

STATEMENT OF THE NDI ELECTION OBSERVER DELEGATION TO GEORGIA'S 2013 PRESIDENTIAL ELECTION

Tbilisi, October 28, 2013

This preliminary statement is offered by the National Democratic Institute (NDI) election observer delegation to Georgia's October 27, 2013 presidential election. The delegation included observers from seven countries and was led by Sam Gejdenson, former U.S. representative from Connecticut and a member of the NDI board of directors; Per Eklund of Sweden, former ambassador and head of the European Union Delegation to Georgia; and Kenneth Yalowitz, former U.S. ambassador to Georgia.

The delegation visited Georgia from October 24 to 29. The mission builds on the ongoing observations of NDI's long-term analysts, who have worked with the Institute's Tbilisi-based staff since early August, and the findings of NDI's [September 2013 pre-election assessment](#). Prior to the election, NDI long-term analysts visited all 73 districts and conducted close to 600 meetings with a broad range of actors concerned with the election. The 20-member delegation observed 92 polling stations in 23 districts across Georgia and conducted its activities in accordance with Georgian law and the [Declaration of Principles for International Election Observation](#), which has been endorsed by 46 intergovernmental and international nongovernmental organizations worldwide. NDI cooperated closely with other international observer missions and Georgian nonpartisan election observer organizations.

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 (SIDA) and the National Endowment for Democracy (NED), has supported NDI democracy assistance programs in Georgia. In addition to the international observation activities, NDI supported the election monitoring efforts of the International Society for Fair Elections and Democracy (ISFED), Transparency International - Georgia (TI), the Georgian Young Lawyer's Association (GYLA) and Public Movement - Multinational Georgia (PMMG).

The delegation would like to stress that at this time it is not possible to render final conclusions on the October 27 presidential election. The official tabulation of results is not complete and any complaints that may be lodged have yet to be resolved. This statement is therefore preliminary in nature. The Institute will continue to monitor the electoral process and issue reports as appropriate. NDI does not interfere in electoral processes and recognizes that it is the people of Georgia who will ultimately determine the credibility and meaning of their elections.

SUMMARY

The October 27, 2013, presidential election in Georgia represented further progress toward electoral democracy. It set the stage for a second peaceful, democratic transfer of office among parties in a little more than one year. It is also the third Georgian election in which the second-

place candidate has conceded and congratulated the winner. It demonstrated that the fundamentals of democracy are taking hold in Georgia. Election processes largely complied with Georgia's laws and international principles, and Election Day, itself, proceeded peacefully and smoothly. Moreover, the process benefited from active participation by credible opposition candidates, civil society organizations, the media and voters. These achievements suggest that competitive multi-party elections may be becoming a routine feature of Georgian politics.

However, this election highlighted a number of trends that could adversely affect Georgia's democratic trajectory. These included politically-motivated violence and intimidation against religious, political and sexual minorities; insufficient efforts to deter such pressure; a tendency to expect the results of elections at one level of government to extend to other levels; frequent rhetorical challenges to the integrity of candidates and the legitimacy of the elections themselves; politicization of electoral and government institutions; and a continuing atmosphere of polarization.

Resolving these issues will require Georgia's leaders to set an example by defending the rights of opponents and minorities, cooperating across partisan lines, sharing the responsibilities of governance, and upholding the country's democratic institutions.

I. POLITICAL CONTEXT

This election effectively ended a period, called "cohabitation", during which a president and prime minister from different parties shared executive power. The next president will be inaugurated in concert with constitutional reforms that shift Georgia from a presidential to a parliamentary system. The new president will assume a reduced set of powers relative to the prime minister and the previous head of state.

The year of cohabitation yielded some limited instances of cooperation between the Georgian Dream (GD) parliamentary majority and the opposition United National Movement (UNM), but did little to temper the polarization and zero-sum approaches that have characterized Georgian politics in recent years. The past 12 months were dominated by investigations and arrests of high-profile UNM leaders for alleged crimes and abuses of power. Some described this pattern as restorative justice, necessary to establish confidence in the rule of law, while others referred to it as politically-motivated selective prosecutions designed to cripple the former ruling party. The distance between these two perspectives was emblematic of broader political tensions. The constitutional changes will end the division of executive power, which may ease some political tension. But recovering from the underlying atmosphere of mistrust and establishing habits of cooperation across parties will still require concerted efforts from all sides.

In the wake of this election, two figures who have dominated the political landscape will step down from their official positions. Outgoing President Mikheil Saakashvili will conclude 10 years in office. Prime Minister Ivanishvili has pledged to resign in the near future. These departures will introduce new uncertainties into Georgia's political dynamics.

The shift to a parliamentary system represents an opportunity for Georgian leaders to embrace a more pluralistic and collaborative approach to politics. To deliver successfully on its promises, the new president and the government will need to embrace the responsibilities that come with

leading both institutions, including pursuing consultative and participatory governing practices. Both the majority and minority parliamentary groups should take meaningful steps to engage extra-parliamentary parties and civil society representatives in their deliberations.

Attention will now turn to local elections, which are scheduled for May 2014. These will provide new opportunities for voters to express political choices and for parties to build bases of support and put forward alternative visions for Georgia's future. The parliament may introduce reforms to enable direct election of more local executives. The municipal contests are expected to be competitive and hard-fought. To contribute to Georgia's democratic progress, it will be important for these elections to reflect the will of Georgian voters.

Georgians aspire to Euro-Atlantic integration and this election should be considered a contributing step toward that goal. Similarly, Georgians' hopes for prosperity, security and territorial integrity hinge on continuing to strengthen the democratic institutions already in place.

The new president, who will serve a five-year term, can play an essential role in helping the country adjust to the new constitutional context and prepare for the local elections by taking an inclusive approach, setting a civil tone, and providing an example of open, accountable governance that helps to consolidate Georgia's democracy.

II. ELECTION DAY

NDI observers reported generally transparent and calm processes at polling stations. Voter turnout was steady, affirming Georgians' commitment to democratic governance. Polling officials worked diligently over long hours to fulfill their responsibilities. While international and domestic monitors observed isolated cases of electoral violations, some of them serious, it did not appear that any of them would have had a material impact on the presidential election results.

Opening and Voting Processes

Opening and voting procedures at polling stations were generally timely and smooth. The Central Election Commission (CEC) reported that voter turnout was 46.6 percent, compared to 60.8 percent for the 2012 parliamentary elections.

Nonpartisan citizen election monitors as well as party pollwatchers were present in the vast majority of precincts, providing transparency and a further basis for confidence in the character of the voting and counting. The CEC accredited 47,000 party and candidate observers; more than 1,000 media representatives from more than 150 outlets; and nearly 20,000 nonpartisan monitors from 60 organizations. In addition, 1,300 international observers from 65 groups received accreditation. Observers were allowed to monitor for the most part without significant obstructions, despite occasional crowding. NDI observed instances of blurred distinctions among partisan pollwatchers, non-partisan monitors and commissioners, and observers overstepping their roles.

Reported violations were primarily procedural, including unsealed ballot boxes, voting without proper documentation, breaches of the inking procedure, and deletions from the voters' list. The most commonly observed violation involved representatives from a single domestic

organization, political party or candidate exceeding the limit for observers from their group. This contributed to instances of crowding and some angry confrontations. Observers mostly assessed these incidents as errors rather than malfeasance. Some reports were more serious. For example, NDI observers, ISFED, TI-Georgia and DMUG reported problems with the voters' list in Batumi, where approximately 300 people were not permitted to vote. In two precincts in Akhmeta, NDI observers witnessed activities that indicated possible vote-buying. Also, UNM and DMUG reported alleged ballot stuffing in more than a dozen precincts and campaigning at precincts, which in at least one case resulted in a physical altercation.

Counting Processes

The counting process was also reported to be generally calm and timely. Observers did not report major incidents, although several procedural violations were reported. There were no major issues with the protocols, which were generally made available to stakeholders. Based on reporting from 98 percent of precincts, the CEC announced provisional results showing Georgian Dream candidate Giorgi Margvelashvili at 62 percent, UNM candidate Davit Bakradze at 22 percent, Democratic Movement - United Georgia candidate Nino Burjanadze at 10 percent, Labour Party candidate Shalva Natelashvili at 3 percent, and Christian Democratic Movement candidate Giorgi Targamadze at 1 percent. These results fall within the range of results reflected in ISFED's parallel vote tabulation.

III. ELECTORAL FRAMEWORK AND PRE-ELECTION ENVIRONMENT

Electoral Framework

The current election law was adopted in December 2011. Amendments were passed after the 2012 parliamentary elections. Most parties, candidates and nongovernmental organizations (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 and that the current rules, particularly those governing the allocation of state funding, free airtime and composition of election commissions, created unequal conditions for contestants.

Electoral Administration

The election was administered by a three-tiered election administration comprised of the Central Election Commission (CEC), 73 district election commissions (DECs) and 3,741 precinct election commissions (PECs).

Despite assuming office less than two months before the election, the new chairperson of the CEC conducted electoral preparations in a professional, timely and transparent manner. The commission held regular consultations with political parties, civil society organizations, the diplomatic community, the media, and domestic and international observers. It provided information about electoral process developments and was responsive to questions and concerns. The commission's website featured regular updates about its activities and complaints received, while a call center provided information on the election process, the candidates and voters' lists.

The CEC Training Center prepared DEC and PECs to administer all aspects of the election process. The participants commended the training sessions.

Political party and NGO representatives described the DEC as generally competent and professional, although parties without representation on the commissions assessed their performance less favorably. District- and precinct-level commissioners reported receiving sufficient resources, support and training to fulfill their responsibilities.

Each commission is composed of 13 members, of which seven are appointed by political parties and six are “professional” nonpartisan members elected by the next higher level commission (or, in the case of the CEC, by parliament and the commission’s political party members). The law governing the composition of commissions counted the GD coalition’s six member parties individually. As a result, only the six parties that make up the GD coalition and the UNM were represented on the commissions for this election. This scenario, while technically valid, resulted in commissions in which one “electoral subject” was disproportionately represented and other electoral subjects, except UNM, had no representation whatsoever. Some parties and NGOs have advocated strongly for changes to the rules governing formation of commissions. The issue of limited representation undercut the perceived impartiality of the PECs, as it did for the CEC and DEC. The PECs, however, faced additional challenges related to the level of expertise of their members and views about their independence from local governments.

A number of political party and civil society representatives, as well as several DEC chairpersons, expressed concerns about politicization of the selection process of the DEC-appointed or “professional” nonpartisan PEC members. Questions were also raised about the relative inexperience of PEC members for this election. Teachers and school directors served as PEC members in significant numbers in past elections. However, a statement by the education minister on rules governing the participation of state employees in the election process, as reported by the media, was misinterpreted by some to prohibit teachers and school directors from serving as “professional” PEC members. The lack of a prompt clarification by the Ministry of Education reportedly led to fewer teachers getting placed on PECs. An NDI comparison of names on precinct commissions in 2012 and 2013 suggests that approximately 59 percent of commissioners and 45 percent of chairpersons and secretaries are new to their positions this year. These factors illustrate that Georgia, like many countries, needs to further address the challenge of composing election bodies at all levels in a manner that the public can accept as politically impartial and competent.

Changes in Local Government

The NDI pre-election assessment delegation expressed concern in early September about 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. ISFED reported that in the months following the election, 56 of 69 *gamgebelis* (local executives) and 31 of 69 *sakrebulo* (local council) chairs were replaced by individuals nominated by the Georgian Dream Coalition. In some cases, the officials switched parties or departed voluntarily. Others reported having been pressured to leave office. ISFED and GYLA reported 74 cases of protest rallies demanding resignations. Some have described this pattern as a natural adjustment

to align local government structures with voters' preferences, as expressed in the parliamentary elections. However, NDI noted in September that the outcome of an election at one level of government should not, in effect, nullify the results in another. In this case, the 2012 parliamentary elections should not have overturned the results of the 2010 local elections and related appointments.

On September 2, the Inter-Agency Commission for Free and Fair Elections (IATF), a body charged with responding to complaints about violations by public officials, recommended that no further changes take place in the composition of local governments during the pre-election period. It reiterated the recommendation on October 17. However, dismissals and appointments of officials and staff continued in a number of districts across the country. Four *gamebelis*, five deputy *gamebelis*, one *sakrebulo* head, one deputy *sakrebulo* head and, in one location, 13 *sakrebulo* employees resigned or were dismissed after September 2. In addition, a deputy *gamebeli* and deputy *sakrebulo* head were arrested. Reports from media sources and civil society groups alleged political pressure on local administrations in at least five additional districts.

Violence

A number of political events have devolved into violence over the past year. Some were connected to the presidential campaign. During the signature collection process, two attacks on party activists were reported, one against a representative of the Democratic Movement-United Georgia (DMUG) and another against a UNM activist. Following its October 5 party congress, the UNM claimed one of its delegates was verbally and physically assaulted. It reported that another of its activists was beaten on October 12 in Tbilisi. The UNM also reported that its activists were physically attacked in Mtskheta and Rustavi during the official campaign period. In addition, one organization that claimed responsibility for previous attacks publicly declared its intention to continue obstructing UNM campaign events in the regions. A UNM MP was accused of assaulting a GD representative in Abasha.

Other incidents were not directly related to the election. Earlier in the year, a demonstration in support of LGBT rights, incidents involving religious minorities, as well as events involving the President and members of his party, were met with violence. In most cases, the sanctions imposed on the perpetrators were too lenient to serve as deterrents to future violence.

While the number of reported violent incidents appears to be lower than in the period before the 2012 parliamentary elections, any level of intimidation can have an adverse effect on an election environment and needs to be addressed with the full weight of government authority.

Use of Administrative Resources

Claims about the improper use of administrative resources have been a persistent feature of Georgian elections. The IATF made an important effort in recommendations issued on September 13 and 30 to clarify the definition of campaigning and the roles of public officials in

elections. The IATF further stated that all ministries had complied with its recommendation to issue instructions to public employees concerning the use of administrative resources during the campaign. The prime minister, other government leaders and the Georgian Dream candidate have repeatedly expressed their commitment to respecting the rules regarding administrative resources. Indeed, opposition parties noted few outright violations.

Still, many of NDI's interlocutors contended that the legal framework for distinguishing between state, party and campaign resources remained inadequate. There was confusion about which government officials were permitted to campaign during office hours and ongoing debates about whether attendance at campaign events constituted campaigning.

The election law prohibits unplanned transfers from the central government's budget to municipalities or changes in local budgets' line items during the campaign period. However, GYLA noted that in nine municipalities, local budgets were increased during the restricted period.

Campaign Finance Reform and the State Audit Office

In 2012, election observer groups, including NDI, criticized the newly-empowered State Audit Office (SAO) for using its wide discretionary powers to sanction campaign finance violations without sufficient transparency, impartiality or consistency. In 2013, in contrast, international and domestic observers expressed concern about the SAO's diminished capacity and unassertive oversight. SAO representatives themselves acknowledged to NDI that their responsibilities had expanded while their capacity to investigate or sanction violations had narrowed.

Several factors impacted the SAO's effectiveness. It did not clarify whether its policy was to respond immediately to campaign finance violations or to address them after the election, as is the practice in numerous European countries and the United States, and it did not apply this standard consistently; some issues were addressed right away while others were deferred. This caused confusion. The office published parties' and candidates' reports on campaign finances, but it did not report on its own activities and findings related to campaign finance declarations. Both the SAO and campaigns seem to have interpreted the rules pertaining to income and expenditures inconsistently. Finally, the parliament's December 2012 decision to amnesty all campaign finance violations that occurred before that October's parliamentary elections may have reduced the incentives for compliance.

Voters' Lists

Voters' lists remain one of Georgians' top concerns about the credibility of elections, according to NDI's public opinion research. The overwhelming majority of DEC officials, as well as NGO and political party representatives at the local level with whom NDI representatives spoke, claimed that the quality of the voters' lists has improved in the past several years as a result of a national door-to-door verification process that took place before the 2012 parliamentary elections, among other steps.

The Civil Service Development Agency (CSDA) took commendable measures to facilitate the reregistration of over 97,000 voters who had been deregistered due to discrepancies surrounding

their addresses. However, as a result of these efforts, only 9,142 voters were re-registered by the October 10 deadline.

Although observers noted only limited incidents of voters being turned away from precincts on Election Day, the promised transition to a biometric registration system for the spring 2014 local elections will need to be undertaken with utmost care to minimize disenfranchisement of voters.

Campaign Environment

The campaign environment was generally competitive and freedom of assembly and expression were respected, with some notable exceptions. ISFED reported 60 incidents of significant electoral violations during the pre-election period, as compared to 300 for the 2012 parliamentary elections. However, the rhetoric of the campaign was weighted toward vilification of opponents' personalities and threats to voters rather than issues and policies. Descriptions of other candidates as "criminals" and "traitors" were commonplace in campaign speeches. Statements by the GD candidate and prime minister that the candidate would refuse to participate in a second round, and by the Democratic Movement – United Georgia (DMUG) candidate that placing second or third would indicate election fraud, eroded confidence in election processes.

Opposition parties and election monitoring NGOs said that, to the extent they had claims to lodge about electoral violations, they had difficulty finding a responsive address. The Inter-Agency Task Force was established specifically to prevent and respond to reports of electoral violations by public officials. International and domestic observers praised the task force in previous elections for its responsiveness. The IATF is now chaired by the minister of justice and includes senior officials from various ministries and state agencies. The IATF held regular sessions during this campaign and issued 18 public recommendations. The majority of the delegation's interlocutors evaluated the IATF's recommendations positively, but several opposition parties and NGOs expressed concerns that the recommendations were carried out inadequately or slowly, if at all. An additional criticism was that the chairman made partisan comments in IATF sessions and participated actively in the election campaign while off-duty. These actions did not violate any laws, but they undermined confidence in the task force's impartiality.

In late September and within the official campaign period, the prime minister announced that he was allocating \$1 billion of his personal funds to a \$6 billion private equity fund to attract foreign investment and spur economic growth in Georgia. Opposition parties and civil society organizations expressed the view that this blurred the lines between Mr. Ivanishvili's roles as prime minister, GD campaigner and private citizen.

Media Environment

Television remains the primary source of information for most Georgians. Opinion research suggests that most people feel they are getting enough information about the party they support. However, the diversity of political views represented among the most popular broadcasters appears to be shrinking. A softening media market has called into question the financial viability of even the most popular channels. Also, representatives of some broadcasters claimed that critical comments from top government leaders have prompted a degree of self-censorship

among editors and journalists and selectiveness among advertisers. The combination of these trends may interfere with voters' ability to make informed electoral choices.

The delegation noted with specific concern recent changes in the Georgian Public Broadcaster's (GPB) management and programming. TI-Georgia noted that GPB hosted two presidential debates but was not able to provide extensive and insightful coverage of the candidates and to fulfill its public service mandate due to a financial and leadership crisis that appears to be at least partly caused by partisan infighting.

Ethnic Minorities

The Central Election Commission reported undertaking substantial voter education efforts to ensure that members of national minority groups were able to cast informed votes on Election Day. Nevertheless, the accessibility of minority language materials, including voter lists and ballots, was uneven. Representation of minorities on district election commissions was not proportionate to the percentage of minorities in the districts' populations. PEC composition appeared to be more balanced. The CEC provided trainings and materials to selected PECs in minority languages, but the training opportunities did not appear to meet the demand and need. Delegates observed better accommodations for ethnic minorities in some districts.

IV. RECOMMENDATIONS

Tensions are likely to be high at the spring 2014 local elections so additional measures should be taken to build on the positive aspects of the presidential election and safeguard against problems. These would include, among other things, sufficient protections and deterrents against violence; further clarifications about the distinctions between state and campaign resources; improvements to the election law to ensure more representative election commissions and more equitable access to election-related administrative resources; a public broadcaster that provides accurate, impartial political news; further training for local election authorities; a voter registration system that minimizes fraud and maximizes the participation of voters; more robust, impartial and transparent agencies for managing campaign finances and responding to electoral complaints; and an emphasis on issue-based campaigns.

V. THE DELEGATION AND ITS WORK

The NDI delegation arrived in Tbilisi on October 23 and held meetings with national political leaders, presidential candidates, election officials, and senior government officials, as well as representatives of nongovernmental organizations, the media and the diplomatic community. On October 25-26, NDI observers were deployed in teams to seven regions across Georgia where they met with local government, election, political and civic leaders. On Election Day, the NDI teams observed voting and counting processes in polling stations across the country. The observer teams reported regularly on developments around the country and returned to Tbilisi to share their findings.

NDI's team of long-term election analysts were based in Tbilisi, Kutaisi and Batumi. From early August to Election Day, they visited all 73 districts and conducted close to 600 meetings with government and election officials, candidates and political party representatives, civil society

organizations, media representatives, and international and diplomatic missions in Georgia. The team also observed campaign events, trainings of election officials, as well as sessions of the CEC and the IATF.

The NDI delegation cooperated with international election observation missions from OSCE/ODIHR (Office for Democratic Institutions and Human Rights), the OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe, the European Parliament, the NATO Parliamentary Assembly, the International Republican Institute (IRI), and Georgian nonpartisan domestic election monitoring organizations such as ISFED, GYLA, TI, and PMMG. The delegation is grateful for the cooperation it received from voters, election officials, candidates, political party leaders, domestic election observers, and other civic activists.

NDI is a nonprofit, nonpartisan organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. NDI has monitored 340 elections and organized more than 150 international election observer missions in 62 countries, including numerous pre-election and Election Day assessments in Georgia since 1992.

VI. NDI CONTACT INFORMATION

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