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Observation of the presidential election in Georgia (28 October and 28 November 2018)

Election observation report

Ad hoc Committee of the Bureau

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1. Introduction

1. At its meeting on 31 May 2018, the Bureau of the Parliamentary Assembly decided to observe the presidential election in Georgia and to this end set up an ad hoc committee comprising 31 members and the two co-rapporteurs of the Monitoring Committee. The Bureau also authorised a pre-electoral mission comprising eight members (one from each political group and the two co-rapporteurs of the Monitoring Committee). At its meeting on 29 June, the Bureau appointed Mr Andrej Hunko (Germany, UEL) as Chairperson of the Ad hoc Committee; the Bureau took note of the declarations on absence of conflict of interests of candidates for the observation mission and approved the composition of the ad hoc committee (see Appendix 1).

2. In accordance with the co-operation agreement signed between the Parliamentary Assembly and the European Commission for Democracy through Law (Venice Commission) on 4 October 2004, representatives from the Venice Commission were invited to join the ad hoc committee as legal advisers.

3. The Bureau sent a pre-electoral delegation to Georgia on 19 and 20 September 2018 to evaluate the state of preparations and the political climate in the run-up to the election (see Appendix 1).

4. At the end of its two-day visit to Georgia, the pre-electoral delegation found that the general environment was appropriate for the holding of democratic elections. However, following discussions with various interlocutors, it considered that it was necessary to stress that there was still room for improvement and that the period of time left until election day should allow at least some of these improvements to become



reality. It did not anticipate that there would be misuse of administrative resources during this election campaign, as was reported to have happened during previous elections. It underlined however the need for complete transparency concerning the campaign financing of all candidates.

5. The ad hoc committee was part of the International Election Observation Mission (IEOM), which included delegations from the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE) (OSCE PA), the European Parliament, the Parliamentary Assembly of the North Atlantic Treaty Organization (NATO PA) and the election observation mission of the OSCE's Office for Democratic Institutions (OSCE/ODIHR).

6. The ad hoc committee met in Tbilisi from 26 to 29 October 2018, where it met, among others, the main candidates running for election, the Chair of the Central Election Commission (CEC), the Head of the OSCE/ODIHR observation election mission and the members of his team, and representatives of civil society and the media. The programme of the ad hoc committee's meetings is set out in Appendix 2.

7. The international election mission observing the presidential election concluded that Georgia's 28 October presidential election was competitive and professionally administered. Candidates were able to campaign freely and voters made their choice without restrictions. As for the election campaign, the PACE delegation noted that the system of campaign expenditure was surprisingly generous, with money coming from the State budget and private donations – and this in a country with a high level of poverty. It also noted the presence of a considerable number of so-called “technical candidates” campaigning in favour of other candidates, using media time and public funding: this meant that there was not a level playing field, which did not improve public confidence in the democratic electoral process (see Appendix 3).

8. The election observation mission wishes to thank Mr Cristian Urse, Head of the Council of Europe Office in Georgia, and his staff, as well as the Secretariat of the Georgian delegation to PACE, for their help in preparing and organising the pre-electoral visit.

2. Political context and legal framework

9. On 28 October 2018, Georgia organised the 7th presidential election since the independence of the country in 1991. The Parliamentary Assembly of the Council of Europe has observed all elections in Georgia since 1995. The context of the 2018 presidential election differed considerably from that of previous presidential elections – this presidential election was the last time the Georgian electorate elected their president by direct vote. The current President Guirgvi Margvelashvili decided not to compete in the 2018 presidential election. As a consequence of the recent constitutional amendments, for this presidential election only,¹ the Georgian voters elected a president for a six-year term.² To be elected, the candidate must obtain the absolute majority of votes in the first round in order to be elected. Otherwise, a second round is organised two weeks after the official announcement of the first round results between the two candidates with the best results in the first round of the election.³

10. The legal framework is composed of the following texts: the Constitution of Georgia of 1995; the Organic Law of Georgia “Election Code of Georgia” (adopted in 2011, last amended in July 2018) (hereinafter “the Election Code”); the Organic Law of Georgia on Political Unions of Citizens of 1997; the Law of Georgia on the State Audit Office of 2008; the Law of Georgia on Broadcasting of 2004; the General Administrative Code of Georgia; and Sub-law legal acts adopted by the CEC.

11. The PACE observation delegation recalls that Georgia has signed and ratified the European Convention on Human Rights (ETS No. 5) and its Additional Protocol (ETS No. 9), which enshrine a number of principles crucial for an effective and meaningful democracy, such as the right to free elections (Article 3 of the Additional Protocol), freedom of expression, freedom of assembly and association, as well as prohibition of discrimination (Articles 10, 11 and 14 of the Convention).

1. After the 2017 constitutional amendments, as from the next presidential election, the President will be elected indirectly for a term of five years by the Electoral College (Article 50.1 of the Constitution of Georgia).

2. Article 2.10 of the Amendments to the Constitution of Georgia. Please note that the foregoing article belongs to the transitional provisions of the 19 October 2017 Amendments to the Constitution, and for this reason it is not yet contained in the Constitution of Georgia. Amendments to the Constitution of Georgia are available in Georgian at: <https://matsne.gov.ge/ka/document/view/3811818?publication=1>.

3. Articles 105 and 106 of the Election Code.

12. Constitutional amendments were adopted in 2010, 2013 and 2017 gradually reducing the powers of the President in favour of both the Prime Minister and the parliament. For instance, the President is not empowered to revoke the government without the agreement of the parliament; the appointment of governors is now in the hands of the Prime Minister. Since the 2017 Amendments,⁴ as noted by the Venice Commission,⁵ the constitutional reform process completed the evolution of Georgia's political system towards a parliamentary system by, *inter alia*, abolishing the direct election of the President and also by making the scope of presidential powers more circumscribed.

13. As a result of the 2017 constitutional reform, the direct election of the President by popular vote was abolished and replaced by a system of indirect election through an electoral college. The new electoral system will come into effect in 2024, after the 2018 presidential election. Furthermore, the powers of the President in a number of areas are to be limited. For example, the President will have no power to conduct international negotiations with foreign countries (Article 52). The President will have reduced powers in wartime, as a decision on the use of the defence forces is to be made solely by the Prime Minister and it will be necessary for the President to obtain the Prime Minister's consent to declare martial law or a state of emergency; moreover, the National Defence Council – a consultative body to the President – is to lose its permanent status and will only be convened in times of martial law (Article 71).

14. The Election Code was amended in 2016, 2017 and 2018, without broad political consensus, partly following the recommendations formulated by the Venice Commission and the OSCE/ODIHR in their Joint Opinion of December 2011.⁶ According to the Venice Commission and OSCE/ODIHR Joint Opinion of 2016, despite some positive changes, the Election Code could benefit from certain revisions to ensure the effectiveness of these new provisions, as well as their full compliance with Council of Europe standards and the OSCE commitments.⁷

15. In 2016, a number of amendments were introduced to the Election Code that applied to the presidential election, including the following:

- the presence of police officers outside a polling station without the Chair of the precinct election commission's request or approval can only be permitted under special circumstances, where it is absolutely necessary to protect public order and eliminate disturbances;
- special electoral precincts were no longer to be set up in military units throughout Georgia. Instead, military workers would cast their votes in the precincts closest to their duty stations. For such precincts, the maximum number of voters was 2 000;
- military voters were able to vote in presidential elections irrespective of their place of registration, if they had been stationed at their place of deployment for at least six months;
- military voters unable to leave their place of deployment due to their service or health conditions could vote through a mobile ballot box.⁸

3. Election administration, registration of candidates and voters

16. The presidential election was administered by a three-tier system, comprising the CEC at the national level, 73 district election commissions (DECs), and 3 637 precinct election commission (PECs).⁹ In order to ensure the universal suffrage of Georgian citizens serving in armed forces located abroad, two election precincts were established in Afghanistan. In addition, 10 special precinct election commissions were created in penitentiary institutions.

4. Constitution of Georgia: <https://matsne.gov.ge/en/document/view/30346?publication=35>.

5. Opinion of the Venice Commission: [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)005-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)005-e).

6. [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)043-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)043-e).

7. [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)003-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)003-e).

8. www.scribd.com/document/319340367/Pre-Election-Monitoring-of-Elections-for-the-Parliament-of-Georgia-and-Adjara-Supreme-Council-on-October-8-2016#from_embed.

9. <http://cesko.ge/eng/list/show/114988-informatsia-da-statistikuri-monatsemebi-2018-tslis-saubno-saarchevno-komisiis-tsevrta-archevisa-da-danishvnis-shesakheb>.

17. The CEC is the supreme body of the election administration. It manages and controls all levels of election commissions within its authority. It is composed of a chairperson and 11 members. Upon a recommendation by the President, the parliament elects five members of the CEC, while qualified political parties appoint six members. The term of office of the chairperson and members of the CEC appointed by the parliament is five years.

18. A DEC is a permanent territorial body of the election administration which oversees the process of implementation of the electoral legislation and ensures its uniform application. It is composed of 13 members. The CEC elects five permanent DEC members for a five-year term, while during an election period qualified parties appoint seven members; and the CEC elects one additional DEC member. On 4 August 2018, the CEC selected 72 DEC members from among 173 applicants and adopted a decree confirming their appointment.¹⁰

19. A PEC is a temporary territorial body of the election administration which ensures the conduct of elections in an electoral precinct, the implementation of the electoral legislation, the procedures' compliance with the electoral legislation during the polling, and ensures the protection of the rights of voters, representatives and observers. A PEC is composed of 13 members. An upper election commission¹¹ elects six members while qualified parties appoint the other seven PEC members.

20. According to some local non-governmental organisations (NGOs), appointments of temporary members of DECs were problematic, since among temporary members selected for 73 DECs, 14 were related either to officials of the electoral administration or other public officials. Similarly, in seven cases, supporters or activists of the ruling party were elected to commissions.

21. As for the composition of the DECs and PECs, many IEOM interlocutors alleged political affiliation of some members. In this regard, the PACE pre-electoral delegation in its statement at the end of its visit to Tbilisi on 20 September pointed out that the CEC was acting professionally and was preparing the election well. However, it considered that criticisms coming from civil society concerning the methodology used in a number of cases for the selection of members to lower election bodies, which led to suspicions of nepotism and/or political interest, should be taken into account, in order to increase public trust in election administration at all levels.

22. The work of the CEC was transparent: its sessions were open to representatives of the media accredited in the respective commissions, representatives of electoral subjects, observers from domestic observer organisations registered with the respective commission, and no more than two observers from an international organisation registered with the CEC.

23. According to the Constitution of Georgia, any citizen of Georgia who is eligible to vote may be elected as the President of Georgia if he/she is aged 35 or over, has lived in Georgia for at least five years, does not have dual citizenship, and has been living in Georgia for the last three years before the election.

24. According to the legislation, political unions of citizens have the right to nominate a presidential candidate. If the nomination is initiated by a group of voters, according to Article 97 of the Election Code, the nomination of a candidate for President of Georgia shall be approved by signatures of not less than 25 000 voters (0.75% of the total number of voters). For this presidential election, the CEC established it to be 25 923 voters. As for the verification of the supporting signatures, the CEC can only reject an entry based on the authenticity of the signature if the voter in question confirms in writing that he/she did not sign in support of the candidate.

25. For this presidential election, the CEC registered 25 candidates in an inclusive manner. Among these candidates, 19 were nominated by political parties and six by initiative groups. Twenty-one nominees were rejected for different reasons. The PACE observation delegation, during its pre-electoral and main observation missions, was informed by different interlocutors about a considerable number of so-called "technical candidates" and expressed its concern that these candidates campaigned in favour of other candidates, using media time and public funding, which meant that there was not a level playing field, which did not improve public confidence in the democratic electoral process.

10. Available in Georgian at: <http://cesko.ge/res/docs/20180804190340CG168.pdf>.

11. For PECs set up abroad, it is either the respective DEC or the CEC.

26. Among the registered candidates, the main ones were:

- Davit Bakradze of the European Georgia Party. Mr Bakradze chaired the Georgian Parliament from 2008 to 2012. This is the second time he has run for the presidency; in 2013, he ran on ticket of the United National Movement (UNM) and obtained 21.72% of the votes;
- Grigol Vashadze of the UNM-led coalition. Mr Vashadze was a Minister for Foreign Affairs from 2008 to 2012. He is a member of the UNM's political council, the party's governing body;
- Salome Zurabishvili was an independent candidate supported by the ruling party – Georgian Dream–Democratic Georgia (GDDG). Born to an immigrant family in France, she was invited to become the country's Foreign Minister in March 2004 by the then President Mikheil Saakashvili, but was removed from office in October 2005 after a confrontation with the parliamentary majority. In 2016, Ms Zurabishvili was elected a member of the Parliament of Georgia: she ran for the seat as an independent, but was politically backed by the GDDG party, which decided not to field a candidate against her. Although Ms Zurabishvili is outside the GDDG's 116-member parliamentary majority group and maintains the status of an independent lawmaker, her voting record and public statements have been closely aligned with that of ruling party lawmakers.

27. Citizens who are 18 years of age by election day have the right to vote. According to the CEC's data, as at 27 October 2018, the total number of voters amounted to 3 518 877. Georgia has a passive voter registration system, namely voters with a valid identification document or passport are included in the voter register based on their permanent registration. The Election Code determines a number of procedures of verification and corrections to the voters lists. Furthermore, relevant deadlines to challenge inaccuracies in the voters lists before DEC and the courts have been established. Specifically, it is prohibited to amend voters lists within the last 12 days before election day.¹² Any amendments between the 15th and the 12th day before the election day may be made only by a court decision. The interlocutors of the PACE observation delegation expressed confidence in the accuracy of the voters lists.

28. Out-of-country voters have the right to participate in the presidential election. In order to vote, they have to be on the Georgian consular registry. Otherwise, the voter should proceed through election registration at the consular office no later than on the 21st day before election day, i.e. by 7 October 2018. Out-of-country precincts are set up by the CEC based on the data provided by the Ministry of Foreign Affairs no later than on the 30th day prior to election day, for no less than 20 and no more than 3 000 voters. For the first round of the presidential election on 28 October 2018 the number of out-of-country voters was 5 475.

29. The provisions of Article 33 of the Election Code set out the procedure for granting the right to vote to people with disabilities or who are unable to vote at an electoral precinct (including voters in prisons, hospitals, in administrative detention, etc.) via the mobile ballot box list. However, the Election Code restricts this procedure. In particular, the number of voters entered on a mobile voting list shall not exceed 3% of voters on the whole voters list per electoral precinct. After reaching the maximum number of voters, the DEC shall decide on adding more voters to the mobile voting list by a majority of two thirds of members attending a DEC session.

4. Election campaign, funding and media environment

30. On 29 August 2018, the election campaign was formally launched and norms governing the conduct of the campaign were enacted. Nevertheless, some political parties and presidential candidates started to actively meet with voters before the pre-election campaign had officially started.¹³

31. The presidential candidates were able to campaign without restrictions. The Election Code does not foresee a campaign silence period and campaigning is not prohibited except in the media and in polling stations. The election campaign was widely covered by the national media and many issues were debated on social networks. The main active candidates were Davit Bakradze, Grigol Vashadze and Salome Zourabishvili. Ms Zourabishvili's campaign benefited from higher visibility, her large-size posters were not only on billboards but also on some privately-owned buses.

12. Articles 31.13 and 32 of the Election Code.

13. The first interim report of the pre-election monitoring by ISFED: www.scribd.com/document/389049136/ISFED-1st-Pre-election-Interim-Report-2018-Presidential-Election#from_embed.

32. The election campaign topics focused on controversial issues polarising public opinion rather than on issues within the presidential mandate. In particular, the statement of Salome Zourabishvili about the South Ossetia war in August 2008 – many understood her statement as indicating that the war was started by the Georgian Government and not by its northern neighbour, even if she later clarified her position. Among other controversial issues of the election campaign can be mentioned the government-proposed bill to legalise marijuana and the involvement of the Georgian Orthodox Church in the debate, while the involvement of religious organisations in the campaign is prohibited by the Election Code. While controversial topics dominated the campaign at national level, in the regions the campaign mostly focused on specific programmes concerning local problems.

33. The members of the IEOM were informed about isolated cases of violent incidents, of disruptions of campaign events, of concerns regarding the alleged misuse of administrative resources, of use by high-ranking public officials of institutional webpages for the purpose of campaigning and the participation of public employees in campaign events during working hours. The PACE observation delegation expressed its concern, including during its pre-electoral mission in Tbilisi, and noted that all these activities blurred the line between the State and the ruling party and were at odds with Council of Europe standards in the field of democratic elections.

34. Campaign finance is regulated by the Law on Political Unions of Citizens, the Election Code and the Law on State Audit. It is supplemented by regulations of the State Audit Office. The Election Code provides for both public (Article 56) and private (Article 54) funding. The State Audit Office is in charge of monitoring political party finances and election expenditure. According to Article 27.1 of the Law on Political Unions of Citizens, any citizen or legal entity may donate up to GEL 60 000 and GEL 120 000, respectively, per year to one or more political parties, via bank transfer.¹⁴

35. Article 26.1 of the Law on Political Unions of Citizens envisages that restrictions determined by this Law with regard to a political party shall also apply to persons who have declared their intention to stand for election and who use relevant financial and other tangible resources to achieve this intention. Article 26.3 of this Law further provides that a natural person who has declared his/her intention to run for election, and who incurs expenses devoted to this purpose, shall create a special fund. Such a person shall be subject to the same restrictions as an independent candidate under the Election Code.

36. Article 54 of the Election Code stipulates that a campaign expense shall mean an amount of funds designated for an election campaign of an electoral subject, as well as all kind of goods and services obtained free of charge, except free airtime. A candidate nominated by an electoral subject shall use the fund of this electoral subject. In the course of the elections, an electoral subject may not use financial means other than the respective electoral fund.

37. According to the Statement of Preliminary Findings and Conclusions of the IEOM, the total amount of donations received by presidential candidates was some 5 233 120 Georgian Lari (GEL) (one euro equals approximately 3 GEL). Some 3 634 380 GEL was donated to Ms Zourabishvili, 617 945 GEL to the UNM, and 599 613 GEL to European Georgia–Movement for Liberty (EG)¹⁵. Ms Zourabichvili spent GEL 4 084 077, EG/David Bakradze spent GEL 882 313, UNM/Grigol Vashadze GEL 864 525 and Industry Saves Georgia/Otar Meunargia spent GEL 222 094. All the other candidates collectively spent GEL 1 1326 10. Three candidates reported no expenditure for the given period. Only those parties which officially nominated candidates have a legal obligation to report on income and expenditure for the presidential election.

38. Party and campaign finance legislation lacks uniformity, and recent legislative amendments did not address long-standing recommendations of the Council of Europe's Group of States against Corruption (GRECO).¹⁶ The law provides for private funding for all candidates and public funding for those nominated by parties. The lack of regulation for obtaining loans for campaign expenses and reporting on the use of these funds potentially contributed to the imbalance of the playing field. Substantial imbalance in donations and excessively high spending limits did not contribute to a level playing field.

39. In this regard, the PACE delegation noted that the system of campaign expenditure was surprisingly generous, with money coming from the State budget and private donations – and this in a country with a high level of poverty.

14. These amounts are equivalent to approximately €20 000 and €40 000 respectively.

15. Statement of Preliminary Findings and Conclusions of the IEOM, p. 9.

16. Addendum to GRECO's Second Compliance Report, 2016.

40. The Georgian National Communications Commission (GNCC) ensures monitoring of media and observance of norms stipulated by the Election Code, and gives an appropriate response to violations.¹⁷ According to the Election Code, qualified electoral subjects are entitled to free airtime for political advertising. Qualified parties are provided with public finances to cover paid pre-electoral advertising only. The Law on Political Unions of Citizens states that political parties which became eligible for State funding in view of their results at the last general elections have the right to additional funding from the State budget during the year of a general election.

41. The Election Code envisages that broadcasters respect principles of impartiality and fairness during an election campaign while broadcasting social-political programmes on elections. A general broadcaster intending to cover an election campaign shall broadcast pre-election debates in a non-discriminatory manner and ensure participation of all qualified electoral subjects within its coverage area.

42. Some local NGOs criticised the GNCC for issuing an instruction to television companies that would impose an obligation on broadcasters to verify the credibility of public opinion polls related to elections. According to these NGOs, by imposing such an obligation, the GNCC called into question its own function of ensuring the equality of the media environment and access of voters to information. The GNCC imposed a fine on one of the major private television channels (Rustavi 2) for airing a paid political advertisement outside the election period without notifying the regulatory authority, despite the facts that broadcasters are subject to such obligation only during the pre-election period, namely 50 days prior to election day.

43. According to ODIHR media monitoring during the election campaign, the broadcast media largely complied with their legal obligation to allocate free airtime. This airtime was actively used by presidential candidates who had numerous opportunities to present their views through talk shows, debates and extensive free advertising.¹⁸ As for the election campaign coverage, the PACE delegation also noted that there is a lack of clarity on key aspects of the legal framework concerning the media. In particular, a considerable number of presidential candidates, used free airtime and paid advertisements to support other candidates, which resulted in uneven access to free airtime.

5. Election day

44. On polling day, the ad hoc committee divided into 15 teams which observed the election in Tbilisi and the surrounding areas and in different regions of Georgia. The members of the ad hoc committee noted that voting was well organised and electors made their choice without restrictions.

45. However, they found a number of shortcomings in the polling stations visited:

- a number of polling stations were overcrowded;
- the presence of a large number of citizens observers and media representing some candidates' interests, in particular the interests of candidates from the EG, UNM and GD while some observers were not able to state which party or candidate they were representing;
- the presence in some polling stations or in the vicinity of polling stations of so-called "co-ordinators" directing and "assisting" voters and noting who voted;
- the presence in the vicinity of some polling stations, in particular in the region of Marneuli (polling station No. 085) and in Bolnisi (polling station No. 036) of "co-ordinators" organising campaign activities in favour of some candidates and trying to influence voters' choices;
- in some regions, the organised transfer of voters by minibuses to the polling stations;
- access for people with reduced mobility was problematic in quite a large number of polling stations;
- isolated cases of photographing ballots in polling stations and family voting were reported;
- in some polling stations, cases were noted of unintentional non-compliance with legally required steps during the voting procedures;
- during the counting process, the observers noted cases of unintentional non-compliance with the procedures, mainly in rural areas, often due to a lack of knowledge of procedures.

17. Articles 50 and seq. of the Election Code.

18. Statement of Preliminary Findings and Conclusions of the IEOM, p. 11.

46. According to the official results announced by the CEC, the main candidates obtained the following results: Salome Zourabishvili – 38.64%; Grigol Vashadze – 37.74%; Davit Bakradze – 10.97%; Shalva Natelashvili – 3.74%; David Uzupashvili – 2.26%; Zurab Japaridze – 2.26%; Kakha Kukava – 1.33%. Other candidates – less than 1%. The two best-placed candidates, Salome Zourabishvili and Grigol Vashadze took part in the second round of the Presidential election on 28 November 2018.

47. The second round of the Presidential election was observed by Mr Andrej Hunko, Head of the delegation, and Ms Reina de Bruijn-Wezeman, accompanied by members of the staff of the Assembly and of the Venice Commission.

48. On 27 November 2018, in Tbilisi, the delegation met the two presidential candidates, Salome Zourabishvili and Grigol Vashadze, and the Head of the OSCE/ODIHR election observation mission and his staff, the Chairperson of the CEC, the representatives of the State Audit Office and media.

49. The ad hoc committee operated in the framework of an IIEOM, which also included delegations from the OSCE Parliamentary Assembly, the European Parliament and the election observation mission of the OSCE/ODIHR.

50. On polling day, the ad hoc committee split into three teams, which observed the second round in Tbilisi and in the regions. The IEOM noted that “[e]lection day proceeded in an orderly manner despite a tense competitive environment. Opening, voting and counting were assessed positively in almost all polling stations observed, and procedures were generally followed. The environment outside of the polling stations reinforced concerns about the ability of voters to vote free of fear of retribution, especially as candidates’ supporters were using lists of voters to note who was coming to vote. Citizen observers and media were often acting on behalf of political parties and in some instances interfered in the counting”.

51. On 29 November 2018, the CEC announced the results of the second round of the presidential election: Salome Zourabishvili obtained 59.52% and Grigol Vashadze – 40.48%. The turnout was 56.5%.

6. Conclusions and recommendations

52. The Assembly’s delegation concluded that the first round of the presidential election was competitive and professionally administered, candidates were able to campaign freely and voters made their choice without restrictions. On the voting day, the members of the PACE delegation noted, in some polling stations or in the vicinity of polling stations, the presence of so-called “co-ordinators” directing and “assisting” voters and noting who voted. Such practices must be excluded from the electoral process.

53. As for the election campaign, the PACE delegation noted that it focused on controversial issues polarising public opinion rather than issues within the presidential mandate. While controversial topics dominated the campaign at national level, in the regions the campaign mostly focused on specific programmes concerning local problems. As in the case of previous elections, the delegation was informed about isolated cases of violent incidents, of disruptions of campaign events, of concerns regarding the alleged misuse of administrative resources and the participation of public employees in campaign events during working hours. The delegation expressed its concern, including during its pre-electoral mission, and noted that all these activities blurred the line between the State and the ruling party and were at odds with Council of Europe standards in the field of democratic elections.

54. With regard to the legal framework, it provides an adequate basis for the conduct of democratic elections. The Election Code was amended during the period from 2016 to 2018, without broad political consensus, partly following the recommendations formulated by the Venice Commission and the OSCE/ODIHR in their Joint Opinions. Despite some positive changes, the Election Code could benefit from certain revisions to ensure full compliance with Council of Europe standards.

55. The work of the CEC was transparent; its sessions were open to representatives of accredited media and representatives of electoral subjects. The Assembly’s delegation noted the professional work of the CEC, which enjoyed the confidence of most electoral stakeholders, and the spirit of co-operation of members of the polling stations visited by the delegation on election day. However, the delegation heard also criticism from civil society concerning the selection of members to lower election bodies, which led to suspicions of nepotism and/or political interest.

56. With regard to the funding of the election campaign, the observation delegation noted that party and campaign finance legislation lacks uniformity, and that recent legislative amendments did not address long-standing recommendations of GRECO. The lack of regulation for obtaining loans for campaign expenses and reporting on the use of these funds potentially contributed to the imbalance of the playing field. Substantial imbalance in donations and excessively high spending limits did not contribute to a level playing field.

57. In this regard, the PACE election observation delegation noted that the system of campaign expenditure was surprisingly generous, with money coming from the State budget and private donations – and this in a country with a high level of poverty. It also noted the presence of a considerable number of so-called “technical candidates” campaigning in favour of other candidates, using media time and public funding, which meant that there was not a level playing field, which did not improve public confidence in the democratic electoral process.

58. As for the media coverage of the election campaign, the observation delegation noted that the broadcast media largely complied with their legal obligation to allocate free airtime. This airtime was actively used by presidential candidates, who had numerous opportunities to present their views through talk shows, debates and extensive free advertising. The PACE delegation also noted the lack of clarity on key aspects of the legal framework concerning the media. In particular, a considerable number of presidential candidates used free airtime and paid advertisements to support other candidates, which resulted in uneven access to free airtime.

59. The IEOM concluded that the second round of the presidential election in Georgia “was competitive and candidates were able to campaign freely, however one side enjoyed an undue advantage and the negative character of the campaign on both sides undermined the process. Elections were well administered; the lack of regulation of key aspects of the second round did not provide legal certainty. The campaign was marred by harsh rhetoric. Increased misuse of administrative resources further blurred the line between party and State. Private media continued to demonstrate sharp polarisation and clear bias, while the public broadcaster did not ensure editorial independence and impartiality. On election day, voters actively took part and the process was assessed positively, although the observed tracking of voters reinforced concerns about potential intimidation”.¹⁹

60. The PACE delegation also pointed out that “the second round of the presidential election confirmed concerns expressed by the Assembly’s delegation after the first round – in particular, the surprisingly generous system of campaign and party funding from the State budget and private donations. In addition, one can question the timing, just before the second round, of the government’s announcement of a debt-relief operation for hundreds of thousands of electors, financed by a private foundation affiliated to the ruling party’s leader. This increase in the role of money in politics in a country with a high level of poverty and without efficient control mechanisms did not contribute to public confidence in democratic elections” (see Appendix 4).

61. The PACE delegation considers that the Assembly should continue its close co-operation with Georgia’s institutions, by means of its monitoring procedure, and with the Venice Commission, in order to resolve the problems observed during the presidential election of 2018, to further consolidate the legal framework and to improve electoral practices.

19. Statement of Preliminary Findings and Conclusions of the IEOM for the second round of the election, p. 1.

Appendix 1 – Composition of the ad hoc committee

Based on the proposals by the political groups of the Assembly, the ad hoc committee was composed as follows:

Chairperson: Mr Andrej HUNKO, Germany*

Group of the European People's Party (EPP/CD)

- Ms Boriana ÅBERG, Sweden*
- Mr Corneliu Mugurel COZMANCIUC, Romania
- Ms Iryna GERASHCHENKO, Ukraine
- Ms Inese LĪBIŅA-EGNERE, Latvia
- Mr Georgii LOGVYNSKYI, Ukraine
- Mr Rónán MULLEN, Ireland
- Ms Bérengère POLETTI, France
- Mr Birgir THÓRARINSSON, Iceland

Socialists, Democrats and Greens Group (SOC)

- Ms Maryvonne BLONDIN, France*
- Mr Boriss CILEVIČS, Latvia
- Mr Etienne GRECH, Malta
- Ms Josephine ORTLEB, Germany
- Mr Stefan SCHENNACH, Austria

European Conservatives Group (EC)

- Lord David BLENCATHRA, United Kingdom*
- Sir Edward LEIGH, United Kingdom

Alliance of Liberals and Democrats for Europe (ALDE)

- Ms Reina de BRUIJN-WEZEMAN, Netherlands
- Mr Alfred HEER, Switzerland*
- Ms Nellija KLEINBERGA, Latvia
- Mr Andrii LOPUSHANSKYI, Ukraine
- Ms Olena SOTNYK, Ukraine

Group of the Unified European Left (UEL)

- Mr Paul GAVAN, Ireland
- Ms Miren Edurne GORROTXATEGUI, Spain
- Mr Andrej HUNKO, Germany*

Rapporteur of the Monitoring Committee

- Ms Kerstin LUNDGREN, Sweden

Venice Commission

- Mr Eirik HOLMØYVIK, Substitute member, Norway
- Mr Gaël MARTIN-MICALLEF, Legal adviser, Venice Commission

Secretariat

- Mr Chemavon CHAHBAZIAN, Head of the Election Observation and Interparliamentary Co-operation Division
- Mr Bogdan TORCATORIU, Administrator
- Ms Danièle GASTL, Assistant
- Ms Anne GODFREY, Assistant

* Member of the pre-electoral mission.

Appendix 2 – Programme of the meetings of the electoral observation mission (26-29 October 2018)

Friday 26 October 2018

- 13:00-13:20 Mr Kristian Vigenin, Special Co-ordinator, Leader of the short-term OSCE observer mission
- Mr Andrej Hunko, Head of the PACE Delegation
 - Ms Margareta Cederfelt, Head of the Delegation of the OSCE PA
 - Ms Laima Liucija Andrikiene, Head of the Delegation of the European Parliament
 - Ms Rasa Jukneviene, Head of the Delegation of the NATO PA
- 13:20-15:30 Briefing by the ODIHR election observation mission – Part I:
- Welcome: Ambassador Geert-Hinrich Ahrens, Head of Mission
 - Political background, media landscape and the campaign: Ms Gabriela Skulova, Political Analyst, and Mr Egor Tilpunov, Media Analyst
 - Legal framework, complaints and appeals: Ms Kseniya Dashutina, Legal Analyst
 - Election administration and voter registration: Ms Iuliia Shypilova, Election Analyst
- 15:30-17:00 Election law and administration – panel discussion:
- Ms Tamar Zhvania, Chairperson, Central Election Commission
 - Mr Mikheil Benidze, Executive Director, International Society for Fair Elections and Democracy (ISFED)
 - Mr Suikhan Saladze, Chairperson, Georgian Young Lawyers Association (GYLA)
- 17:30-19:00 Campaign and media – panel discussion:
- Mr George Gvimradze, News and Current Affairs Director, Georgian Public Broadcaster (GPB)
 - Mr Nika Gvaramia, Director General, Rustavi 2
 - Ms Eka Gigauri, Executive Director, Transparency International
 - Ms Tamar Khorbaladze, Chairperson of the Board, Media Development Foundation (MDF)
 - Mr Ivane Makharadze, Head of the Audio-Visual Media Services Regulation Department, Georgian National Communications Commission

Saturday 27 October 2018

- 09:00-11:55 Meetings with presidential candidates:
- Ms Salome Zourabichvili – independent candidate
 - Mr David Bakradze – “European Georgia–Movement for Liberty”
 - Mr David Usupashvili – “Free Democrats”
 - Mr Gregory Vashadze – United opposition “Strength in Unity”
 - Mr Shalva Natelashvili – Labor Party of Georgia
 - Mr Zurab Japaridze – “New Political Center–Girchi”
 - Mr Kakha Kukava – “Free Georgia”
- 12:10-13:10 Briefing by the ODIHR election observation mission – Part II:
- Election day procedures and observation forms: Ms Iuliia Shypilova, Election Analyst, and Ms Meaghan Fitzgerald, Deputy Head of Mission
 - Mr Anders Eriksson and Mr Max Bader, Statistical Analysts
 - Security: Mr Davor Čorluka, Security Expert
- 13:10-13:30 Regional briefing by the ODIHR EOM long-term observers for teams deployed in Tbilisi

Sunday 28 October 2018

Observation of elections

Monday 29 October 2018

08:00 Debriefing of the delegation

14:30 Press conference

Appendix 3 – Press release of the International Election Observation Mission (first round)

Voters had a genuine choice and candidates campaigned freely, but on an unlevel playing field, international observers say

Tbilisi, 29 October 2018 – Georgia's 28 October presidential election was competitive and professionally administered. Candidates were able to campaign freely and voters had a genuine choice, although there were instances of the misuse of State resources, and the involvement of senior State officials from the ruling party in campaigning was not always in line with the law, the international observers concluded in a preliminary statement released today. A substantial imbalance in donations and excessively high spending limits further contributed to an unlevel playing field, the statement says.

While the public broadcasters provided all candidates with a platform to present their views, the sharp polarisation of the private media and a lack of analytical reporting, along with negative campaigning and harsh rhetoric by participants, limited voters' ability to make a fully informed choice, the observers said. Legal changes that increased the representation of the ruling party at all levels of the election administration and the insufficient transparency in the selection of non-partisan members of lower-level commissions undermined public perception of their impartiality.

"In this election, Georgia showed the maturity of its democracy. This further raises expectations. Therefore, while praising the achievements, it is important to be aware of the shortcomings related to the campaign environment, finances and the legal environment in general," said Kristian Vigenin, Special Co-ordinator and leader of the short-term OSCE observer mission. "We hope that the Georgian people will actively participate in the second round and that the outcome will fully reflect their will."

While fundamental freedoms were generally respected and contestants were able to campaign freely, several campaign events were disrupted and some party offices or campaign materials were vandalized. The campaign was dominated by polarizing topics, negative campaigning and harsh accusations between the ruling and one of the opposition parties.

"Yesterday voting was well organized, and electors made their choice without restrictions", said Andrej Hunko, Head of the delegation from the Parliamentary Assembly of the Council of Europe. "An astonishing amount of money has been spent in the electoral campaign – and this in a country with a high level of poverty. Another point of concern was the substantial number of candidates apparently campaigning on behalf of others, thus undermining the equality of opportunity and weakening the citizens' confidence in the electoral process."

Margareta Cederfelt, Head of the delegation from the OSCE Parliamentary Assembly, said: "With yesterday's vote, Georgia proved that efforts are being made to improve its electoral process. I encourage all election stakeholders, and especially the media and civil society, to exercise the highest level of professional ethics, particularly during the campaign for the second round. I would like to commend the Georgian people, and the youth in particular, for once more showing their great commitment to democracy."

Concerns were raised about the collection of voters' personal data by the ruling party, and pressure associated with this practice was observed on election day. Voting was assessed positively, despite some procedural issues during counting and the fact that many citizen observers and media representatives acted on behalf of political parties.

Representatives of candidates and from citizen and international organisations are allowed to observe the entire electoral process, and accreditation was inclusive and professionally managed. During the pre-election period there were intense verbal attacks on the work and representatives of citizen observer groups by high ranking members of the ruling party and senior public officials. Nonetheless, the observation efforts of over 70 citizen observer organizations contributed to the transparency of the process.

"We welcome the competitive nature of the election and the high level of engagement by independent civil society organizations, but are concerned that some of these were targeted by verbal attacks by senior State office holders", said Laima Andrikiene, Head of the delegation from the European Parliament. "We also regret that Russia's occupation of South Ossetia and Abkhazia, and the decision by the de facto local authorities to close the administrative border line with South Ossetia for the elections deprived many Georgian citizens from casting their ballots."

A total of 25 candidates – 16 from political parties and 9 as independents – were registered in a process that was transparent and inclusive. Voter data were available for purchase, and there was no effective mechanism for checking the authenticity of support signatures. It became clear during the campaign that a significant number of candidates had registered so they could use public funding and free airtime to support other contestants, giving those an unfair advantage.

“Georgia is a positive example of reform, and a leader in Euro-Atlantic integration. Yesterday, I was impressed to see many citizens determined to exercise their democratic right”, said Rasa Juknevičienė, Head of the delegation from the NATO Parliamentary Assembly. “But these elections show that, without strong safeguards, the concentration of power and resources can be a risk for democracy.”

Positively both public national broadcasters decided to offer all candidates the same amount of free airtime and hosted numerous debates in which they could present their views. The media regulator was not always transparent and impartial when intervening in the campaign. Media monitoring results showed clear bias in private media coverage.

“The visible commitment shown by the voters should not be undermined by campaigning members of the political class. Unfortunately, we witnessed sharp confrontation, gross exaggerations, negative campaigning and personal insults,” said Ambassador Geert-Hinrich Ahrens, Head of the election observation mission from the OSCE Office for Democratic Institutions and Human Rights. “If there is a second round, the ODIHR election observation mission will remain here to observe.”

The legal framework provides an adequate basis for democratic elections. Although amendments to the election code in 2017 and 2018 introduced technical improvements, certain shortcomings remain, and recent amendments were a missed opportunity to address other prior ODIHR and Council of Europe recommendations and eliminate gaps and inconsistencies, the statement says.

Party and campaign finance legislation lacks uniformity, and recent legislative amendments did not address long-standing recommendations by ODIHR and the Council of Europe’s GRECO. The lack of regulation for obtaining loans for campaign expenses and reporting on the use of these funds potentially contributes to an imbalanced playing field. While the State Audit Office verified and promptly published reports before the election, the lack of clear deadlines for addressing violations and the institution’s insufficient resources raised concerns about the effectiveness of campaign finance oversight

Appendix 4 – Press release of the International Election Observation Mission (second round)

Candidates campaigned freely in competitive Georgia run-off, though one side enjoyed undue advantage and negative character of campaign undermined process, international observers say

Tbilisi, 29 November 2018 – The second round of Georgia's presidential election was competitive and candidates were able to campaign freely, however one side enjoyed an undue advantage and the negative character of the campaign on both sides undermined the process, the international observers concluded in a preliminary statement released today. While the election was well administered, the absence of regulations for key aspects of election run-offs led to a lack of legal certainty, the statement says.

The campaign for the 28 November vote was marred by harsh rhetoric and isolated incidents of violence, as well as by an increase in the misuse of State resources, further blurring the separation of party and State, the observers said. Private media continued to demonstrate sharp polarization and bias in coverage, while the public broadcaster did not ensure editorial independence and impartiality, the observers said.

“Georgian citizens made their choice. Now all of the concerns raised in our preliminary conclusions today and in the upcoming final report on the election have to be dealt with by the authorities without delay,” said Kristian Vigenin, Special Co-ordinator and leader of the short-term OSCE observer mission. “I believe that we have a common goal – to improve the electoral process, thus strengthening democracy in the country. I hope that now, after months of tense campaigning and polarization in society, the newly elected president will spare no efforts to ensure the unity of the nation.”

The second round of voting took place after no candidate received more than 50 per cent of valid votes in the first round, on 28 October. The decision by the Central Election Commission (CEC) on the run-off date of 28 November – a Wednesday – became a contentious issue and led to objections from opposition parties and calls from civil society to reconsider. While the CEC acted within its authority in choosing the date, the circumstances surrounding the decision reduced confidence in the body. At the same time, the election was well managed and the CEC provided training to address procedural shortcomings noted in the first round.

Campaign activities intensified in the run-up to the second round, and a number of anti-opposition and anti-government demonstrations before the run-off increased tensions between the two sides. The use of negative, harsh and at times violent rhetoric went unaddressed by authorities. Along with the misuse of State resources, a number of social and financial initiatives were announced, in particular debt relief for 600,000 people funded by a private financial institution linked to the chairperson of the ruling party. These incidents and the involvement in the campaign of senior State officials from the ruling party continued to blur the line between State and party, the statement says.

“We note that the choice of the date for the second round was not made in an inclusive manner and was not in the interest of all voters, leading to suspicions that it was politically motivated,” said Laima Andrikiene, Head of the delegation from the European Parliament. “The announcement just a few days before a fiercely contested second round of debt relief benefiting 600 000 citizens and made possible by an entity owned by the head of the ruling party could be considered an attempt at vote-buying. Cases of intimidation and pressure on voters have to be thoroughly investigated and prosecuted. Further, the practice of mass sending pre-recorded phone calls and text messages is highly questionable.”

Margareta Cederfelt, Head of the delegation from the OSCE Parliamentary Assembly, said: “In this run-off election the Georgian people once again expressed their commitment to democracy by actively participating in the electoral process. Regrettably, the increased use of harsh rhetoric in the campaign between the two rounds contributed to a rise in tension in the electoral environment.”

The gathering of voter data and political preferences raised concerns about the potential for intimidation and about voters' ability to cast their ballots free of fear of retribution. These concerns were reinforced by the environment outside of polling stations on election day, as candidates' supporters used lists of voters to track who was coming to vote, the observers said. Opening, voting and counting on election day were assessed positively in almost all polling stations observed, and procedures were generally followed, although citizen observers and media representatives often acted on behalf of political parties and, in some instances, interfered in the counting.

Campaign finance reporting requirements for the second round were determined less than two weeks before the vote. The substantial imbalance noted during the first round in campaign donations in favour of the candidate backed by the ruling party remained for the run-off. There is no requirement to report on campaign activities by third-parties, including public protest movements, which mainly benefited the candidate supported by the ruling party. Both contestants received support from political parties without candidates in the second

round, and these contributions went unreported. The fact that most campaign finance-related complaints from both rounds were still pending at the time of the second vote continued to raise concerns about the enforcement of campaign finance rules, the statement says.

“The second round of the presidential election confirmed concerns expressed by the PACE delegation after the first round – in particular, the surprisingly generous system of campaign and party funding from the State budget and private donations. In addition, one can question the timing, just before the second round, of the government’s announcement of a debt-relief operation for hundreds of thousands of electors, financed by a private foundation affiliated to the ruling party’s leader,” said Andrej Hunko, Head of the delegation from the Parliamentary Assembly of the Council of Europe. “This increase in the role of money in politics in a country with a high level of poverty and without efficient control mechanisms did not contribute to public confidence in democratic elections.”

Unclear regulation of the campaign led to a lack of legal certainty and to inconsistent and contradictory interpretations. Further, recent amendments did not rectify problems identified in previous two-round elections or address previous ODIHR recommendations to provide explicit run-off regulations.

The lack of clear regulation also effectively limited the period for official campaigning in the media. While not required by law, most national broadcasters did provide free airtime to both candidates. The national public broadcaster displayed a clear bias against the opposition. Private media continued to demonstrate sharp polarization and clear bias in reporting, some becoming more vocal about their political positions ahead of the second vote, media monitoring revealed.

“Georgia has a good international standing as a democracy, and the corresponding commitment shown by citizens and voters was visible and impressive. The quality of the election was undermined, however, by unnecessarily sharp confrontation, negative campaigning and personal insults by some members of the political class, who did this rather than dealing with issues really important for Georgia, such as the rule of law and economic inequality,” said Ambassador Geert-Hinrich Ahrens, Head of the election observation mission from the OSCE Office for Democratic Institutions and Human Rights. “These negative practices were even worse than in the lead up to the first round.”

Nearly 700 complaints were filed following the first-round election day, mainly concerning procedural violations during voting and counting. A large number of cases were dismissed on procedural grounds, demonstrating a limited understanding of the procedures by complainants. There was lack of proper consideration of the substance of complaints, and commissions adopted narrow or inconsistent interpretations of the law, all of which undermined the right to effective remedy.