



NATIONAL
DEMOCRATIC
INSTITUTE
FOR INTERNATIONAL AFFAIRS

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

Tbilisi, Georgia, June 17, 2016

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation's purpose was to accurately and impartially assess electoral preparations in advance of the October 8 parliamentary elections; review the broader political environment; examine factors that could affect the integrity of the electoral process; and offer any recommendations that could advance dialogue and consensus-building toward peaceful, credible elections and public confidence in the process.

SUMMARY

Georgia approaches the October 8 parliamentary elections equipped with a deepening reserve of democratic assets and also facing critical but surmountable challenges. Georgians have many achievements to their credit, including a vibrant political landscape, and overwhelming support for a democratic future for their country. At the same time, the country is on the front lines of a broader struggle to defend European and Euro-Atlantic values from an aggressive and authoritarian worldview. Moreover, many of Georgians' high and growing expectations of their leaders and institutions have not been fully met. If Georgia's democratic future is thwarted, the impact on the broader region would be profound. The stakes in October's elections are thus high.

NDI's pre-election assessment mission found that the underlying elements for a democratic election process are largely in place in Georgia. However, the country's leaders will be called upon to exercise substantial political will and partisan restraint to turn that potential into reality. The integrity of the parliamentary elections will depend on overcoming three primary challenges: the possibility of violence and intimidation; low confidence that laws will be applied impartially; and the perception that some individuals will significantly influence the process from behind the scenes. In addition, the delegation identified concerns about some aspects of the electoral framework and administration, parties' campaigns, and the overall campaign environment. In the spirit of supporting and strengthening democratic institutions and processes in Georgia, NDI has offered recommendations to government and electoral authorities, the parliament, political parties and NGOs to contribute to improvements in these areas.

The election of a representative, accountable, and effective legislature with a strong mandate for reform is central to meeting Georgians' hopes and aspirations. Georgia's leaders need to set an example by placing the integrity and peacefulness of the process above partisan interests; embracing forward-looking, issue-

based policy agendas that respond to Georgians' needs; and working across party lines when Georgia's larger interests are at stake. Setting precedents of pre-election cooperation will be especially constructive given the likelihood that coalition governance will be required following the elections. All participants in these elections should commit to accepting the results if credible observers, both domestic and international, evaluate the process as democratic. The European and Euro-Atlantic community, for its part, has a responsibility to support Georgia in these efforts through diplomacy, assistance, and concrete progress toward integration.

POLITICAL CONTEXT

Georgia approaches October's parliamentary elections, the eighth since independence in 1991, equipped with a deepening reserve of democratic assets and also facing critical but surmountable challenges.

Georgians have many achievements to their credit. Pluralism is an established feature of the political and civic landscape. Fundamental freedoms of expression, assembly, and association are largely respected. The media environment is the most free and diverse in the region. Civil society organizations play an active role in political life. Competitive multiparty elections are now routine. Basic democratic institutions are in place and functioning. Georgia's success in eliminating petty corruption is held up as an international model. Improvements in healthcare and education, high priorities for citizens, have been well received. Georgia has signed an Association Agreement with the European Union and is on track for a liberalized visa regime with its Western neighbors. Critically, Georgian citizens overwhelmingly support a democratic future for their country.

At the same time, Georgia is on the front lines of the struggle to defend European and Euro-Atlantic values from an aggressive and authoritarian worldview. The Russian government continues to occupy 20 percent of Georgian territory while exerting pressure through trade relations, propaganda, infusions of money, and threats, with the intent of obstructing Georgia's chosen path toward the West. Georgians have thus far held fast to their commitments to independence, prosperity, and democracy. Yet these principles are tested at each political crossroads. If Georgia's democratic future is thwarted, the impact on the broader region would be profound.

Domestically, Georgians' high and growing expectations of their leaders and institutions have not been fully met. NDI surveys show that most Georgians do not think the political parties are making changes that matter to them. Their confidence in the parliament and many government ministries and leaders is low. They feel uninformed about, and neglected by, their legislature. A weak economy heightens these concerns. Considerable attention is focused on the perception that unaccountable individuals are influencing politics from behind the scenes, to the detriment of democratic and transparent decision-making.

The stakes in October's elections are thus high. A credible process would strengthen the mandate of the new government to recommit to a path of democratic consolidation and socioeconomic reforms. This would be a necessary, if not sufficient, condition for bolstering the country's resistance to external pressures and improve its prospects for European and Euro-Atlantic integration. It would also send a signal to the broader region about the resilience of democratic principles, practices, and institutions.

OBSERVATIONS AND RECOMMENDATIONS

NDI's pre-election assessment mission found that the underlying elements for a democratic election process are largely in place in Georgia and appreciated the government's strong expressions of commitment to a fair and open electoral process.

At the same time, key leaders from across the political spectrum agree that the integrity of the parliamentary elections will depend on overcoming three fundamental challenges: the possibility of violence and intimidation; low confidence that laws will be applied impartially; and the perception that some individuals will significantly influence the process from behind the scenes. Together, these concerns have the potential to distort the process, discourage participation, and undermine confidence in the results. There are individuals from across the political landscape who cast the electoral campaign and the broader political environment as battleground where the rules of the game can be disregarded or exploited for partisan advantage or to settle old scores. However, the delegation was deeply encouraged to hear forward-looking leaders from the main governing and opposition parties expressing a consensus view that these issues require immediate attention and pledging to work across party lines to address them.

Violence and Intimidation

Violence and intimidation were cited as top concerns in almost every delegation meeting. At this early stage of the campaign, these claims are based as much on fears shaped by historical patterns as documented cases. However, in an election environment, even the perception or anticipation of such threats can have an adverse impact on the process.

A particularly alarming incident surrounding a local council by-election in Kortskheli on May 22 is noteworthy. Supporters of the government party beat opposition leaders and activists, as well as journalists, near a polling station. Victims and others who have analyzed the incident, which was well documented on video, claim it had the hallmarks of a coordinated, premeditated attack.¹ Representatives of civil society and opposition parties publicly condemned the confrontation, as did the President, Prime Minister, and Speaker. Some government and ruling party officials, however, made inflammatory public statements deflecting responsibility and misrepresenting events. This is not conducive to reducing tensions.

Women frequently get singled out for intimidation. In the 2014 local elections, in one of the self-governing cities, the only female mayoral candidate withdrew from the race just a few weeks before election day, citing pressure. In another example, over the last few months, including during the delegation's visit, covertly and illegally filmed videos allegedly showing prominent government and opposition leaders in compromising situations were released online. The videos disproportionately target women. They seem intended to discredit politicians and the institutions they represent as well as to discourage engagement in politics.

¹ Georgian Young Lawyers Association, "[The GYLA calls on the Chief Prosecutor to take the investigation for the violent acts that took place in the area adjacent to election precinct no. 53 under his personal control.](#)" May 22, 2016.

Journalists from some media outlets reported to NDI patterns of verbal assaults and threats as well as allegedly politically-motivated dismissals and prosecutions, which have been interpreted as attempts to promote self-censorship. Prominent journalists were among those targeted in the surveillance videos. In October 2015, Transparency International Georgia reported on 15 cases of pressure on regional media by government authorities.²

Opposition parties claimed that, based on a fear of financial repercussions, businesses are reluctant to make donations to their campaigns. Leaders of credible nonpartisan citizen election monitoring groups have faced personal attacks and accusations of bias from high-level political leaders.

Violence and intimidation, whether actual or perceived, have no place in an election. Public officials, party and civic activists, and candidates must be allowed to carry out their electoral campaigns without fear. The government should commit and hold itself accountable to a zero-tolerance policy on violence and intimidation and take firm and visible measures to promote confidence in a peaceful campaign process.

The delegation welcomed the interest of numerous political party leaders, from both government and opposition, in developing and enforcing a code of conduct for party behavior that would denounce violence, intimidation, personal attacks, and other campaign tactics that delegitimize electoral processes. This effort is needed and could have the added benefit of strengthening public acceptance of Georgian institutions and facilitating more constructive cooperation following the elections.

Recommendations

- Law enforcement authorities should protect the right of assembly by providing sufficient protection to defuse tension and prevent violence.
- Political parties should follow through on their initiatives to reach agreement on a code of conduct for the electoral campaign. Party leaders should communicate to all activists and candidates their expectations for compliance with the code. They should consider convening publicly to announce their participation, which would send an important message to the electorate.
- Political leaders should strenuously condemn any use of violence by their supporters and cooperate with authorities to investigate incidents.
- Law enforcement personnel should be trained in electoral security best practices and deployed to high-risk areas to deter or quickly de-escalate disruptions and build confidence.
- Security officials and civil society organizations should consider coordinating to monitor and map violence. The data could be used to identify patterns, dispel rumors and help to prevent incidents.

Law Enforcement and the Judiciary

The need for fair and consistent application of the law ranked highly among the concerns raised with the

² Transparency International Georgia, "[Pressure on Regional Media](#)," October 13, 2015.

delegation. Civil society and opposition as well as governing political parties lack confidence that the police, prosecutors, or courts can be relied upon to respond -- whether to electoral disputes or physical confrontations -- in a timely, impartial, and effective manner. There was broad consensus on the need for greater consistency in policing and greater independence, accountability, and transparency in the judiciary. The delegation heard frequently and consistently of delayed investigations, selective pursuit of cases, inconsistent uses of pretrial detention, pressure on judges, and uneven application of sanctions. The delegation's interlocutors repeatedly referenced several key events from recent months to illustrate their perceptions that police and judicial independence do not necessarily apply to politically-charged cases.

The Georgian courts are now considering ownership disputes of two private television stations, Rustavi 2 and Maestro. The delegation takes no position on the legal merits of these cases. It notes, however, that credible NGOs monitoring the proceedings have raised concerns about irregularities in the judicial process, which have in turn fed perceptions of political interference with the intent of shaping editorial policy or silencing opposition views.³

The violence that occurred in Kortsakheli in May has been met with a slow and thus far inadequate response from law enforcement authorities. Charges have now been brought against six alleged perpetrators. Yet NGOs and parties, including representatives from the ruling coalition, questioned why police reinforcements were slow to arrive at the scene and why the prosecution has been delayed. These delays were contrasted to the swift and consequential punishments, including pre-trial detention, for opposition activists and protesters charged in connection with allegedly less serious events.

There was debate among political parties and NGOs about whether recent swiftly-adopted amendments to the constitutional court were steps in the right direction or would hamper the court's ability to reach a decision on cases, including disputes related to the electoral framework. Among other provisions, the changes increase the number of judges required for a quorum, despite a caution from the Venice Commission that this risks enabling a minority of judges to block rulings.⁴ These amendments were interpreted by many as an attempt to constrain the power of a court that had issued rulings unfavorable to the government.

These and other relatively recent developments have eroded confidence among the delegation's interlocutors from across the spectrum that the law enforcement and judicial systems can serve as checks on abuses of authority. The delegation notes that the Ministry of Internal Affairs has reported introducing new measures, including protocols for police on dealing with campaign-related gatherings, since the Kortsakheli events. The parliament is also considering amendments to the criminal code that would impose stiffer mandatory sentences on specifically campaign-related violence. These initiatives represent potentially positive steps but should be paired with fair but expeditious actions against perpetrators of the Kortsakheli violence.

³ Media Development Fund, [“Statement regarding the Tbilisi City Court ruling on the case of Rustavi 2 rendered on November 5.”](#) November 6, 2015.

⁴ European Commission for Democracy through Law, Georgia: [Opinion on the Amendments to the Organic Law on the Constitutional Court and to the Law on Constitutional Legal Proceedings, endorsed by the Venice Commission at its 107th Plenary Session \(Venice, 10-11 June 2016\).](#)

In this context, numerous NGOs as well as pro-government and opposition parties expressed support for the Inter-Agency Commission on Free and Fair Elections (IACFF) as a supplementary instrument for election-related crisis management, dispute resolution, and confidence building. Operating under the Ministry of Justice, the IACFF (formerly known as the Inter-Agency Task Force) is a standing government agency, re-established for every election with authority to recommend action to government offices, law enforcement authorities, public servants, and political parties. These same representatives also stressed that the IACFF will be most effective to the extent it has impartial and constructive leadership, ministerial delegates who are empowered and willing to take timely action, and adequate human resources. Some NGO and party participants claimed that these conditions were not met to their satisfaction in recent elections.

Overcoming the challenges of violence and political interference will require concerted political will and good faith efforts on the part of the government to address the valid concerns of independent and opposition figures. This would include appropriately sanctioning recent crimes and effectively addressing future tensions. Political parties, civil society, and citizens have a corresponding obligation to conduct themselves responsibly and peacefully.

Recommendations

- Those responsible for the May 22 Kortskeheli incident should be investigated in a transparent manner and expeditiously brought to justice. This would send an important signal of intolerance for election-related violence.
- Those who violate the law should be charged and prosecuted proportionately, consistently, and expeditiously to ensure a deterrent effect.
- The IACFF should meet its stated goal of responding immediately to credible reports about campaign violations. It should consider a mechanism for rapid responses to disruptions or incidents of violence. It should facilitate a working environment that is constructive, inclusive, and cooperative.

Electoral Framework and Administration

Several amendments to the electoral framework were adopted in 2015 and early 2016, the most significant of which redrew the boundaries of single member constituencies and increased the threshold for the majoritarian mandates from 30 to 50 percent. A constitutional court ruling paved the way for the boundary delimitations.

The wide disparities in the number of voters among majoritarian districts had been a subject of controversy for many years, so the redrawing represents a positive step toward more equal suffrage. However, NGOs, some opposition and governing parties, and international organizations have raised concerns about the transparency, impartiality, and participatory nature of some aspects of the boundary delimitation process.⁵ The task was divided between the parliament (delimitation in mostly rural areas) and the Central Election Commission (CEC) (delimitation in urban centers). The question raised is

⁵European Commission for Democracy Through Law, OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR): “Joint Opinion on Amendments to the Election Code of Georgia,” March 14, 2016

whether the parliamentary part of the delimitation process was conducted with the aim of conferring partisan advantage based on previous election results. There were no similar complaints about the redistricting conducted by the CEC.

The most contentious electoral framework issue relates to longstanding proposals to transition from a mixed to a fully proportional system. Under the existing law, 77 members of the 150-seat legislature are elected from closed party lists in a proportional system, and 73 members are elected from single-mandate constituencies. Public opinion polls show that Georgians are disappointed in their majoritarian representatives, with whom they have little contact and whom they perceive as failing to represent constituent interests. In addition, the single mandate constituencies have caused dissatisfaction due to a perception that they distort the representativeness of the parliament.

Opposition, non-parliamentary, and most ruling party coalition party members, along with a spectrum of NGOs, reached a historic consensus on amending the constitution to eliminate single-mandate seats and establish a fully proportional system in advance of the 2016 elections. However, despite pledges by most MPs, including the campaign commitment of the majority party, the parliament failed to deliver on promises to enact the reforms in time for the October 2016 elections. While none of the systems under consideration is inherently more democratic than the others, the delegation notes that, according to polls, public confidence in the single-mandate framework is low.

Georgia has seen only modest progress toward gender equity in politics over the last decade. Twelve percent of the parliament's seats (18) are held by women. Georgia ranks 82 out of 145 in the World Economic Forum's 2015 Gender Gap Index. Yet public support for women in politics is high. NDI polls consistently show that 70 percent of Georgians believe that at least 30 percent of parliament should be women. Since enacting voluntary financial incentives for gender representation on party lists in 2011 in 2013, however, there has been no further progress on legislative initiatives to improve the balance. Bills calling for mandatory gender quotas have all been rejected or tabled indefinitely.

Political parties and NGOs expressed overall confidence in the competence and integrity of the CEC. The CEC has made commendable efforts to conduct voter and civic education. It has also taken steps to track women's participation in the electoral process as both candidates and as voters. Some NGOs and political parties, however, raised concerns about the impartiality and qualifications of some newly appointed professional district election commissioners, who are meant to be nonpartisan.⁶ Some of those selected have party roles in their recent backgrounds.

Recommendations

Before the elections:

- An inclusive group of party, government, and NGO stakeholders should convene to lay the groundwork for post-electoral reforms to the election framework.
- The pending bill on the introduction of mandatory gender quotas should be debated and brought to a vote.

After the elections:

⁶ Statement of ISFED, "[Report of monitoring a competition for selection of District Electoral Commission members](#)," April 1, 2016.

- The parliament should resume an inclusive and transparent process to reach agreement on the electoral system.
- The parliament should consider an inclusive process to revise the election code to define the method and clarify the timeline for distributing single-mandate constituencies. The parliament should also consider appointing an *ad hoc* or permanent commission in charge of drawing electoral constituency boundaries.
- The CEC should consider clarifying the qualifications and selection procedures for professional district election commissioners staff, including standards for impartiality.
- Parties should take full advantage of financial incentives for placing women on party lists.

Parties

As opinion polls consistently show, Georgians care most about employment, poverty, and the economy. Yet citizens report that the political parties focus primarily on pursuing personal battles and airing past grievances. Given this disconnect, it is not surprising that more than half of Georgians are undecided about their political preferences. If people feel disconnected from the political system it can, over time, weaken the democratic fabric of the country and provide an opening for less democratic forces.

It is too early in the campaign to assess the nature of the parties' and candidates' campaigns, but the NDI delegation's discussions with party leaders suggested that policy agendas will, in many cases, hardly be distinguishable from one another, even in cases where parties consider themselves to be in clear contrast. Policy discussions may continue to be overshadowed by subjects that hold little interest for voters, according to polls. The proposal for televised debates on the public broadcaster would be constructive to the extent the programs focus on issues. The trend of a disconnection between citizens' interests and the content of public discussions is exemplified in a proposal to hold an election-day constitutional referendum on defining marriage as a union between a man and a woman. The measure would be duplicative of existing legislation and is seen by some as a tactic, perhaps inspired from outside Georgia, to boost turnout among a highly conservative and ultra-nationalistic segment of the electorate. Regardless of the motive, it would serve as a distraction from the issues that Georgians say they want addressed.

Political parties are one of the key gatekeepers to more equal representation of women in the parliament. Several parties said they plan to invoke voluntary internal gender quotas. The delegation expresses its encouragement of these initiatives, particularly in the absence of a mandatory quota in the election law.

Recommendations

- Political parties should outline and communicate clear platforms explaining their positive vision for social and economic reform.
- Parties and candidates should participate in moderated public debates that allow voters to understand substantive policy differences and refrain from speech and conduct that denigrates public confidence in the political process.
- Political parties should recruit, train, and support a greater number of women for the parliamentary and subsequent elections and further develop party infrastructure to support women and integrate issues of particular concern to women into party policy.

Campaign Environment

Parties, NGOs, and international observers have all noted that the fairness of the campaign environment is potentially subject to both distortions from private and foreign resources and from abuses of state resources. Claims about the improper use of administrative resources have been a persistent feature of Georgian elections since independence. However, the delegation heard fewer concerns about the prospects for such abuses than at the same stage in previous elections.

The subject of private funding came up in almost every delegation meeting. Many of those with whom NDI met expressed concerns about the sources, scope, and manner in which they believe funds are flowing to campaigns, and the extent to which this could distort the election process. Whether or not they are based in fact, these perceptions are widespread and thus merit attention.

NGOs expressed the view that the State Audit Organization (SAO) is well-managed but constrained by limitations on its authority, including deadlines and access. It was also noted that more cooperation between the Ministry of Justice and SAO would help the SAO fulfil its responsibilities.

Media plays an essential role in ensuring that voters can make informed decisions in elections. Freedom House reports that Georgia “continues to have the freest and most diverse media environment in the region.”⁷ Voters have access to a large portfolio of TV stations airing news and political talk shows. All parties have access to paid air time and “qualified” parties get allocations of free time, as well. The delegation did hear of some concerns, though. The parliament recently took steps to redistribute a fixed allocation of free air time among a larger number of parties, due to the breakup of the governing coalition. This represents a reduced allocation for some parties. Parties whose time would be reduced as well as some NGOs claimed that this constitutes an unfair change late in the process.⁸ Also, some journalists assessed the impact of Russian propaganda in both Russian- and Georgian-language media as significant. The propaganda is understood as intended to confuse and distort political discourse rather than contribute to informed debate.

Recommendations

- Party codes of conduct should call for transparency of donors and expenditures. They should also renounce acceptance or use of private funds that violate the letter or spirit of Georgia’s campaign finance requirements.
- NGOs, journalists and government agencies should monitor, to the extent possible, both reported and unreported flows of funding in the election campaign.

ABOUT THE DELEGATION

The delegation included Sam Coppersmith, former member of the U.S. House of Representatives; Per Eklund, former EU ambassador to Georgia; Janusz Onyszkiewicz, former vice president of the European Parliament and Polish minister of defense; Michael Posner, professor at New York University’s Stern

⁷ Freedom House, “[Freedom of the Press](#)” 2016.

⁸ Transparency International Georgia, “[Allocation of Free Political Advertising Time Remains Unjustified.](#)” June 9, 2016.

School of Business and former assistant secretary for democracy, human rights and labor at the U.S. State Department; Laura Jewett, NDI regional director for Eurasia; and Laura Thornton, NDI senior resident country director in Georgia.

From June 13-17, the delegation held meetings in Tbilisi with candidates, political parties participating in the elections from across the political spectrum; members of the Central Election Commission, the State Audit Office, and the inter-party working group on electoral reform; the President; Speaker of Parliament; Prime Minister; Minister of Foreign Affairs, State Minister for European and Euro-Atlantic Integration, representatives of the ministries of justice and internal affairs; domestic and international observer groups; members of parliament; media representatives; and representatives of the international and diplomatic communities. The delegation conducted its activities in accordance with the laws of Georgia and international standards presented in the *Declaration of Principles for International Election Observation*,⁹ which was launched in 2005 at the United Nations. NDI is one of 52 intergovernmental and international nongovernmental organizations that have adopted the Declaration. NDI does not seek to interfere in Georgia's election process, nor does it intend to, nor could it, render a final assessment of the election process. The Institute recognizes that, ultimately, it will be the people of Georgia who will determine the credibility of their elections and the country's democratic development. 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 the Institute's ongoing work in the country, the needs assessment mission of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), and the ongoing monitoring efforts of the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers' Association (GYLA), Transparency International - Georgia, Public Movement Multinational Georgia (PMMG), the International Foundation for Electoral Systems (IFES), and the International Republican Institute (IRI). NDI will also deploy a team of long-term analysts, who will follow up on the delegation's pre-election findings and remain in Georgia through the parliamentary election process. NDI will conduct an international observer mission on election day.

No election can be viewed in isolation from the context in which it takes place. 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.

The delegation wishes to express its appreciation to the United States Agency for International Development, which has funded the work of this delegation and, along with the Swedish International Development Cooperation Agency and the National Endowment for Democracy, 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 mission. NDI stands ready to continue to assist Georgian efforts to build and sustain democratic practices, institutions and values.

⁹ The Declaration is available at ndi.org/files/DoP-ENG.pdf.

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The National Democratic Institute is a nonprofit, nonpartisan organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government.

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