



**STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE
PRE-ELECTION DELEGATION TO GEORGIA**

Tbilisi, Georgia, September 6, 2013

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation included former New Jersey Governor Christine Todd Whitman, former Missouri Secretary of State Robin Carnahan, former European Union Ambassador to Georgia Per Eklund, Atlantic Council Executive Vice President Damon Wilson, NDI President Kenneth Wollack, NDI Regional Director for Eurasia Laura Jewett, and NDI Resident Director in Georgia Luis Navarro.

The delegation's purpose was to accurately and impartially assess the electoral preparedness in advance of the October 27 presidential election, review the broader political environment, examine factors that could affect the electoral process, and offer recommendations for possible improvements.

The delegation held meetings with the President; the Chairman of the Parliament; the Prime Minister; the Ministers of Foreign Affairs, Justice and Internal Affairs; a number of presidential candidates; political party leaders; the acting Chairman of the Central Election Commission, the Chairman of the State Audit Office (SAO); the National Security Council Secretary; civil society organizations monitoring the election; and members of the diplomatic corps. The delegation conducted its activities in accordance with the laws of Georgia and international standards outlined in the *Declaration of Principles for International Election Observation*, which has been recognized with appreciation by the United Nations General Assembly. NDI does not seek to interfere in Georgia's election process, nor does it intend to, or could it render a final assessment of the election process. The delegation recognizes that, ultimately, it will be the people of Georgia who will determine the credibility of their elections. The delegation therefore offers this pre-election statement in the spirit of supporting and strengthening democratic institutions and processes in Georgia.

NDI's observations are also informed by NDI's ongoing work in the country and the long-term monitoring efforts of the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers' Association (GYLA), Transparency International-Georgia, and Public Movement Multi-National Georgia (PMMG). ISFED and GYLA began long-term monitoring of the electoral process on July 1, 2013. In mid-August, NDI also deployed a team of long-term analysts, based in Tbilisi and three regions of the country. They will remain in Georgia until the end of the election process. NDI expects to field an international observation mission for the election itself.

The delegation wishes to express its appreciation to the United States Agency for International Development (USAID), which has funded the work of this delegation and, along with the Swedish International Development Cooperation Agency, supports NDI democracy assistance programs in Georgia. This delegation is also grateful to all those who contributed valuable time to share their views freely. Their perspectives have informed this statement and made possible the work of the delegation. NDI stands ready to continue to assist Georgian efforts to build and sustain democratic practices, institutions, and values.

SUMMARY

As Georgians prepare to elect a new president in October, they enjoy an electoral environment shaped by the fundamentals of democracy: the first peaceful transfer of power through the ballot box; a credible political opposition; a parliament characterized by meaningful debate and decisions; an increasingly independent judiciary; an active civil society; and a lively media environment. These are positive, albeit fragile developments.

Voters in Georgia this fall look poised to benefit from a more open electoral environment than in Georgia's recent elections. Candidates for the presidency have an opportunity to reach the electorate through the media and, except in several high-profile cases involving the parliamentary opposition, unhindered meetings with voters. Civil society actors have access to election officials. A new electoral code addresses some of the challenges of previous elections. The Georgian electorate is exposed to a pluralistic and boisterous political debate. The concerns which political actors shared with the NDI delegation, are serious but less widespread than those raised last year.

While Georgia's parliamentary elections last fall were a watershed event, this presidential election offers Georgia the opportunity to normalize competitive, multi-party elections and practices. If Georgia conducts an election that meets international standards and enjoys the confidence of the population, it will help advance a democratic culture based on consistent principles and predictable rules. This would be a remarkable achievement in the region.

To achieve this, however, Georgian officials need to tackle issues decisively that could adversely affect the integrity of the election process. The assessment delegation heard serious concerns about politically-motivated violence, interrogations and investigations; changes of political authority at local levels outside the electoral process; and intolerance toward minorities. Similarly, all political actors have a responsibility to work through Georgia's democratic institutions and processes to advance their political objectives.

The winner of the presidential election will assume reduced constitutional powers. Nonetheless, this individual can play an essential role in setting an inclusive, civil tone and providing an example of governance that helps to consolidate Georgia's democracy.

POLITICAL CONTEXT

The election on October 27, 2013 will mark Georgia's sixth presidential poll since independence and the winner will assume a narrowed set of powers. Constitutional reforms shifting Georgia from a presidential to a parliamentary system will take effect with the inauguration of the next

head of state. The significance of this election thus lies at least as much in the environment and processes surrounding it as in its outcome.

The election is one important test of the government's commitment to democratic values and practices and of the opposition's commitment to constructive engagement. It gives the political parties an opportunity to move beyond polarizing political rhetoric and embrace forward-looking, issue-based campaigns. The 2012 parliamentary elections led to the first peaceful, democratic transfer of power between parties in Georgia. The 2013 presidential balloting, if well conducted, could signal the normalization of competitive party politics, which would be a rare achievement for the country and the entire region.

The fall campaigns will also serve as a prelude to local elections in May 2014. The municipal contests are expected to be hard-fought. The tone and precedents set in the presidential race could, therefore, impact the conduct of and confidence in those elections.

Georgians aspire to prosperity, security, territorial integrity and Euro-Atlantic integration. These goals hinge not just on strengthening the democratic institutions already in place, but also infusing them with meaning through practices that reflect democratic principles.

DELEGATION OBSERVATIONS

No election can be viewed in isolation of the context in which it takes place. The pre-election period, including electoral preparations and the political environment, must be given weight when evaluating the democratic nature of elections. An accurate assessment of any election must take into account all aspects of the electoral process. These include: 1) conditions set up by the legal framework for the elections; 2) the pre-election period before and during the campaign; 3) the voting process; 4) the casting of ballots; 5) the tabulation of results; 6) the investigation and resolution of complaints; and 7) the conditions surrounding the formation of a new government.

Premature departures from office. Given that the October 2012 elections were for parliamentary seats, the delegation notes with concern the wave of early departures from office by local officials outside the normal municipal election cycle.

Transparency International-Georgia reported that between October 2012 and March 2013, more than 5,000 public employees at the central and local levels resigned or were dismissed. Before the October 2012 parliamentary elections, the then-ruling United National Movement (UNM) held a majority in all of Georgia's municipal governments. UNM members previously chaired every municipal council (sakrebulo) and appointed all heads of municipal executive branches (gamgebelis). ISFED has reported that, in the months following the election, 56 of 69 gamgebelis and 31 of 69 sakrebulo chairs were replaced by individuals nominated by the Georgian Dream Coalition. In some cases, the officials switched parties or departed voluntarily. Others reported been pressured to leave office. ISFED and GYLA report 74 cases of protest rallies demanding resignations.

The outcome of elections at one level of government should not, in effect, nullify the results at another level. This is a principle of democratic governance.

Violence and intimidation. The Georgian constitution guarantees the right to free assembly. This must be vigorously defended. Public officials and candidates must be allowed to fulfill their responsibilities without intimidation or fear of physical harm. There has been continuous improvement in this area over the past two decades. The delegation heard about cases of violence targeted at UNM's candidates, public officials and minority communities, including Muslims and LGBT rights activists. While perpetrators have been arrested and placed in custody, the minor financial penalties imposed would not appear sufficient to deter such behavior in the future.

In an election environment, even the perception of intimidation can have an adverse effect on party activists and voters. Therefore, it was commendable that the Ministry of Justice on September 4 reaffirmed last March's Inter-Agency Task Force recommendation to suspend, during the pre-election period, interrogations of local officials and party activists for alleged misconduct. However, the investigation and arrest in late August of the gamebeli of Adigeni, for example, is not consistent with the spirit of the IATF recommendation.

Electoral Legislation and Administration

As in past elections, the upcoming presidential poll will be administered by a Central Election Commission (CEC), 73 district election commissions (DECs) and some 3,800 precinct election commissions (PEC). Each commission is composed of 13 members, of which six are "professional" nonpartisan members and seven are appointed by political parties. Currently, the Georgian Dream Coalition appoints six members (reflecting the six parties comprising the Coalition) and the UNM appoints one.

The current election law was adopted in December 2011. An inter-faction working group including majority and minority parliamentarians and representatives of NGOs and non-parliamentary political parties recommended further changes in the wake of the 2012 elections. In July and August 2013, the parliament adopted revisions relating to new restrictions on the use of administrative resources, changes to selection criteria for PEC secretaries, provisions for the registration of deregistered citizens, new authorities for the CEC to discipline DEC members, a provision to allow parties not registered for the parliamentary elections to participate in the presidential race, and a provision for introduction of biometric registration for the local elections. Additional amendments were still under parliamentary consideration as the delegation concluded its mission.

Most parties, candidates and NGOs agreed that, taken as a whole, these amendments were positive and the electoral framework allowed for a credible election. Some non-parliamentary parties, however, complained that the deliberation process for the 2013 amendments was not inclusive enough. Moreover, they expressed concern that, unlike previous elections, the extra-parliamentary parties would not have representation on election commissions at any level; the composition of the commissions is now confined to the Georgian Dream Coalition and the United National Movement. NGOs also pointed to the dominance of the ruling coalition in each election commission. In addition, CEC and campaign representatives expressed concern about adjusting to changes so close to the election date and questioned whether the revisions could be adequately publicized and implemented in a timely manner. Concerns were specifically raised

about the feasibility of introducing a biometric identification system in time for the local elections without risking widespread voter disenfranchisement.

A troubling aspect of election administration was the resignation of the CEC chairman on August 12 and his application to register as a presidential candidate. This is problematic because it leaves the Commission without permanent leadership close to the election and could raise at least the appearance of a conflict of interest in some decisions taken prior to his departure. However, it is a testament to the quality of the Commission developed during his tenure that, by all accounts, the election authorities continue to prepare professionally for the election.

The CEC's training center has recruited and prepared 112 trainers who will train DEC's starting September 5 and PEC's starting September 13. NDI's analysts reported that DEC's were thus far demonstrating professionalism and competence. The delegation appreciated the CEC's emphasis on rule of law, transparency and accountability, and independence and impartiality.

One controversy that emerged was the CEC's rejection of candidates who hold dual citizenship. In one instance the court upheld the CEC's decision. A second applicant's appeal is still pending a final court ruling. The continuing debate surrounding citizenship highlights the need for clarification on the qualifications for candidacy and the holding of office, as well as consistency in applying the standards.

Inter-Agency Task Force

The Inter-Agency Commission for Free and Fair Elections (Inter-Agency Task Force or IATF) was established in 2008 as an *ad hoc* forum for addressing electoral violations by public officials. In 2011, it was codified as a standing quasi-government agency with power to recommend remedial action to government and political parties. In August 2013, the Task Force was transferred from the auspices of the National Security Council, which reports to the President, to the Ministry of Justice. The 10-member group includes senior officials from various ministries and state agencies.

NDI and other international observers have recognized the IATF in previous elections for its confidence-building role. The newly-configured IATF had just begun its activities during this assessment mission. While IATF participants and civil society representatives welcomed the transfer to the Ministry of Justice, they also expressed the hope it would adopt a rapid-response approach to resolving problems.

In a positive development, as in previous years, the IATF endorsed a memorandum of understanding developed by the CEC and NGOs that clarifies some provisions of the election code regarding the use of administrative resources.

Use of Administrative Resources

Claims of improper use of administrative resources have been a feature of previous Georgian elections. While the parliament has passed some measures to address this issue, the legal framework does not yet provide a sufficiently clear distinction between state and party resources. Some cases of possible violations have already been raised. In this context, extraordinary efforts and political will are necessary to overcome these alleged practices.

Voters' List

Voters' lists remain one of Georgians' top concerns about the credibility of elections, according to NDI's public opinion research. The CEC reports that 97,000 voters -- 70,000 of them in Tbilisi -- do not reside at the addresses where they are registered. In the 2012 parliamentary elections, these voters were included on a temporary "red list" and allowed to cast ballots. According to the CEC, up to 50 percent of these so-called deregistered voters cast ballots in 2012. In order to cast a ballot in this presidential election, the deregistered voters will now be required to correct their files with the State Services Development Agency and apply for an updated identification card by October 10. The CEC and Ministry of Justice have plans to conduct a voter education campaign through mailings and television to alert voters to the possible need to correct their files. However, there is no direct method for informing the affected individuals of their status. It is important to make every effort to give legitimate voters an opportunity to cast ballots.

Campaign Finance

Party and campaign financing have long been topics of contention in Georgia, where disparities among parties' resources have traditionally been dramatic. The issue of campaign finance was particularly acute in the 2012 parliamentary elections for different reasons. The political party law provisions relating to party funding were revised in late 2011, apparently in reaction to large-scale spending by the then-opposition. Also, the Financial Monitoring Service for Political Finances of the State Auditing Office (SAO) was empowered to enforce the new provisions. A previous NDI delegation along with other observers criticized the SAO for perceived political bias and overreach of its mandate.

Since the 2012 elections, the parliament has increased public funding for qualified political parties (those that passed a 4 percent threshold in parliamentary elections and a 3 percent threshold in local elections) and expanded funding to include four additional parties. It also lowered the threshold for parties to receive state funding; permitted donations from corporations in addition to individuals; softened sanctions for illegal campaign donations and expenditures; and limited the authority of the SAO to initiate random audits. The parliament also granted an amnesty on fines recommended by the SAO before October 2012. This step was intended to redress the SAO's excesses in 2012.

SAO representatives acknowledged that their monitoring responsibilities have expanded while their capacity to investigate or sanction violations has narrowed. The SAO's challenge now is to impartially enforce campaign finance rules and ensure compliance.

Media

Television remains the primary source of information for most Georgians. According to NDI public opinion research, 87 percent of Georgians get their information about current events and politics mainly from television. Most of the popular broadcasters -- the Georgian Public Broadcaster (GPB) and private channels Rustavi 2, Imedi, Maestro and Kavkasia -- have nationwide coverage. The three most popular channels reflect diverse editorial viewpoints. Opinion research suggests most people feel they are getting enough information about the party they support. Freedom House has recently noted an improved media environment in Georgia.

The Prime Minister was complimented for closing down his family-owned television station (Channel 9), asserting his desire to avoid the perception of using the station for partisan purposes. Another positive development was the Parliament's decision to transfer Adjara TV from local government control to the Georgian Public Broadcaster. Cable operators have voluntarily extended the so-called "Must Carry" provision, which gives viewers access to a more diverse set of broadcasters and channels.

However, a group of five election and media monitoring NGOs has underscored the importance of ensuring balanced coverage of politics amid potential changes in GPB's management. Also, the uncertain long-term financial viability of Georgia's television stations could pose challenges to Georgians' future access to diverse and regional coverage of politics. Maestro TV and regional stations are currently seen as the most vulnerable.

GPB will host candidate debates and provide free air time to candidates (90 seconds every three hours on general broadcasters and 60 seconds every three hours) according to criteria established in Georgian legislation. The six Georgian Dream coalition members and UNM are also entitled to state funding to pay for television advertising. The differing criteria for free air time and advertising have been criticized by non-parliamentary parties and their candidates.

Ethnic Minorities

Complaints about electoral violations have traditionally been rife in Georgia's ethnic minority regions. It is thus particularly important for voters in these regions to have access to election materials in their native languages so they can make informed choices.

The CEC has indicated that it will publish the voters' lists and ballots in minority languages as well as Georgian in nine of the 73 districts. The CEC is conducting trainings and providing materials to election administrators in minority languages. It is also conducting voter education and outreach activities in cooperation with civil society organizations representing ethnic minorities.

Women's Political Participation

Five women have applied to run for president. The parliament has passed legislation to increase financial incentives to increase the numbers and on parties' parliamentary and municipal electoral lists. There are now three women serving as party-appointed members of the CEC, which is an increase from 2012. Despite these advancements, the Inter-Parliamentary Union ranks Georgia as one of the last among the Organization for Security and Cooperation in Europe (OSCE) member states in terms of legislative representation of women. Women hold 17 (11 percent) out of 150 seats in the Parliament, compared to a worldwide average of nearly 20 percent.

Election Observation

The CEC has to date accredited 27 local organizations, including the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers Association (GYLA), and Public Movement Multinational Georgia (PMMG); 11 international groups; and eight media outlets. Election officials and leaders from across the political spectrum have uniformly

welcomed and facilitated international and domestic monitoring efforts. Georgia remains a regional leader in this regard.

DELEGATION RECOMMENDATIONS

In the spirit of international cooperation, the NDI delegation respectfully offers the following recommendations for consideration to help build further public confidence in the process leading up to the October presidential election.

- The IATF should respond expeditiously to credible reports about campaign violations, violence, or pressure on officials to resign prematurely from their elected or appointed positions.
- The IATF should provide regular and comprehensive updates to the public on all electoral complaints received, actions taken to investigate such complaints and the responses to them.
- Law enforcement authorities should protect the right of assembly by providing sufficient protection to prevent violence.
- Police, prosecutors and judges should ensure that sanctions for crimes and administrative offenses, such as election-related violence, are proportional to the violations and serve to deter such violations in the future.
- Government leaders should ensure that all public officials are fully informed about the rules governing the use of administrative resources and enforce sanctions for any violations.
- Political leaders should ensure, on an ongoing basis, that their activists and supporters clearly understand that violence has no place in political campaigns and enforce strong sanctions against supporters who engage in such activities.
- The President should immediately nominate, and the CEC or Parliament should promptly approve a qualified new CEC chairperson who enjoys the confidence of parties and civil society organizations.
- The CEC, Ministry of Justice, political parties and NGOs should conduct extensive voter education activities to inform citizens about the need to check voters' lists and update their registration status if necessary.
- Political parties and candidates should provide timely and accurate reports on their funding sources and expenditures.
- The SAO should apply campaign finance rules and levy sanctions even-handedly and consistently.
- Given the changes to the new campaign finance provisions, the SAO should ensure that its staff members are fully trained to monitor and enforce compliance.

- The Georgian Public Broadcaster should strive to maintain balanced coverage of elections, particularly as it undergoes a change in management and programming.
- The CEC should make every effort to expand the use of election materials in ethnic minority languages beyond those districts with large populations of minorities.
- The CEC should intensify voter education efforts in minority areas and ensure adequate representation of minorities in the composition of election commissions.

The following are recommendations for the 2014 local elections and beyond:

- The Parliament should clarify provisions in the law that define what constitutes allowable campaigning by officials.
- The Parliament should adopt any improvements to the local election law as soon as possible to minimize last-minute adjustments.
- The Parliament should consider comprehensive merit-based civil service reform to ensure continuity among personnel, independent of election outcomes.
- The Parliament, Ministry of Justice and CEC should explore options that could enable those who are deregistered to vote while maintaining the integrity of the elections.
- The Parliament should ensure the SAO has the resources it needs to fulfill its responsibilities.
- The Parliament, Ministry of Justice and CEC should explore ways to implement any new biometric identification system with care to avoid disenfranchising voters.
- Political parties should recruit, train and field a greater number of women in next local election and further develop party infrastructure to support women and integrate issues of particular concern to women into party policy.

NDI CONTACT INFORMATION

Kathy Gest, director of public affairs, at kgest@ndi.org
Teona Kupunia, NDI's Georgia office, at +995 577 719134 or tkupunia@ndi.org

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