



STATEMENT OF THE NDI INTERNATIONAL OBSERVATION MISSION TO GEORGIA'S OCTOBER 28 PRESIDENTIAL ELECTION

October 29, 2018
Tbilisi, Georgia

INTRODUCTION

This preliminary statement is offered by the National Democratic Institute election observer delegation to Georgia's October 28, 2018 presidential election. The delegation, which included observers from six countries, was led by Per Eklund, former Head of the EU Delegation to Georgia, Ambassador Laurie Fulton, former US ambassador; Dame Audrey Glover, former director of the OSCE-ODIHR; Kenneth Yalowitz, former US ambassador to Georgia; as well as Marija Babic, independent electoral expert; Laura Thornton, NDI global associate and senior resident director in Georgia; and Melissa Muscio, NDI program director for Georgia, Central Asia and Turkey. This statement builds on the findings of four long-term analysts, as well as NDI's July pre-election assessment mission.¹

The aims of NDI's election observation mission are to accurately and impartially assess various aspects of the election process, and to offer recommendations to support peaceful, credible elections and public confidence in the process. The Institute has undertaken its mission in accordance with the Declaration of Principles for International Election Observation and its accompanying Code of Conduct for International Election Observers. The delegation would like to stress that this statement is preliminary in nature. The official results are not yet finalized, and any electoral complaints that may be lodged are yet to be adjudicated. NDI will continue to monitor post-election processes, and will issue further statements if needed. The delegation recognizes that it is the people of Georgia who will ultimately determine the credibility and legitimacy of their election.

SUMMARY

The 2018 Georgian presidential election, the country's final direct election of the president, was marked by both positive and negative features. There were very few instances of violence. The Central Election Commission (CEC) carried out its election preparations efficiently and met its deadlines, though was confronted with concerns about the neutrality of officials. Voters had electoral choices and the campaign was lively and dynamic, though filled with vitriol and personal attacks. The media environment was diverse, though fractured along partisan lines, and offered citizens access to a variety of viewpoints. In addition to financial pressures on the media sector as a whole, some outlets came under political and legal pressure.

¹ Statement of the National Democratic Institute Pre-Election Delegation to Georgia's October Presidential Election, July 27, 2018: <https://bit.ly/2qhD7vA>

Most striking about this election were the aggressive, personalized, and unprecedented attacks by senior state officials against the country's most respected civil society organizations (CSOs)² and their leaders in the days and weeks leading up to election day. CSOs represent a critical pillar of democracy, promoting public confidence in the electoral process. Statements by government officials casting doubt on the impartiality, role, and credibility of CSOs risk undermining that confidence. The CSO attacks not only cast a shadow over this specific election period but signify a distinct departure from the otherwise constructive, if not occasionally tense, relationship between government and civil society in Georgia. The country's leaders set an example for the rest of the public, so it is essential they adopt an appropriate and respectful tone toward the country's watchdogs.

Georgia has the technical and legal provisions in place to conduct democratic elections. The challenges facing elections are more entrenched and difficult to remedy. Longstanding problems of an uneven playing field and abuse of administrative resources remain. Official records show that the independent candidate supported by Georgian Dream (GD), Salome Zourabichvili, received over four times more in donations than the next two candidates combined and benefited significantly from the party apparatus. The delegation is also concerned by reports by civil society and opposition parties of pressure on state officials to mobilize support for the GD-backed candidate.

According to preliminary results from the CEC, Zourabichvili won 39 percent of the vote, and Grigol Vashadze, represented by the United National Movement (UNM) from the eleven-party "Power is in Unity" coalition, won 38 percent. Because the 50 percent threshold was not cleared by either candidate, Georgia is therefore heading to a second round between Vashadze and Zourabichvili. The rhetoric and tensions of the campaign are likely to intensify in the lead up to the second round particularly given the closeness in election results of the two candidates.

POLITICAL CONTEXT

Georgia entered this election with numerous democratic achievements to its credit. The legislative framework is generally in line with international standards and conducive to the conduct of democratic elections. Fundamental freedoms of expression, assembly, and association are largely respected. The election was competitive and voters were presented with diverse political choices. Majority of citizens trusts the electoral process.³ Arguably one of Georgia's greatest democratic assets is its thriving civil society sector, with its long record of impartially observing Georgian elections and political processes over more than twenty years. Importantly, Georgian citizens overwhelmingly support a democratic future for their country.

Despite these achievements, this election took place amidst democratic challenges. Concerns about judicial independence, democratic accountability to citizens, and opaque decision-making power concentrated in the ruling party chair, remain. Citizens are apathetic and unhappy with the country's direction.⁴ Consolidation of one-party dominance at all levels of governance is limiting political pluralism and effective oversight. Georgia has experienced these issues under previous governments. The weak checks and balances and lack of separation of powers are exacerbated by the elimination

² Georgia's ruling party lashes out at NGOs over Omega tapes criticism, October 10, 2018 <http://oc-media.org/georgia-s-ruling-party-lashes-out-at-ngos-over-omega-tapes-criticism/>

³ According to an NDI opinion poll published in December 2017, 42 per cent of respondents rated the performance of the election administration in the October 2017 local government elections as good or very good, 40 per cent rated it as average, and only 7 per cent rated it as bad or very bad. https://www.ndi.org/sites/default/files/NDI%20poll_December%202017_ISSUES_ENG_vf.pdf

⁴ According to NDI opinion poll in June 2018, 62% of respondents said Georgia is going in the wrong direction: <http://caucasusbarometer.org/en/nj2018ge/POLDIRN4/>

of the direct election of the president in the new constitution. The remaining checks in Georgia's democracy are CSOs and media, and they too are under threat.

The media environment is diverse but highly polarized along political lines. Rustavi 2, viewed as pro-opposition, and Imedi, perceived as more favorable to GD, dominate the market. Some media representatives argue that as long as media broadcasters continue to be unprofitable, are in debt, and struggle to operate as businesses, they cannot invest in quality journalism, and political engagement becomes the remaining motivating factor. The market environment is not enabling for new, independent media outlets to enter. In addition to financial challenges on media, particularly for regional media broadcasters, there are political and legal pressures on Rustavi 2 concerning its ownership, and a case is now pending in the European Court of Human Rights in Strasbourg.

The pre-election landscape was overshadowed by serious allegations of corruption and abuses by government leaders. Throughout the campaign, Rustavi 2 TV station released numerous audio and video tape recordings of various officials engaging in or describing coercion, corruption, and other illegal behavior. The most damaging revealed purported attempts by government officials to secure illicit funding for the ruling party from, and apply pressure on the Omega Group, a business conglomerate. Other recordings included those of an imprisoned former official from the prosecutor's office threatening to release compromising material on GD.⁵ Government officials denied the authenticity of the tapes. A group of civil society organizations, including Transparency International (TI), International Society for Fair Elections and Democracy (ISFED), and the Georgian Young Lawyers' Association (GYLA), issued a statement warning that the Omega situation was "indicative of a severe crisis in the governance system." Government leaders responded by attacking the CSOs for raising the matter.

Although CSOs are not above criticism, and have faced it in the past from both the governing and opposition parties, the intensity and perceived coordination of the attacks by senior leaders against the country's leading CSOs during this election period are unprecedented. CSOs were accused of partisan bias, ignorance, lack of professionalism, illegal behavior⁶, and even being accomplices to "fascism" in what CSOs and opposition parties claim was part of an orchestrated narrative to undermine or divert attention from any criticism of the government or the upcoming elections. In addition to remarks of leaders, there were numerous other attacks on CSOs by the heads of different government agencies, including the Inter-Agency Commission for Free and Fair Elections (IACFF), the Georgian National Communications Commission (GNCC), and the Central Election Commission (CEC). The aggressive speech against CSOs was then inflamed through personalized attacks in social media and even violent threats against civil society leaders.

GD leaders alleged CSOs "crossed a red line" by participating in partisan campaigns. They also pointed to CSOs' silence on harassing behavior against the GD-supported candidate. However, not all government leaders with whom the delegation met agreed with their colleagues and they emphasized the importance of CSOs in democratic governance.

Despite the pressures on them, the Georgian CSOs being criticized maintained a professional and methodologically-based approach while playing the critical role of watchdog, as they have under

⁵ "Two [of my] recordings and there won't be Georgian Dream anymore"- Mirza Subeliani, quote from the recordings released by Rustavi 2 on October 14, 2018 <http://rustavi2.ge/en/news/116084>

⁶ The Justice Minister accused the head of TI of involvement in violently disrupting protestors when she was serving in the Ministry of Interior. <https://www.facebook.com/TransparencyInternationalGeorgia/videos/191375408422176/UzpfSTeWMDAwMTE0NjA2MjEwNToxOTIxNzE5Mjg3ODc2MjU1/>

successive governments. They acknowledged improvements and exposed shortcomings on all sides of the political spectrum. The reports of such independent domestic monitoring groups are essential in the evaluation of the elections. Politically-motivated attacks can undermine that credibility. The damage inflicted by this type of attack can go well beyond the election period, creating a chilling effect for all citizens and activists, with harmful implications for the country's democratic development and European and Euro-Atlantic aspirations.

ELECTION DAY FINDINGS

Election day largely proceeded in a calm and orderly manner. Polling officials worked diligently over long hours to fulfil their responsibilities, and voters came prepared and knowledgeable about the process, ready to express their will. A large number of observers as well as representatives of candidates and media organizations were accredited for the election, contributing to the overall transparency of the process.⁷

Domestic monitoring groups noted, and NDI observers confirmed, that polling stations mostly opened on time and, for the most part, the opening procedures were followed. Voting generally proceeded calmly, with some instances of procedural violations cited by CSOs and NDI observers and just one violent incident. In most cases NDI observers assessed positively the overall environment in the polling stations observed, as well as PECs' adherence to procedures.

By contrast, the UNM painted a very negative picture of election day, asserting that voting had been marred by widespread serious violations, recording well over 1,000 on their website.

Civil society organizations registered serious individual incidents, including an alleged case of ballot-box stuffing by a PEC official in Zugdidi. On the basis of the testimony of the commission, the CEC concluded that the PEC official was voting, and that it was not a case of ballot stuffing. CSOs also noted cases of candidate representatives interfering in the process. The CEC issued warnings to candidate representatives in four PECs in Bolnisi, one of whom was expelled for refusing to desist. A small number of cases of possible vote buying were noted.

One issue of concern to domestic monitoring organizations, also observed by NDI delegates, was the widespread presence of candidate activists mainly GD, but UNM and EG activists as well, outside polling stations. CSOs saw their presence as an attempt to influence the will of the voters. Such efforts to mobilize voters are not illegal. However, in the context of the widely reported practice during the pre-election period of state officials being instructed to support Zourabichvili and to provide lists of family members for the purpose of mobilization, the practice is troubling (see section on Abuse of Administrative Resources).

Domestic civil society organizations reported instances when their observers were hindered from carrying out their monitoring duties. NDI observers noted several cases in which domestic observers appeared to be operating as candidate representatives, and occasionally directing the process.

In PECs where NDI observed the count, the environment was generally calm, and PEC officials in most cases followed the procedures correctly. As of midnight, more than 400 complaints had been submitted to election commissions about election day.

⁷ The CEC accredited more than 82,000 candidates' representatives, more than 22,000 non-partisan observers from 73 domestic organizations, more than 1,100 international observers from 58 organizations, and more than 2,000 journalists from 125 media organizations, 94 of them domestic and 31 international.

According to preliminary results released by the CEC, the turnout was 46.7 percent, compared with 46.6 percent in the 2013 presidential election. Zourabichvili won 39 percent of the vote, Vashadze 38 percent, and David Bakradze, standing for European Georgia (EG), 11 percent. Georgia is therefore heading for a second round. These results were largely consistent with the exit poll released by Edison Research, commissioned by Rustavi 2, which showed Vashadze and Zourabichvili at 40 percent and 40 percent at 8pm. At this preliminary stage, ISFED'S parallel vote tabulation (PVT)⁸ appears to confirm the accuracy of the CEC result. Bakradze conceded after the release of the exit poll, and endorsed Vashadze for the second round.

CAMPAIGN ENVIRONMENT

The campaign environment was generally peaceful, though highly negative, and candidates were able to campaign freely and mostly without hindrance. There were only isolated instances of violence. However, incidents from previous elections still have not been adequately addressed, with only minimal fines for perpetrators of violent attacks and no resolution in a car bomb case in 2016, creating what opposition leaders call a culture of impunity.

GD did not field its own candidate but supported an independent candidate, Zourabichvili. GD leaders explained the decision was in part to select a woman as well as to address the issue of one party concentration, describing their choice as a contribution to democracy and consistent with the development of a parliamentary system. While initially indicating they would take a backseat in the elections, once the race appeared more competitive and discussions of the possible pardoning of former President Saakashvili re-emerged, GD quickly became fully engaged in her campaign. Zourabichvili had all the benefits of GD support including financing, branch offices, party messaging,⁹ and officials campaigning on her behalf, creating very little distinction from being the party's candidate.

Vashadze and Bakradze were the two main opposition candidates in this race. The 16 qualified candidates also included Shalva Natelashvili of the Labor Party and Davit Usupashvili nominated by Free Democrats.¹⁰ Despite the further limitations of the powers of the office under the new constitution, opposition parties saw the election as significant. The president makes judicial appointments, issues pardons, represents Georgia in international forums, and is the highest directly elected position in the country, with the public mandate and platform to raise issues of importance to citizens. To some, this election was not only a fight for the presidency, but also a contest between EG and UNM to determine which would become the most viable opposition force ahead of the 2020 parliamentary elections. However, the race was mainly portrayed, particularly in the media, as a competition between UNM and GD.

Zourabichvili, Vashadze, and Bakradze ran the most active campaigns, travelling extensively around the country. Issue-based campaigning was acknowledged as challenging given the limited functions of the office, leading some candidates to focus on values. Bakradze's campaign differentiated between what he would do in office as a public figure -- such as advocating for pension reform and cuts in bureaucratic spending -- and what he would do within the specific duties of the office, such as lobbying for labor quotas in Europe and funding students to study abroad. Vashadze also addressed

⁸ PVT is an election observation methodology based on a statistical sample of polling stations that can be used to assess the conduct of elections and estimate the voter turnout and election results within a margin of error.

⁹ Brochures were distributed with GD logos and talking points for the campaign stressing party achievements.

¹⁰ In total, 25 candidates participated in the election, 19 nominated by political parties and 6 - by initiative groups of voters.

pension reform, but focused on the importance of defeating GD. Zourabichvili's campaign was mostly value-based, highlighting her ancestry, belief in tolerance and diversity, and desire to address the negative political climate. GD party leaders asserted that several promises by opposition candidates would not be in their power to carry out if elected.

Most candidates, though not Zourabichvili, signed a Code of Principles developed together with the CEC that included pledges not to discriminate or use hate speech and to engage in constructive debate.¹¹ Despite this, the pre-election period was marked by a high level of negative campaigning, with severe attacks on some candidates. Zourabichvili and Vashadze both faced allegations of being pro-Russian, Zourabichvili for remarks she made asserting Georgia's initiating role in the 2008 war and Vashadze for having served in the USSR foreign service.¹² Zourabichvili's campaign events were on several occasions disrupted by hecklers and UNM activists. Although less frequent, instances of Vashadze's meetings being disrupted were also reported.

Candidates and their supporters used social media extensively to campaign, including negative messaging through Facebook posts against all candidates, and many directed against Zourabichvili. For example, Rustavi 2 CEO Nika Gvaramia called for the "traitor" and her supporters to be harassed, punished, and pushed out of public life.¹³ Numerous GD leaders condemned CSOs for failing to criticize Gvaramia's post, with the parliamentary speaker calling CSOs accomplices to fascism. While one can argue whether such posts are covered by freedom of speech provisions, they nevertheless reflect the hostile rhetoric in this campaign period.

Efforts to reach out to marginalized groups took place on a limited basis. Presidential candidates made campaign stops in national minority areas and some distributed materials in minority languages.¹⁴ Because of strong kinship networks, outreach efforts often focused on community leaders. Candidates generally did not specifically address women in their campaigns. Only two candidates, Bakradze and Usupashvili -- but neither Zourabichvili or Vashadze participated -- attended a public debate on gender in Tbilisi organized by the Women's Movement and the Task Force on Women's Political Participation. Negative campaigning on the basis of gender did not feature in the attacks reported to the mission or in independent media monitoring reports.¹⁵ Zourabichvili's campaign made the case, however, that the aggressive and insulting rhetoric in this election would deter women from entering politics.

¹¹ In signing the Code, the candidates agreed to abide by the rule of law; not discriminate on the basis of ethnic, religious, gender, or other factors; not to use hate speech, xenophobic, or threatening communication; and to abstain from violence. They further agreed not to interfere in other candidates' campaigns; not to spread fake news about other candidates; not to misuse administrative resources or engage in vote-buying; to carry out inclusive campaigns; and engage in meaningful program-focused debates. Three candidates, including Zourabichvili, did not sign.

¹² Photoshopped posters portrayed Vashadze as the pawn of Russian President Putin and pictures of Zourabichvili with the caption 'Traitor Salome' were also posted.

¹³ "We should harass each and every person who funds or otherwise supports Salome Zurabishvili, any politician who attends her meetings or supports her.... We should harass them in every possible way. This is not a matter of freedom of expression or the political taste. This is open support of countries' traitor. Support in treason. We should memorize each and every one of them as ones standing beside the traitor and our country should expect anything from them. We should memorize them and squeeze them out from all forms of public life, whether it is a business, culture, or politics. Traitor and her supporters should be punished! I plan to dedicate myself and next several years to that. First I will make sure she loses (she will definitely lose) and after that I will go after her supporters."

<https://www.facebook.com/nika.gvaramia.129/posts/1095557487279243>.

¹⁴ Georgia's Azeri and Armenian minority populations largely inhabit districts located in the regions of Kvemo Kartli and Samtskhe-Javaketi.

¹⁵ Media monitoring by domestic CSOs, sponsored by UNDP and funded by the EU, found that negative campaigning on the basis of gender was not widespread.

While racially-charged language and hate speech were not prominent features in this election, there were isolated incidents, many by Kakha Kukava of Free Georgia.¹⁶ Thirteen leading CSOs issued a statement labeling remarks by Zourabichvili as “xenophobic and racist”¹⁷ when she criticized the UNM government’s granting of dual citizenship to Turkish residents of Georgia but not to Georgia’s Armenian minority. GD leaders dismissed these criticisms arguing she was simply defending ethnic Armenians and denounced the CSOs for the statement. Further, a Facebook post Zourabichvili made several years ago disparaging Chinese people reemerged during the campaign,¹⁸ though she denied knowledge of this.

MEDIA ENVIRONMENT

There was ample coverage of the campaign on most media outlets and viewers had the opportunity to compare and contrast contenders. While the broadcasters generally tried to cover the most active candidates in their news programs, given the perception of their closeness to particular candidates, both Rustavi 2 and Imedi struggled to secure the involvement of key candidates for talk shows and debates. Regional broadcasters complained that certain campaigns, particularly Zourabichvili’s, did not give them access. Only the Georgian Public Broadcaster (GPB), the country’s primary public television station, managed to air a debate involving the three main candidates together, Zourabichvili, Vashadze, and Bakradze.

A media monitoring exercise conducted by three CSOs¹⁹ found that Rustavi 2, Imedi, and GPB gave the most coverage to Zourabichvili, followed by Vashadze, with Bakradze in third place. There was also significant coverage given to the Georgian government and to GD. However, whereas the GPB’s coverage of all three candidates was mostly neutral in tone, Rustavi 2’s coverage of Zourabichvili was more negative, while conversely Imedi’s coverage of Vashadze was more negative.

While media regulations during elections play an important role in promoting a fair and competitive playing field, they also pose economic and regulatory burdens for broadcasters. As required by the election code, broadcasters must provide free airtime for candidate advertisements, depriving them of advertising revenue. The high number of qualified candidates receiving free airtime²⁰ presented challenges to broadcasters. GD also complained about a loophole in the party funding system allowing the use of ‘technical candidates,’ nominated by partner parties to gain free television air time, which could then be used to air negative messages against opponents.²¹ GD complained about Vashadze’s campaign taking advantage of this loophole, although Zourabichvili and others also benefited from technical candidates. In addition, in some instances, these ads allegedly violated campaign donation rules.²²

¹⁶ http://mdfgeorgia.ge/uploads/library/101/file/sidzulvilis_ena_2018.pdf

¹⁷ <https://gdi.ge/en/news/ngos-on-salome-zurabishvilis-xenophobic-statement.page>

¹⁸ Facebook page of Zourabichvili, January 2013: "Chinese people never die. Several members of a family use one ID card or passport, who can see any difference? You may think that ten persons have entered but in reality 100 persons have crossed the border."

¹⁹ Supported by UNDP and funded by the EU.

²⁰ 16 qualified electoral subjects on the basis of previous election results

²¹ Technical candidates can not endorse or support another candidate, as this would constitute an illegal donation to a campaign.

²² “Political ads of eight qualified subject might be illegal”, Transparency International- Georgia, October 17, 2018 <https://www.transparency.ge/en/post/political-ads-eight-qualified-electoral-subjects-might-be-illegal>

The GNCC, which regulates broadcasters, caused controversy due to a number of contentious interventions in this election. The body wrote a letter requesting the discontinuation of three negative ads aimed at Zourabichvili, some merely airing clips of her own remarks. CSOs questioned the GNCC's role in monitoring the content of political ads and also argued that, while negative, they fell within freedom of speech provisions.²³ The GNCC also imposed fines on Rustavi 2 related to a paid EG political ad, which CSOs claimed was a misinterpretation of the electoral code.²⁴ The GNCC also controversially issued a letter imposing regulations on broadcasters for opinion polls they commissioned, including a requirement to provide verifiable "justification" for differing poll results. Fulfilling this demand would prove onerous as well as scientifically impossible. Regional media stations reported being taken to court in the past for covering public opinion polls, so have decided to stop poll coverage to avoid sanction.

Pressure on and hostile rhetoric toward several media stations, including Rustavi 2, and to a lesser extent, TV Pirveli, increased in the last weeks of the campaign. In an interview, the GD chairman repeatedly blamed Rustavi 2 for damaging the country and spreading disinformation. He ominously stated that changes would be forthcoming to correct the problem. The station also reported several cyber attacks disrupting their operations. Further, on October 16, 2018 the Iberia TV company, which is owned by the Omega Group, ceased broadcasting, apparently due to the financial debts of its parent company. Alleged pressure on Iberia - seen as critical of the current government - to give up ownership rights, was also part of the released recordings discussed above.

ELECTION ADMINISTRATION

Overall, the CEC²⁵ proceeded with preparations in accordance with the election code and calendar. In addition, the commission took several positive steps to address past concerns and recommendations, such as recommending clearer criteria for the selection of PEC members²⁶ and including social media use in its Memorandum of Understanding (MoU) on administrative resources. According to the CEC, 84 per cent of those selected had experience as PEC members in at least one of the last five general elections.²⁷ The CEC also conducted multiple trainings, held regular open meetings, and published decisions and complaints on its website to ensure transparency. While parties previously received an equal number of seats, the balance of power has significantly changed due to recent amendments,²⁸ and as a result among the six seats allocated for parties three seats are held by Georgian Dream (GD) and one seat each by the UNM, EG, and the Patriots Alliance.

²³ Second Pre-election Period Interim Report - 2018 Presidential Elections, ISFED, October 8, 2018, <http://www.isfed.ge/main/1421/eng/>

²⁴ First Pre-election Period Interim Report - 2018 Presidential Elections, ISFED, September 13, 2018 <http://www.isfed.ge/main/1409/eng/>

²⁵ The election commission is a three-tiered structure comprised of the central election commission (CEC), 73 district election commissions (DECs)#, and 3,705 precinct election commissions (PECs). This includes 3,637 regular PECs in Georgia, 11 exceptional PECs, and 57 PECs abroad.

²⁶ "CEC Recommendations on the Process of Electing Precinct Election Commission Members," September 3, 2018, <http://cesko.ge/eng/list/show/114503-tseskos-rekomendatsiebi-saubno-saarchevno-komisiis-tsevrta-archevis-protsestan-dakavshirebit>

²⁷ "Information and Statistical Data on Electing and Appointing Members of Precinct Election Commissions 2018," September 26, 2018, <http://cesko.ge/eng/list/show/114988-informatsia-da-statistikuri-monatsemebi-2018-tslis-saubno-saarchevno-komisiis-tsevrta-archevisa-da-danishvnis-shesakheb>

²⁸ Due to recent amendments to the election code, each tier of the election commission is now comprised of 12 as opposed to 13 members, with six appointed by the parliament or a higher-level election commission, and six appointed by political parties. Also due to the amendments, party seats are allocated in proportion to the percentage of votes obtained by a party in the previous parliamentary elections, when previously each qualified party had a representative.

Despite these efforts, concerns remained about bias toward GD in the selection and composition of PECs and the short time period for the selection process. GYLA reported problems in the selection of temporary DEC members, mostly related to nepotism and GD party affiliation, which prompted the CEC chair to publicly accuse the organization of unprofessionalism. In addition, opposition parties raised allegations of the use of pre-determined lists, which they alleged included GD-affiliated candidates, for both the selection of PEC members and election of PEC leadership.

ABUSE OF ADMINISTRATIVE RESOURCES AND CAMPAIGN FINANCE

Allegations of abuse of administrative resources and pressure on government employees have been long standing problems in Georgian elections and were a feature in this election as well. Responding to recommendations, at the beginning of the campaign the prime minister issued a letter outlining expectations of conduct to state employees. However, mechanisms for oversight, enforcement, and sanctioning were lacking. State employees across the country were mobilized to support Zourabichvili and attend her campaign events. According to CSO reports, there are indications of public officials instructed to develop lists of Zourabichvili supporters and provide the campaign with personal data of their family members and their assigned PEC locations.²⁹ The NDI Mission saw a copy of one such form from Samegrelo-Zemo Svaneti region and heard first-hand descriptions of meetings organized in Telavi. Opposition parties and CSOs also made the case that state employees often did not need to be directed to support Zourabichvili, as they “knew what was expected of them” and feared losing their jobs.

Candidates’ campaigns are required to report regularly to the State Audit Office (SAO) about their donations and expenditures and the SAO assesses whether they are in line with the law. By its own admission, the SAO lacks sufficient resources, investigative power, and time to adequately monitor whether campaign expenditures are properly reported in the submitted accounts.

Access to financial resources varied widely among candidates. Having endorsed Zourabichvili’s candidacy, GD called on its donors to support her campaign, giving her the advantage of incumbency. Only the Zourabichvili campaign managed to secure a bank loan, although other candidates reported applying at various commercial banks. SAO statistics show that since the 2012 elections only parties within the ruling coalition have been granted bank loans, despite other parties’ ability to provide collateral or demonstrate the popular support needed for securing state reimbursement for campaign expenses. According to the SAO, as of October 27, the Zourabichvili campaign had received GEL 5.1m (USD 1.9m) in donations, while the UNM had received GEL 640,000 (USD 235,000), and the Bakradze campaign had received GEL 600,000 (USD 220,000). Opposition parties claimed that donors were hesitant to contribute to them due to both pressure applied by the ruling party as well as the benefits of contributing to the ruling party, although evidence of this was difficult to obtain.

The manner in which GD’s support of Zourabichvili’s campaign was accounted for proved contentious. The party is prohibited from donating directly to her. Around the country, local GD offices, staffed by GD activists, were turned over to the Zourabichvili campaign, and Zourabichvili campaign banners were hung outside. GD explained that during the election period, the rent for their offices would be paid by Zourabichvili’s campaign and that the cancellation of the rental agreements

²⁹ “Employees of non-profit (non-commercial) legal entities of municipalities are possibly instructed to mobilize supporters of Salome Zurabishvili”, statement by ISFED, GYLA, TI, September 10, 2018 <http://www.isfed.ge/main/1423/eng/>

was handled centrally, perhaps explaining why in some places GD branch heads were often unaware of this arrangement and told the mission GD was donating the offices to the campaign.

COMPLAINTS AND APPEALS

The complaints resolution mechanisms are complex, with multiple responsible bodies and varying timelines, leading to a lack of clarity about the appropriate avenue for recourse. Nearly half of the pre election complaints were filed by the UNM, largely pertaining to procedural issues, such as PEC members being absent from meetings.³⁰ Vashadze's campaign explained that given the comments in previous elections by observer groups that parties complained but failed to file complaints, the campaign had advised representatives to be vigilant in reporting all violations. Other complaints filed alleged the misuse of administrative resources, violations of campaign regulations, and violations of electoral procedures.

A Memorandum of Understanding on the Use of Administrative Resources, signed by the CEC, IACFF, 15 CSOs, and six political parties, for the first time included provisions regulating social media.³¹ Of the 26 complaints that were filed regarding the use of social media by public officials, only three were satisfied, 20 were not satisfied, and three were still under consideration as of election day.³² CSOs noted the election commission routinely accepted the explanations provided by those implicated for misusing social media (e.g. it was during a work break, it was their own device, it was done by a family member), rather than conducting thorough and expedient investigations of the cases filed. In such cases concerning social media, appeal of the election commission's decision is not possible.

Political parties, candidates, and CSOs submitted 28 applications and complaints to the IACFF, which is chaired by the Minister of Justice and tasked with preventing and responding to violations of election legislation by public servants. Most participants agreed that it was important to have an inclusive platform for discussion where complaints could be aired and multiple government institutions could be addressed at one time. Participants have noted, however, that the lack of clear operating procedures hinders the body's effectiveness. For the first time, in this election the three leading domestic observers, ISFED, GYLA, and TI,³³ as well as the main opposition parties, EG and UNM, left the forum. CSOs cited the continuous hostile rhetoric of the chair and the lack of a conducive environment for constructive dialogue or resolution. As a result, the IACFF was not able to perform its function as a pluralistic forum for addressing issues and helping build confidence in the electoral process as effectively as it might.

The low number of cases of violence reported during the campaign period as compared to previous elections is a positive development. Opposition leaders pointed out, however, that lack of adequate resolution to previous cases creates an environment of impunity and fear. Only four cases of election-related violence were reported by the Ministry of Internal Affairs (MIA) in the pre-election period. Investigations have been initiated in all cases, however none has been resolved so far.

³⁰ As of October 27, 2018

³¹ The MoU, signed on September 14, refers to the use of web pages and social media funded by the State budget or the use of personal webpages and social media with internet or devices funded by the State budget.

³² As of October 27, 2018

³³ "European Georgia leaves Interagency Commission," September 20, 2018, Interpress News, <http://www.interpressnews.ge/en/politicss/98012-european-georgia-leaves-interagency-commission.html?ar=A&rund=1539777376>; Transparency International Georgia Is Leaving the Interagency Commission in Protest, Transparency International, October 9, 2018.

RECOMMENDATIONS

In the spirit of international cooperation and on the basis of these pre-election and election day observations, the NDI delegation respectfully offers the following recommendations. NDI notes that some recommendations from previous reports were adopted, including the prime minister's letter on use of administrative resources and the CEC outlining selection criteria for election officials. The delegation notes, however, that many recommendations from previous elections have not yet been adequately addressed and expresses its sincere hopes that they will be considered to improve future elections.

While this delegation believes recommended legislative and technical fixes can address some of the problems raised in the election process, the most serious obstacles to Georgian elections cannot be addressed through laws and procedures. As stated, the issues of resources, particularly alleged abuses of administrative resources, and intimidation of voters, donors, and candidates, require political will. These problems have plagued elections across different governments and will, without action, continue to be passed onto future elections. Breaking this cycle of abuse will have a measurable effect on building public trust in elections. Further, the bitter and aggressive partisan rhetoric, the lack of trust in electoral bodies, such as the IACFF, and the threats on civil society also go beyond technical solutions and require political will from all, including the government, parties, institutions, media, CSOs, and the public. Addressing these concerns present an important opportunity to bolster Georgia's democracy.

In advance of the runoffs, NDI offers the following immediate recommendations:

- Government leaders and state officials should cease the attacks on civic organizations and support an enabling environment for CSOs in line with international obligations.
- The international community should more forcefully and publicly condemn attacks on, and demonstrate support for, Georgian CSOs and emphasize their importance in the country's democratic development. Funding for monitoring organizations for the second round is also needed.
- The government should consider another directive aimed at state employees and their conduct ahead of the runoffs and add strict penalties and a monitoring mechanism to ensure enforcement.
- The Ministry of Interior should continue vigilance in the period before the runoffs to prevent violence.
- Parties should sign a code of conduct in which they pledge to refrain from all forms of intimidation and abuse of administrative resources or face internal sanctions.
- In the remaining weeks, campaigns and media should refrain from threatening rhetoric and personal attacks focusing instead on candidates' platforms and visions for the presidency.
- Media broadcasters should consider holding additional debates between the two candidates, who should agree to participate to provide voters with a clear understanding of their positions.

Longer term recommendations should be considered.

- Parliament should engage in a consultative process with civil society organizations, election administration, and political parties to amend relevant election legislation or operating procedures in line with previous and current recommendations from international and domestic observer delegations, including those related to clarifying the parameters for social

media use in campaigning, simplifying and streamlining complaints procedures, revising the composition of the election administration to ensure broader political representation, defining criteria and process of PEC member appointments to attract qualified nonpartisan candidates, and establishing clear rules for managing protocol reconciliation, particularly in the event of a vote imbalance.

- Political parties should take proactive steps to monitor and sanction any members who participate in efforts to intimidate, spread hate speech, disseminate disinformation, or misuse administrative resources.
- While directives to all state employees outlining expectations of conduct are needed, they are not enough. Ahead of the 2020 parliamentary elections, mechanisms for monitoring need to be implemented by the government.
- Through an inclusive process, the government should reconsider the format of the IACFF. Sessions should be structured to be conducive for the airing and efficient resolution of complaints.
- The GNCC should issue guidelines ahead of elections clearly outlining the requirements of the law.
- While requirements for free airtime are commendable and should be continued, to ease the burden on broadcasters, the state should provide funding to defray costs.
- In an effort to increase electoral and political awareness among national minority communities, political parties and elected officials should consider conducting outreach campaigns directed at national minorities throughout the year, including in minority languages.
- Funds should be devoted to increasing minority language media broadcasts to better inform and involve ethnic minority communities in the political processes of Georgia.
- Election administration and the courts should investigate substantive complaints thoroughly and avoid dismissal on purely procedural grounds, respecting the law in both letter and intent.
- Parliament should increase resources, investigative authority, and timeframes for the SAO to ensure adequate and comprehensive monitoring of campaign donations and expenditures.

THE DELEGATION AND ITS WORK

The NDI delegation arrived in Tbilisi on October 23 and held meetings with national political figures, candidates, election officials, senior government officials, representatives of civil-society organizations, the media and the diplomatic community. The delegation consulted with non-partisan citizen election organizations such as ISFED, GYLA, Transparency International, and Public Movement – Multinational Georgia (PMMG). On October 26, NDI deployed six observer teams to five regions of Georgia. On election day, NDI observed the opening, voting and counting processes in polling stations around the country. The delegation is grateful for the cooperation it has received from voters, election officials, candidates, political party representatives, domestic election observers and other civic activists.

The NDI delegation included:

Ilire Agimi, United States
Marija Babic, Serbia
Per Eklund, Sweden
Katherine Feenan, Canada
Laurie Fulton, United States
Elspeth Suthers, United States
Alan Gillam, United Kingdom

Mirjana Kovacevic, Serbia
Melissa Muscio, United States
Iaryna Odynak, Ukraine
Peter Palmer, United Kingdom
Natasha Rothchild, United States
Kenneth Yalowitz, United States
Oleksandr Zheka, Ukraine

Audrey Glover, United Kingdom

The team of four long-term analysts have since September 17 visited 31 districts in nine regions of Georgia as well as the capital, Tbilisi, meeting with government and election officials, candidates and political party representatives, CSOs, media representatives and international and diplomatic missions. NDI has observed campaign events, the training of election officials, as well as sessions of the CEC, the IACFF and the GNCC. NDI will continue to observe developments after the election.

NDI wishes to express its appreciation to the United States Agency for International Development (USAID), which has funded the work of the delegation. In addition to the international observation activities, NDI supported the ISFED election monitoring efforts. NDI is a nonprofit, nonpartisan organization working to support and strengthen democratic institutions worldwide through citizen participation, openness and accountability in government. NDI has observed more than 200 elections in every region in the world, including numerous assessments in Georgia since 1992.

NDI CONTACT INFORMATION

Laura Thornton, lthornton@ndi.org (+995 599 566 852)

Diana Chachua, dchachua@ndi.org (+995 577 779 639)