. No major irregularities were revealed by the statistical analysis of the results of the two leading political parties. There were, however, minor deviations from the expected wave-shaped curve, which describes the distribution of votes for the two parties. The results of the Georgian Dream party in the range from 70 to above 90 percent could be a matter of further investigation. This irregularity concerns the results reported from around 185 polling stations (i.e. about 6 percent of the total), which could not significantly have altered the overall results. Still, this irregularity may have prevented small parties from reaching the five percent election threshold.

This sample allows us to conclude that statistical distributions were as normal as they were in 2013. The main bulk of the data corresponds with expected regularities and patterns.

As regards the small-scale deviations from the expected distribution in regions that reported a very high level of support for the Georgian Dream party, it is worth mentioning that a similar distribution of results was observed for the United National Movement candidate in 2013. In other words, there was a similar distribution of results in both elections, in favour of the incumbent party at the time. It looks like parties have swapped sides. Were such deviations to increase in the future, it may signal a deterioration of the electoral system. We have observed similar processes in other countries of post-Soviet region.



(The results of the two leading contending parties in the 2016 parliamentary elections. Official data for 82% of the PECs.)



(The results of the two leading contenders in the 2013 presidential elections. Official data for 100% of the PECs.)

Agitation on election day/control of the voting process

The joint mission visited and observed the voting procedures in more than 100 polling stations when the second round of the parliamentary elections took place on 30 October 2016. This time, the monitoring of our observers was not restricted in any way.

In many cases, observers noted that unauthorized individuals lacking accreditation collected information on voters. In most cases, these individuals were standing in the vicinity of polling stations and marking specifically prepared voter lists when selected voters arrived. Most of these individuals declined to identify themselves and their institutional affiliation when asked by observers from our joint mission. However, some of them confirmed their affiliation with the main parties or their candidates, or the “local government”, or even called themselves “agitators” and said that they also had “assisted” voters to reach the respective polling stations (e.g. in the Samegrelo region). Buses bringing groups of voters to polling stations were observed in the Samtskhe Javakheti region. These types of incidents, which were widespread in the observed regions, could be a sign of the use of administrative resources and voter bribing to influence voters.

The performance of the electoral commissions varied. In many cases, commission members were not properly trained and widespread procedural shortcomings were observed. However, these shortcomings did not influence the voting results.

In many polling stations, semi-professional cameras were installed to record the casting of votes. In some cases, these cameras belonged to observers who did not indicate their institutional affiliation. The purpose of the recording was apparently to prevent ballot stuffing. This, together with the fact that a high number of observers was present in all polling stations (the number was at least as high as during the first round) shows that public confidence in the independency of the work of the PECs is still limited.

The majority of the polling stations observed were not accessible to people with disabilities, and many of the premises used were generally unsuitable, e.g., because they were small, dark, cold and poorly equipped.

Overall the joint mission observers positively assessed the vote count in the monitored polling stations. Most problems reported in relation to the closing of the vote and the vote count concerned the use of other techniques for marking and folding ballots than those prescribed. Such ballots made up around 15 percent of the overall number of ballots cast for one candidate and were reported from PECs no. 5 (DEC no. 23) and PEC no. 52 (DEC no. 43).

Representation of women in Georgia's parliament

The issue of equal participation of women in politics remains one of the key challenges with respect to women's rights and gender equality in Georgia, where women make up 54 percent of the overall population.

In the 2015 Gender Gap Index compiled by the World Economic Forum, Georgia ranked 82nd out of 145 countries.³⁴ According to statistics provided by the Inter-Parliamentary Union, as of August 2016, Georgia ranked 147 among 193 countries classified by descending order of the percentage of women in national parliaments.³⁵

In the 2016 parliamentary elections, women won 24 out of 150 seats in the parliament (16 percent), which represented modest progress in terms of women's representation compared to previous years. In the 2012 parliamentary elections, women secured 12 percent of the total number of seats, while women made up only 6 percent of the deputies elected in the 2008 parliamentary elections.

In spite of the progress, women remain considerably underrepresented in politics in Georgia. In order to live up to international standards on equality, Georgia needs to do more in terms of employing available legislative tools. Mandatory gender quotas for political party lists could be an efficient and fast way to achieve greater gender balance in politics.

Georgia enacted its first law on Gender Equality in 2010, which was followed by the adoption of the first Gender Equality Action Plan in 2011. In 2011, financial incentives were also introduced for gender representation on party lists. According to this initiative, political parties/blocs that include at least three women among every 10 candidates on their election lists are eligible for an additional 3 percent state funding. However, in the 2016 parliamentary elections, only 4 out of 25 parties/blocs made use of this possibility. Thus, the effect of the voluntary quota system was limited.

The year 2015 was noticeable with respect to public and parliamentary debates on the establishment of a quota system. Civil society organizations together with the Public Defender of Georgia supported the so-called 50/50 initiative of the Women's Movement, which was aimed at ensuring that every second candidate included on party election lists would be a woman. Unfortunately, the parliamentary committee on legal issues rejected this and other proposed quota models.³⁶ In the absence of a mandatory quota system, a number of parties expressed willingness to use voluntary internal gender quotas in the 2016 parliamentary elections. However, this initiative was not supported by most contestants, including the United National Movement and the Georgian Dream party. As shown by infographic presented by the National Democratic Institute (an American NGO), women candidates made up 17 percent of all candidates competing for seats by majority vote and 37 percent of the candidates included on party/bloc lists.³⁷

Georgia is party to key international and regional human rights instruments that directly or indirectly address the issue of women political participation, including the Convention on the Elimination of All Forms of Discrimination against Women. It has signed the Beijing Declaration and the Beijing Platform for Action. All these instruments enjoy pre-eminence in the Georgian legal system in so far as they do not contradict the

34 Notably, in 2014 Georgia was ranked 114th (score 0.089), and in 2013 – 94th (score 0.111). The Global Gender Gap Report 2015, World Economic Forum, p.178-9, accessed on 21 September 2016 at <http://www3.weforum.org/docs/GGGR2015/cover.pdf>

35 "Women in National Parliaments", Inter-parliamentary Union, accessed on 21 September 2016 <http://www.ipu.org/wmn-e/classif.htm>

36 Annual report: The Situation of Human Rights and Freedoms in Georgia, The Public Defender of Georgia p.560-1, accessed on 21 September 2016 at <http://www.ombudsman.ge/uploads/other/3/3892.pdf>

37 "Infographic: Women's Political Participation in Georgia's 2016 Election by the Numbers", National Democratic Institute, accessed on 21 September 2016, <https://www.ndi.org/node/24079>

Constitution of Georgia.³⁸ The 1995 Constitution of Georgia, as the supreme law of the country, recognizes and protects universal human rights. In particular, it safeguards the right to equality and prohibits discrimination in accordance with international standards.³⁹

In conclusion, it should be noted that while the nomination and election of women to political decision-making positions are important first steps, they are not sufficient to ensure sustainable gender equality in politics. It is also necessary to undertake other concrete measures to ensure the full and equal participation of women in political and public life. The 2017 elections to local self-government bodies will be another important test of the readiness and commitment of the country's political leadership to promote women's participation in decision-making.⁴⁰ Increasing representation of women in local self-government bodies will be crucial step forward in promoting gender equality and improving women's socio-economic status in Georgia.⁴¹

38 The Constitution of Georgia (1995), Article 6 (2).

39 Ibid., Article 14.

40 Out of the candidates elected in the 2014 local elections in Georgia, 11.1 percent were women. None of the self-governing cities have women as mayors and only two out of 64 chairs of Sakrebulo (local representative bodies) are women, i.e. 3 percent. Cited in Human Rights Education and Monitoring Center, "Women & Political Representation Handbook on Increasing Women's Political Participation in Georgia", 2014, p. 17, accessed on 17 September 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680599092>

41 According to the UN Habitat, most local governments are inherently patriarchal. See. UN Habitat (2008) "Gender in Local Government. A Sourcebook for Trainers". Accessed on 25 September 2016, http://www.un.org/womenwatch/directory/pdf/Source_BK_9-May.pdf cited in Human Rights Education and Monitoring Center, "Women & Political Representation Handbook on Increasing Women's Political Participation in Georgia", 2014, p. 17 accessed September 17, 2016, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680599092>

Homophobic and trans-phobic campaign messages

The challenging situation for lesbian, gay, bi, trans and intersex (LGBTI) people was not given attention during the pre-election period. Most political parties did not address issues related to the legal status of LGBTI people in their election programs at all.⁴² This does not mean, however, that LGBTI issues were not on the political agenda; political parties often played on homophobic and transphobic attitudes in their campaigns.

The most dominant LGBTI-issue in the pre-election period was an initiative to introduce a gender-specific definition of marriage in the Constitution. It was presented as an initiative to protect traditional family values, and received support from prominent political figures, including from representatives of Georgian Dream (GD).⁴³

The proponents of the initiative proposed holding a referendum on whether to incorporate a provision defining marriage as a union between a man and a woman into the constitution. The initiative did not appear to be rooted in the ongoing political debate. Recognition of same-sex unions has neither been on the liberal human rights movement's agenda nor a topic of discussion in society. As pointed out in a statement by the NGO platform No to Phobia, the initiative resembled as "an effort to instrumentalize a specific social group and carry out a populist and hate-based policy in the pre-election process".⁴⁴

As part of this initiative, a Constitutional Council mandated by Parliament travelled to different towns of Georgia to inform people about the proposition. Some of these meetings were reportedly used to promote the Georgian Dream party. The atmosphere at these meetings was quite hostile, and persons supporting the LGBTI community who were present were in some cases prevented from speaking.

Public discussions on LGBTI issues, which took place during the pre-election campaign, were generally hostile and negative. Human rights organizations observed increased hostility towards LGBTI people and a spike in violent attacks on activists and random people assumed to be members of LGBTI communities.

Organizations monitoring attacks against LGBTI persons point to high numbers of reported incidents in 2016, among them homophobic/transphobic motivated attacks against 35 women⁴⁵. Both NGO's and the Public Defender say, however that the period after the first round of the elections has apparently been especially dangerous for transgender persons.⁴⁶ The post-election period has seen a number of attacks on transgender people. Zizi Shekeladze, a 32-year old transwoman was subjected to a brutal attack in Tbilisi on 14 October. She died from her injuries a month later. A suspect has been charged with involuntary manslaughter. Human rights activists reported that violent attacks on at least six transpersons occurred at the end of November and called upon the transgender community to be careful.

In the report "Legal Situation of LGBTI Persons in Georgia" the Human Rights Education and Monitoring Center also points out that by discussing gender and sexuality as Western imports "the issue became an instrument for the manipulation of the electorate by political subjects, effectively exploiting the former's national and religious sentiments."⁴⁷ Most politicians appear unconcerned with how political agitation shapes the

42 <https://emc.org.ge/2016/09/20/emc-144/>

43 Georgian Dream representatives expressed support for adopting such a definition, and as late as on 4 August 2016, Prime Minister Giorgi Kvirikashvili stated that his party would proceed with this initiative immediately after the elections. See: <http://www.tabula.ge/ge/verbatim/110492-premieri-qorts-inebis-definiciaze-am-cvilebas-konstituciashi-davafiqsirebt>

44 <http://women.ge/en/news/newsfeed/102/Statement%20of%20the%20Platform%20%E2%80%9CNo%20to%20Phobia%E2%80%9D%20on%20the%20Issue%20of%20Appointing%20a%20Referendum%20on%20a%20Human%20Rights%20Issue>

45 Reported by Women's Initiatives Supporting Group: <http://www.eurasianet.org/node/81501>

46 <http://www.eurasianet.org/node/81501>

47 https://ge.boell.org/sites/default/files/emc_legal_situation_of_lgbti_persons_in_georgia_eng.pdf

way LGBTI persons are perceived and treated in society.

In general, LGBTI issues are spoken of in moral and not legal terms, and these issues are linked to a supposed crisis of values. LGBTI issues are discussed against the backdrop of concepts of “traditional” values and religious and cultural norms rather than in the context of rule of law, equality and human rights. Such notions are being used to justify hate speech and discriminatory practices, effectively turning these issues into political rather than legal matters.⁴⁸ A telling example is that the inclusion of sexual orientation and gender identity in national anti-discrimination legislation was framed as the “legalisation of ‘sin and debauchery’” by political representatives and the clergy – even by candidates who voted for the law.⁴⁹

Georgia has recently included the right to freedom from discrimination of LGBTI people into anti-discrimination and hate crime legislation, as well as other key human rights laws and policy documents.⁵⁰ However, the lack of effective implementation mechanisms is a serious impediment to effective protection for this group. The generally high level of homophobia and transphobia in Georgia is an important reason why LGBTI persons continue to face violence, oppression, and harassment.⁵¹

It is welcome that Georgia accepted most of the recommendations regarding sexual orientation and gender identity included in the February 2016 report of the UN Universal Period Review (UPR) Working Group, thereby recognizing shortcomings in existing policies and practices and expressing intent to improve the situation. Among the UPR recommendations received by Georgia are recommendations to strengthen the implementation of existing legislation on discrimination and hate crimes, to combat all forms of social stigmatization, and to grant the Public Defender’s Office the right to impose sanctions.⁵²

After a long period where homophobia and transphobia have been an integral part of the dominant political discourse, where hate crimes have gone unpunished and where LGBTI people have had no reason to trust that state institutions will ensure their protection, there is an urgent need for the new Georgian government to demonstrate genuine commitment to change the situation.

The 2016 parliamentary elections unfortunately illustrate that inflammatory speech used against minorities during campaigning may contribute to violence against such groups.

(15)

48 http://women.ge/data/WISC%20HomoBiTransPhobia%20Study_for%20web.pdf (277)

49 http://women.ge/data/WISC%20HomoBiTransPhobia%20Study_for%20web.pdf (274)

50 SOGI-inclusive anti-discrimination legislation was adopted on 2 May 2014 (“On Elimination of all Forms of Discrimination”), and an addition to the Criminal Code on hate crimes (Article 53.3) was adopted on 27 March 2012, defining homophobic and transphobic motivated violence as an aggravating circumstance. The Georgian Human Rights Action Plan 2014-2015 and the corresponding strategy for 2014-2020 explicitly mentions human rights concerns regarding LGBTI people.

51 According to the 2014 World Value Survey, 86% of the Georgian population considers that homosexuality “is never acceptable” and 0% believes that “homosexuality is always acceptable”. See: http://women.ge/data/WISC%20HomoBiTransPhobia%20Study_for%20web.pdf. See also: https://ge.boell.org/sites/default/files/emc_legal_situation_of_lgbti_persons_in_georgia_eng.pdf (5). ILGA EUROPE’s Annual Review 2016 highlights the vulnerability of LGBTI activists in Georgia, including death threats against LGBTI activists, as well as attempted arson of the premises of the organization *Identoba*.

52 <http://ohchr.org/EN/HRBodies/UPR/Pages/GESession23.aspx>. Most comprehensive was recommendation 118.9 by Uruguay to “Redouble its efforts to ensure the rights of LGBTI persons and, in line with the Human Rights Committee’s recommendations, combat all forms of social stigmatization of homosexuality, bisexuality and transsexuality, and hate speech, discrimination and violence based on sexual orientation or gender identity”.

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