

Doc. 11496
21 January 2008

Observation of the extraordinary presidential elections in Georgia (5 January 2008)

Report
Bureau of the Assembly
Rapporteur: Mr Mátyás EÖRSI, Hungary, Alliance of Liberals and Democrats for Europe

The Extraordinary Presidential Elections in Georgia, on 5 January 2005, were in essence consistent with most Council of Europe commitments and standards for democratic elections. These were the first genuinely competitive Presidential elections in Georgia since its independence and in general enabled the Georgian People to express their political will. The shortcomings revealed during these elections form significant challenges that need to be urgently addressed. Regrettably, the problems and violations encountered, some of them serious, especially during the vote count and tabulation, taint the overall election process.

I. Introduction

1. Following an invitation by the Chairperson of the Parliament of Georgia, the Bureau of the Assembly decided, at its meeting on 27 November 2007, to set up an Ad Hoc Committee to observe the extraordinary Presidential Elections, scheduled for 5 January 2008, and appointed me as the Chairperson and Rapporteur of the Ad Hoc Committee.

2. On 4 October 2004, a co-operation agreement was signed between the Parliamentary Assembly and the European Commission for Democracy through Law ("Venice Commission"). In conformity with Article 15 of the agreement: "*When the Bureau of the Assembly decides to observe an election in a country in which electoral legislation was previously examined by the Venice Commission, one of the rapporteurs of the Venice Commission on this issue may be invited to join the Assembly's election observation mission as legal adviser*", the Bureau of the Assembly invited an expert from the Venice Commission to join the Ad Hoc Committee as advisor.

3. Based on the proposals by the political groups in the Assembly, the Ad Hoc Committee was composed as follows:

Socialist Group (SOC)

Ms Meritxell BATET	Spain
Mr Jaime BLANCO	Spain
Mr Andreas GROSS	Switzerland
Mr Kastriot ISLAMI	Albania
Mr Tadeusz IWINSKI	Poland
Mr Maximiano MARTINS	Portugal
Ms Carina OHLSSON	Sweden
Ms Gaby VERMOT-MANGOLD	Switzerland

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

Mr Andres HERKEL	Estonia
Ms Danuta JAZŁOWIECKA	Poland
Ms Corien JONKER	Netherlands
Mr Dariusz LIPIŃSKI	Poland
Mr Vjačeslavs STEPANENKO	Latvia
Mr Piotr WACH	Poland

Alliance of Liberals and Democrats for Europe (ALDE)

Mr Mátyás EÖRSI	Hungary
Mr Andrea RIGONI	Italy

European Democrat Group (EDG)

Mr Ruhi ACIKGOZ	Turkey
Mr Karol KARSKI	Poland
Ms Ganira PASHAYEVA	Azerbaijan
Mr David WILSHIRE	United Kingdom

Group of the Unified European Left (UEL)

.....

Venice Commission

Mr Aivars ENDZINS	Latvia
Mr Gaël MARTIN-MICALLEF	Secretariat

Secretariat

Mr Bas KLEIN, Deputy Head of Secretariat, Interparliamentary co-operation and election observation
Mr Bogdan TORCATORIU, Co-Secretary, Committee on the environment, agriculture and local and regional affairs
Mrs Daniele GASTL, Assistant, Interparliamentary co-operation and election observation

4. The Ad Hoc Committee acted as part of the International Election Observation Mission (IEOM), which also included delegations of the OSCE Parliamentary Assembly (OSCE-PA), the European Parliament (EP) and the Election Observation Mission of the Organisation for Co-operation and Security in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

5. The Ad Hoc Committee met in Tbilisi from 3 to 6 January 2008 and held meetings with, *inter alia*, candidates competing in these elections, the Chairman of the Central Election Commission (CEC), the Head of the Election Observation Mission of the OSCE/ODIHR and his staff, as well as representatives of civil society and the mass media. The programme of the meetings of the Ad Hoc Committee appears in Appendix 1.

6. On Election Day, the Ad Hoc Committee was split into 11 teams which observed the elections in and around Batumi, Gori, Kakheti, Kazreti, Rustavi, Tbilisi and Telavi.

7. In order to draw up an assessment of the electoral campaign, as well as the political climate in the run-up to the elections, the Bureau sent a pre-electoral mission to Georgia from 5 to 7 December 2007. The cross-party pre-electoral delegation consisted of Mr Mátyás Eörsi (Hungary, ALDE), Chairman of the Ad Hoc Committee and Head of Delegation, Mr Kastriot Islami (Albania, SOC), Mr Andres Herkel (Estonia, EPP/CD) and Ms Ganira Pashayeva (Azerbaijan, EDG). In Tbilisi, the pre-electoral delegation met with, *inter alia*, the acting President of Georgia, the acting Chairperson of the Parliament, the Chairman of the Central Election Commission, the Chairmen of the Supreme and Constitutional Courts, the Deputy Minister of the Interior, the General Prosecutor, a cross-section of candidates running in the elections, representatives of opposition and governing parties, representatives of the international community in Georgia, as well as representatives of

the mass media and civil society. The statement issued by the pre-electoral delegation at the end of their visit appears in Appendix 2.

8. In its statement of preliminary findings and conclusions delivered the day after the elections, when the tabulation process was yet to be completed, the IEOM unanimously concluded that the 5 January 2008 Presidential election was in essence consistent with Council of Europe and OSCE commitment and standards for democratic elections, but that they revealed significant challenges that need to be urgently addressed. This election was the first genuinely competitive presidential election which enabled the Georgian people to express their political choice. The joint IEOM press release appears in Appendix 3.

9. The Ad Hoc Committee wishes to thank the Parliament of Georgia, the OSCE/ODIHR Election Observation Mission and the Special Representative of the Secretary General of the Council of Europe in Tbilisi for their co-operation and the support provided to the Ad Hoc Committee.

II. Political and legal context

10. After several days of tense political protests in which early elections were demanded, President Saakashvili declared, on 7 November 2007, the state of emergency in Georgia, citing threats to the stability of the country. Subsequently, on 8 November 2007, the President announced that he would call for early Presidential elections, on 5 January 2008, as a means to resolve the political crisis in the country. In addition, he decreed that a non-binding referendum would be held on the same day, asking the Georgian public whether they wished to have Parliamentary elections in the spring of 2008, as demanded by the opposition, or in autumn 2008, as foreseen in the recently amended Constitution. On 25 November 2007, President Saakashvili formally resigned, after which extraordinary Presidential elections were formally called for 5 January 2008, in conformity with constitutional provisions. On 24 November 2007, the day before he resigned, President Saakashvili announced that an additional plebiscite, on NATO membership, would also be organised on 5 January 2008.

11. The political climate in Georgia is dominated by the schism between government and opposition and the resulting highly charged polarised political debate and atmosphere of mutual mistrust. This has been compounded by the effects of the events in November 2007. In addition, since independence, changes of power in Georgia have been initiated by revolutionary means rather than by elections, which has had an impact on the political strategies of both opposition and governmental forces.

12. These elections were governed by the Unified Election Code of Georgia, the Constitution and relevant provisions in other laws. The Venice Commission of the Council of Europe concluded in an opinion that the Election Code of Georgia forms an adequate basis for the organisation of democratic elections, if implemented in good faith. However, as part of the dialogue initiated between the government and opposition in the wake of the calling of elections, amendments to the Election Code were adopted respectively on 22 November and on 12 December 2007. While the Venice Commission has not yet been able to give an opinion on the amendments to the electoral law, the amendments mostly seem to address previous recommendations from the international community, including the Assembly, Venice Commission and the OSCE/ODIHR. However it should be noted that amending the election law so close to the elections in general runs counter to the Code of Good Practice in Electoral Matters of the Venice Commission.

13. The amendments to the electoral law, *inter alia*, changed the composition of the Central Election Commission (CEC) and Precinct Election Commissions (PECs); lowered the number of signatures needed to nominate a candidate for the Presidential Elections; lowered the maximum number of voters per polling station; introduced the possibility for voters to be added to the voters' lists on Election Day; improved the provisions for allocation of free airtime and campaign finances; changed the election system for Parliamentary elections and lowered the threshold to enter Parliament from 7% to 5%.

14. The introduction of the possibility for voters to be added to the voters' lists in the polling stations on Election Day is an issue of concern. While this can be explained in the context of the current state of the voters' lists in Georgia and the redrawing of polling station boundaries as a result of the reduction of the maximum number of voters per polling station, same-day registration in the polling station can be used as an avenue for electoral fraud especially in the absence of fully adequate mechanisms to prevent multiple registration and voting. In addition, in a recent opinion, the Venice Commission of the Council of Europe stated that the registration of voters in the polling stations on Election Day runs counter to Council of Europe standards.

15. The Election Code stipulates that the votes of persons that are added to the voters' list on Election Day are cast using special envelopes. If more than 15 persons are added to the voters' lists, these ballots are sent to the Central Election Commission (CEC) for counting. If less than 15 persons are added to the lists, the Precinct Election Commissions can decide to count these ballots themselves or to send them to the CEC. However the Election Code leaves it to the discretion of the CEC to count these ballots or to set them aside, without giving any legal conditions for such a decision by the CEC. This arbitrary power of the CEC runs counter to the principle of the universality of the vote and Council of Europe standards.

16. Also as a result of the recent amendments, the Election Code contains inconsistencies and ambiguities and is open to wide and varying interpretations. This affected both the administration of the election, as well as the handling of election related complaints and appeals.

17. According to the electoral framework, the President of Georgia is elected for a five-year term by an absolute majority of valid votes cast. If no candidate receives an absolute majority of votes, a second round of elections is organised between the two candidates who gained the highest number of votes. In the second round, the candidate that receives the greatest number of votes is considered elected.

III. Election Administration

18. These elections were administered by a three-tiered election administration consisting of the Central Election Commission (CEC), 76 District Election Commissions (DECs) and 3,511 Precinct Election Commissions (PECs). The CEC and DECs are permanent commissions whose members are appointed for a five-year term. PECs are set up specifically for an election and are disbanded after the elections have been completed.

19. The recent amendments to the Election Code changed the composition of the CEC and PECs. In line with these amendments, Political parties are now represented on these commissions. In addition to the 6 members nominated by the President and appointed by the Parliament, each faction in parliament or party that received more than 4% of the votes in the recent nation-wide elections had one representative on the CEC and PECs. In practice this meant that the CEC and PECs were composed of 13 members, 6 of which representing the opposition. The composition of the DECs was not affected by the recent amendments, but their role and powers are significantly reduced in the amended election law. In line with the Election Code, the DECs consisted of five members selected in an open competition and appointed by the CEC.

20. The CEC worked in a transparent manner but on most decisions split along party lines, highlighting the inconsistencies in the Election Code and its openness for multiple interpretations. While CEC decrees need a 2/3 majority to be adopted, decisions were often made in the form of orders, which only need a simple majority to be adopted. In that manner, the CEC avoided a possible blockage of its work as a result of the split between pro-government and opposition representatives, but the legal basis for this appeared at times questionable. The opposition parties were under-represented in leadership positions in the PECs, with only two of the PEC chairpersons being appointees of the opposition. The ruling United National Movement held a *de facto* majority on the PECs.

21. In dealing with election related complaints, the CEC failed to follow provisions provided by the Election Code and international standards. In its decisions it often split along party lines with its members placing narrow party political interest before a sound interpretation of the law. This was compounded by the inconsistencies and ambiguities in the Unified Election Code, which allowed the CEC to stretch the law beyond reasonable interpretation. The Courts heard election related appeals in a professional manner, but their decisions often lacked sufficient reasoning and sound legal basis, raising some questions with regard to the independence of the judicial system.

22. The late adoption of the amendments to the Election Code had an impact on the training of, and delayed the publication of the CEC manual for, PEC members. In a welcome development, the CEC conducted an extensive voter education campaign through the national media.

IV. Candidate and Voter Registration

23. Candidate registration was open, transparent and inclusive, allowing for a genuinely competitive Presidential Election.

24. In total, 22 persons applied for registration as a Presidential candidate. The CEC accepted the preliminary registration of 19 of these prospective candidates, who were then asked to provide the CEC

with the legally required 50.000 supporting signatures in order to be registered as a candidate for the Presidential election. This information was supplied to the CEC within the legal deadline by 13 prospective candidates. In line with the recent amendments to the Election Code, candidates then had two days to correct errors in their registration, including the possibility to provide additional supporting signatures if necessary. After the conclusion of that period, the CEC registered 7 candidates for the Presidential election. Four candidates who were not registered appealed the CEC decision at the Court, which upheld the CEC decisions.

25. The 7 registered candidates were: Mr Mikheil Saakashvili of the ruling United National Movement, Mr Levan Chachechiladze of the United Public Movement – the united opposition bloc - , Mr David Gamkrelidze of the New Rights Party, Mr Shalva Natelashvili of the Labour Party of Georgia, Mr Giorgi Maisashvili of the Party of the Future, Ms Irina Sarishvili of the Hope party and independent candidate Mr Arkadi Patarkatsishvili.

26. The accuracy of the voters' lists has historically been problematic in Georgia. The responsibility for the maintenance of the voters' lists in Georgia lies with the CEC who made a commendable effort to increase their accuracy by a door-to-door verification of the lists. As a result, a substantial number of records were revised. Following the verification process, the voters' lists were published for public inspection. Voters could check the lists, and request corrections, at the PECs, DEC's and via the internet and a CEC hotline. In total, some 2000 persons were added to the list and some 3000 records removed during the public scrutiny period. The deadline for public scrutiny expired on 13 December 2007. However, as a result of the recent amendments to the Election Code citizens could be added to the voters' lists in the polling stations on Election Day.

27. Despite the verification efforts, the accuracy of the voters' lists remained a point of concern for many stakeholders. As a result, the inaccuracies, both real and perceived, became a campaign issue during the pre-electoral period.

V. Pre-election period and the Media

28. The pre-electoral period was characterised by a highly polarised campaign environment and a climate of mutual distrust between opposition and governmental parties. A number of opposition candidates focused their campaigns on allegations that the elections would be rigged instead of on policy issues. The pervasiveness of allegations by opposition candidates of election violations on the one hand, and speculations and allegations by government forces about post-election violence and preparations for a coup d'état on the other hand, were not conducive to an issue-based election campaign.

29. The electoral campaign was marred by allegations of abuse of administrative resources by the campaign of the government candidate, including the use of governmental welfare programmes for campaign purposes and the active involvement of state officials on all levels of his campaign. Even if within the limits of the law, this clearly blurred the distinction between state and party resources and is of concern to the Ad Hoc Committee. When deciding on the few official complaints which were filed in relation to this, the courts and the CEC tended to stretch the law beyond reasonable interpretation in favour of the ruling party candidate and government officials, which resulted in all complaints being dismissed.

30. Allegations and reports of cases of intimidation, pressure and violence against campaign activists, mostly from opposition candidates, overshadowed the election campaign. A number of cases of intimidation and violence, including kidnapping, could be verified by the IEOM. The authorities generally seemed to investigate the cases reported to it and, when allegations were substantiated, intervened. The ruling party was reported to have reprimanded some of its supporters in a number of cases. In a welcome development, the acting President and the Interior Minister made several strong appeals to United National Movement activists, as well as police and state officials, to uphold the law and to refrain from any actions that might undermine the integrity of the elections. However, a more pro-active approach from the authorities in investigating allegations of intimidation and abuse may have lessened the pervasiveness of the allegations and would have strengthened public confidence in the election process. Although the cases reported were isolated, and no organised patterns could be detected, it is clear that intimidation and pressure on campaign activists, as well as other election related violence, have no place in a democratic society.

31. In general, all candidates were able to campaign freely around the country. The campaign was active and mostly focused on large public rallies. The campaign was more extensive in the capital than in the regions. One candidate, Mr Patarkatsishvili, remained abroad during the campaign period, citing that he feared arrest after being accused of trying to overthrow the Government by the authorities. It should be noted

that all candidates have immunity from arrest during the campaign period, but this can be lifted by the CEC upon request of the Public Prosecutor.

32. The Ad Hoc Committee welcomed the establishment of an Inter-Agency Task Force by the acting President to liaise with international and domestic observers. In a number of cases, the acting President intervened personally to address opposition concerns.

33. Georgia has a generally free and diverse media environment, which offers the citizens access to a wide range of political views. The closure by the authorities of Imedi, a broadcaster that openly supports the opposition, and the subsequent declaration of a stage of emergency, affected the media environment in the run-up to these elections, with some journalists seemingly more willing to apply self-censorship than before.

34. Both print and broadcast media offered a wide and diverse coverage of the election campaign, enabling the voters to become familiar with the platforms of the different candidates. However, private media generally showed a bias in favour of the ruling party candidate in both the extent and the tone of coverage. While the public broadcaster was more balanced in its coverage, its tone of reporting equally favoured the ruling party candidate. Regrettably, a televised debate between the leading candidates did not take place as a result of Mr Saakashvili's decision not to participate in reaction to the negative campaigning and personal attacks on him by the opposition candidates.

35. The amended electoral law contains extensive provisions for the allocation of free airtime and equal conditions for paid advertising on both private and public broadcasters. The electoral law makes a differentiation between qualified (e.g. supported by parties that won at least 4% of the vote in the last parliamentary elections and at least 3% of the vote in the last local elections) and unqualified candidates. While this may be understandable in the context of the relatively low barriers for the nomination of a candidate, it can hinder media access for the so-called unqualified candidates, especially to the private broadcast media. The Ad Hoc Committee therefore welcomed the decision by the public television to offer free airtime to all, - qualified and unqualified- candidates.

VI. Election Day - Vote count and tabulation

36. On Election Day, voting was generally peaceful, despite widespread allegations beforehand that violent incidents would take place. IEOM observers in general assessed the voting positively, although the process was often chaotic and disorganised. A number of polling stations opened with a delay, which seemed mostly to be the result of unfamiliarity of the PECs with the legally prescribed procedures.

37. A number of shortcomings and violations were witnessed, including the presence of unauthorised persons in the polling stations, attempted agitation, as well as four cases of ballot stuffing and one case of carousel voting. In addition, a few cases of multiple and proxy voting were noted as well as seemingly identical signatures on the voters' lists, which could be an indication that multiple voting had taken place.

38. A considerable number of persons, around 85.000, were added to the voters' lists in the polling stations on Election Day. This seemed to confirm the concerns of the Ad Hoc Committee with regard to the accuracy of the voters' lists and is especially of concern in relation to the fact that the inking of voters' fingers, introduced as a mechanism to avoid multiple voting, was not, or was inconsistently, applied, diminishing its effectiveness as a safeguard against electoral fraud.

39. The vote count was less positively evaluated, with a number of procedural shortcomings observed. The counting process was generally slow and a significant number of PECs had problems following the legally prescribed counting procedures, which highlighted the impact of the last-minute changes to the election procedures and the late publication of the PEC handbook. Regrettably, results protocols were often not posted on the PECs for public scrutiny, in contravention of the Election Code.

40. Due to protracted counting procedures, the tabulation process could not be evaluated in time for the joint IEOM press conference the day after the elections. However, the finalisation of the vote count and the tabulation process was observed by the IEOM through the OSCE/ODIHR Election Observation Mission observers and their findings are therefore an integral part of this report.

41. In general, it appeared that PECs had problems with completing, or were unaware of how to complete, the results protocols. In a considerable number of PECs observed (21%), IEOM observers noted significant procedural errors and omissions in the completion of the results protocols. In addition, tampering

with the results protocols was witnessed in a significant number of PECs observed (8%) , which is of considerable concern to your rapporteur.

42. In a welcome development, in order to enhance the transparency of the tabulation process, the CEC started posting the results protocols on its website in the early morning following the elections.

43. The latest amendments to the Election Code stipulate that the results protocols should be sent directly from the PECs to the CEC, in order to increase the transparency of the process and to avoid any manipulations with the protocols at DEC level. However, as a considerable number of PECs lacked the necessary equipment and infrastructure to do this, the DEC was tasked to send the results protocols of the PECs under their authority to the CEC directly upon receipt. Regrettably, it appeared that, in some instances, DEC corrected the PEC results protocols, in contravention of the law. In a few cases, the PEC protocols in possession of the IEOM showed different results from those provided by the DEC.

44. The overall turnout reported by the CEC was 56.19%. However, a significant number of PECs reported an unrealistically high turnout in the last three hours of the elections, which could be an indication of possible misconduct. For example, in some PECs, the increase in turnout would indicate that a voter was processed every 13 seconds during this period.

45. In line with legal provisions, some 930 PECs sent the ballots that were cast by voters on the additional lists, to the CEC to be counted. The counting of these ballots at the CEC took place in often chaotic circumstances and counting procedures were not uniformly applied, especially with regard to ballot validity. The validity of ballots was considered on the basis of a CEC ordinance, which was only adopted after Election Day and which was more permissive than the relevant provisions in the Election Code. IEOM observers noted that, for some PECs, significant numbers of ballots were filled out identically, which could be an indication of tampering. However, all these ballots were declared valid.

46. Your rapporteur is considerably concerned by that fact that the election Commissions - including the CEC - and the courts appeared not to adequately consider, or investigate, the majority of complaints of irregularities that were filed with them. Almost all complaints lodged with the election commissions were rejected on technical grounds, or without sound legal justification, which would appear to demonstrate an apparent unwillingness to consider the subject matter of the complaints. In addition, the courts rejected the vast majority of the 50 appeals lodged with them, mostly on technical grounds. In a welcome development, the authorities are reported to have started a number of criminal investigations related to violations on Election Day. At the time of writing, 4 complaints against the final results announced by the CEC, as well as 19 appeals against court decisions, were still pending. The deadline for the court decisions is 21 January 2008.

47. On 13 January 2008, the CEC announced the results of the Extraordinary Presidential Elections. These results were adopted by the CEC by a simple majority of its members, with all 6 opposition representatives voting against the decision. With a turnout of 56,19%, Mikheil Saakashvili was elected with an absolute majority of 53,47% of the vote, avoiding the need for a second round. Mr Levan Chachechiladze won 25,69% of the vote, Mr Arkadi Patarkatishvili 7,10%, Mr David Gamkrelidze 4,01%, Mr Shalva Natelashvili 6,49%, Mr Giorgi Maisashvili 0,77% and Ms Irina Sarishvili 0,16% of the vote. In total, the results of 6 PECs were corrected by the CEC and the results in 12 PECs were invalidated due to irregularities, 5 of them by the CEC and 7 of them by court order. The total number of ballots invalidated was 33.129.

48. It should be noted that the political atmosphere in Georgia remained highly polarised after the elections and was characterised by widespread allegations by the opposition that the results of the election would be falsified. However, the allegations of widespread fraud, at the time of writing, could not be independently verified, or backed up by conclusive evidence.

VII. Conclusions and recommendations

49. The Extraordinary Presidential Elections in Georgia, on 5 January 2005, were in essence consistent with most Council of Europe commitments and standards for democratic elections. These were the first genuinely competitive Presidential elections in Georgia since its independence and in general enabled the Georgian People to express their political will. The shortcomings revealed during these elections form significant challenges that need to be urgently addressed. Regrettably, the problems and violations encountered, some of them serious, especially during the vote count and tabulation, taint the overall election process.

50. It is beyond doubt that the violations and irregularities raise questions regarding the credibility of these elections in the eyes of the Georgian people. This is the main challenge that the Georgian authorities need to address without delay. The authorities should therefore fully, and transparently, investigate all election violations and complaints that are brought to their attention and provide full openness with regard to the grounds on which these complaints are rejected or declared admissible.

51. The Georgian authorities are requested to provide the Monitoring Committee of the Assembly with a complete list of all official election complaints, jointly with the decisions, and the underlying argumentation, that were taken on them. The Ad Hoc Committee would suggest the two co-rapporteurs for Georgia to include in their future work the scrutiny of the manner in which elections complaints and appeals were handled.

52. The manner in which the courts adjudicated on election-related complaints raises some questions regarding the independence of the judiciary in Georgia.

53. The electoral framework in general provides an adequate basis for the organisation of democratic elections. However, the Election Code contains inconsistencies and ambiguities and is open to wide and varying interpretations. In addition, the last-minute changes to the Election Code, while generally addressing long-standing recommendations of the Assembly, have not been subject to an opinion of the Venice Commission of the Council of Europe. The Ad Hoc Committee therefore recommends that the Georgian authorities request an opinion of the Venice Commission on the Election Code, and, with its co-operation, work to eliminate any shortcomings and inconsistencies encountered before the next elections take place.

54. The accuracy of the voters' lists remains a point of concern. The authorities should pursue unabated their efforts to improve the accuracy of the voters' lists, taking into account the additions made to the voters' lists on Election Day.

55. The possibility for persons to be added on the voters' lists in the polling stations on Election Day is of concern, especially in the context of the inconsistent application of the provisions for inking voters' fingers as a mechanism to prevent multiple voting by the same persons. Furthermore, the addition of voters to the voters' lists in the polling stations by the election commissions on Election Day runs counter to Council of Europe standards. The possibility to be added in the polling stations by the election commissions on Election Day should therefore be abolished for future elections, including the upcoming Parliamentary elections in the spring of 2008.

56. The allegations of abuse of administrative resources dominated the election campaign. To a certain extent, this was also the result of inconsistent and unclear regulations in the Election Code, which allow the blurring of state and party functions during the election period. This should be remedied for future elections. In addition proper regulations regarding the transparency and disclosure of campaign financing should be adopted in order to bolster the legitimacy of the election process in the eyes of the Georgian public.

57. Pressure and intimidation on citizens and campaign activists have no place in a democratic society. The Georgian authorities should therefore fully investigate any such cases brought to their attention, and if substantiated, perpetrators should be prosecuted and sanctioned to the fullest extent of the law. For the sake of the public confidence in the electoral process, a climate of impunity for election offences should not be allowed to exist.

Appendix 1

**BRIEFING PROGRAMME FOR PARLIAMENTARIANS
OSCE PA, PACE, EP
PRESIDENTIAL ELECTION IN GEORGIA 2008**
Venue, Ball Room, Tbilisi Marriott Hotel

Thursday, 3 January

14:00	Opening by the Heads of Delegations
14:30 - 16:00	ODIHR Briefing by Ambassador Boden and his team
16:00 - 16:15	Coffee Break
16:15 - 17:00	CEC Chairman Mr. Levan Tarknishvili
17:00 - 18:00	Roundtable with experts/political analysts
18:00 - 19:00	Roundtable with observer organisations
19:00 - 20:00	Roundtable with the press

Friday, 4 January

09:00 - 9:45	Shalva Natelashvili, Labour Party Coffee break
11:30 - 12:15	Levan Gachechiladze, Coalition
12:15 - 13:00	David Gamgrelidze, New Right
13:00 - 13:45	Mikheil Saakashvili, National Party
13:45 - 14:30	Irina Sarishvil, Hope Party – Independent candidate
14:30 - 15:00	Giya Maisashvili (Party of the Future)
15:00	Deployment and meeting with LTOs in Tbilisi

Political Analysts:

Mary O'Hagen, NDI
Eka Siradze, ISFED
Camrin Christensen, Transparency International
Gia Nodia, Caucasus Institute for Peace and Development;
Alexander Rondeli and Temuri Yakobashvili, Georgian Foundation for Strategic and International Studies
David Darchiashvili, Open Society Georgia Foundation
Irakli Menagharishvili, Strategic Research Foundation
Hans Gutbrod, Regional Dir, CRRC

Press:

Helena Bedwell
Reuters – Margarita Antidze
Imedi – Levan Nanobashvili
Rustavi 2 – Irakli Chikovani
Public Television Station – Tamar Kintsurashvili
Georgian National Communication Commission – Ivane Makharadze and Gigi Khojevanishvili
Media Council – Levan Ramishvili and George Tevzadze
Mikhnik Media Council – Zviad Koridze and Alexander Rondeli

Appendix 2

Georgia: restoring confidence in democratic elections is the joint responsibility of all political forces

Strasbourg, 07.12.2007 - At the end of a three-day mission ahead of the observation of Georgia's 5 January parliamentary elections, a four-member Council of Europe Parliamentary Assembly PACE delegation (*) today made the following statement :

"The consolidation of democracy has, until recently, been notable in Georgia. However, the events in November have seriously damaged this process. The political schism and polarised political debate risk undermining the credibility of the upcoming Presidential elections, and its outcome, in the eyes of the Georgian public. International observers, such as those deployed by the Parliamentary Assembly of the Council of Europe, therefore play a key role in ensuring that the Georgian public enjoy confidence in the democratic nature of the electoral process.

The Parliamentary Assembly consists of members from all major political groups of the 47 member States. This is a guarantee that the Assembly's only interest is in ensuring that these elections comply with the high democratic standards of the Council of Europe with the outcome reflecting the free will of the Georgian people. For this reason the Assembly deployed, from 5 to 7 December 2007, a pre-electoral mission (*) to Georgia to assess the preparations and political climate in the run-up to these elections. Moreover, the Assembly will be back in January with a 30 member strong cross-party delegation to observe these elections jointly with its international partners.

However, the democratic conduct of these elections is not in the hands of international observers but the common responsibility of all political forces in the country. The Delegation therefore calls upon electoral contestants to stop already questioning the credibility and outcome of these elections before they take place, but instead, work to resolve any shortcomings found. Genuine democratic elections, and public confidence in them, are in the common interest of all political forces, and indeed of the country itself.

During its visit the Delegation was convinced that the preparations for these elections were well under way, despite the short time-frame in which they have to be organised. The electoral law forms an adequate basis for the conduct of democratic elections. However, the Delegation is concerned that the amendments to the law, as agreed between the Government and the opposition, have not yet been adopted and calls upon the Parliament to do so without further delay. Any possible further changes should only take place after the elections, as otherwise they may lead to confusion on election day, which, in turn, could undermine public confidence in the process.

Genuinely democratic elections demand a level playing field between all electoral contestants, and this is an area of concern for the Delegation. The alleged use of state resources and the active involvement of central and local state officials at all levels of the campaign of the former President, raise the spectre of abuse of administrative resources. Even if it is within the limits of the law, the Delegation would like to remind the governmental authorities that they have the responsibility to ensure that the public perceives the campaign as fair between all participants.

The allegations of intimidation and pressure are too many for comfort. The leaders of the law enforcement bodies should repeatedly make it publicly clear that any allegations of violations will be investigated and, if found to be valid, perpetrators prosecuted to the fullest extent of the law.

Equal and unbiased access to the media for all candidates is essential for democratic elections. While the Delegation expects that all legal requirements for access to the media will be met, it is undeniable that the current news coverage is dominated by the campaign of the former President. The Delegation wants to stress the responsibility of the media in this respect. All media should ensure a balanced and unbiased coverage of all candidates, without any form of self-censorship. The media in this respect should not only adhere to the letter, but also to the spirit of the law. In addition the Delegation would like to support the idea of regular topical debates between all contestants in the public media. This is essential for the voters to make an informed choice on election day.

The accuracy of the voters' lists continues to be of concern in Georgian elections, especially in the context of the reduction of the size of the precincts. The Central Election Commission (CEC) should start a highly visible public voter education campaign to exhort voters to check their entry on the voters list. While the Assembly has some concerns regarding the use of additional voters' lists, it accepts that they will be used for these elections. However the CEC should adopt adequate provisions to prevent them being used as an

avenue for multiple voting and should ensure that the additional ballots can not be tampered with when they are transported from the precinct to the CEC where they will be counted. The public voter education campaign should make it clear that the existence of additional lists can not be an excuse for citizens not to check their entry on the voters' lists before election day.

Last but not least, the Delegation noted the concerns expressed about possible infringements of the secrecy of the vote, especially as a result of the video cameras installed in each polling station. Secrecy of the vote - and equally the perception of the secrecy of the vote - is crucial for democratic elections. The CEC should take all necessary measures, including proper voter education, to ensure that voters cast their ballot in absolute secrecy.

The Assembly continues to stand ready to help the Georgian people with the consolidation of democracy in their country.

Contact: Bas Klein, Mobile: + 33 662 265 489

(* The pre-election Delegation visited Tbilisi from 5 to 7 December at the invitation of the Speaker of the Parliament of Georgia. The cross party Delegation was composed of Mátyás Eörsi (Hungary, ALDE) - Head of Delegation, Kastriot Islami (Albania, SOC), Andres Herkel (Estonia, EPP/CD) and Ganira Pashayeva (Azerbaijan, EDG). During its visit, the Delegation met, *inter alia*, with the Acting President of the Republic, the Acting Speaker of the Parliament of Georgia, a cross section of candidates or their representatives in these elections, the Chairman of the Central Election Commission, the Deputy Minister of the Interior, the Chairmen of the Supreme and Constitutional Courts, the Public Prosecutor, a cross section of political parties, representatives of the international community as well as representatives from the mass media and civil society.

Appendix 3

INTERNATIONAL ELECTION OBSERVATION MISSION

PRESS RELEASE

Georgian election in essence consistent with most commitments but challenges must be addressed urgently

Strasbourg, 06.01.2008 - While the 5 January presidential election in Georgia was in essence consistent with most international standards for democratic elections, significant challenges were revealed which need to be addressed urgently, the International Election Observation Mission concluded in a joint preliminary statement today.

This was the first genuinely competitive presidential election in the country, enabling the Georgian people to express their political choice. The election campaign was conducted in a highly polarized environment, marked by a lack of trust and pervasive allegations of violations. The distinction between state activities and the former President's campaign was sometimes blurred, contributing to an inequitable campaign environment.

Some 85 parliamentarians and 340 short-term observers monitored the election for the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA), the Council of Europe Parliamentary Assembly (PACE) and the European Parliament (EP).

"Because of the demonstrative competitiveness of this campaign, I perceive this election as a viable expression of the free choice of the Georgian people, but the future holds immense challenges," said OSCE PA President Emeritus, Alcee L. Hastings, the Special Co-ordinator of the OSCE short-term election observers.

Mátyás Eörsi, the Head of the PACE delegation, said: "This election, although clearly not perfect, enabled the Georgian people to give a democratic response to the recent political crisis. Georgians should be congratulated for the commitment they showed on election day to democratic principles. Now it is up to the authorities to hear our criticisms and urgently respond to the significant shortcomings noted. For the sake of the stability of the country I call upon all actors to conclude this election process in a manner that ensures the legitimacy in their eyes of Georgian people."

Marie Anne Isler-Beguin, who headed the EP delegation, said: "This election is another step forward in strengthening Georgia's young and still fragile democracy. For the upcoming legislative elections, as decided by the plebiscite, the necessary lessons have to be taken immediately. The European Union will continue to assist Georgia on this path, in particular with the instruments of the Neighbourhood policy."

The European Neighbourhood Policy was developed in 2004, with the objective of avoiding the emergence of new dividing lines between the enlarged EU and its neighbours and instead strengthening the prosperity, stability and security of all concerned.

Ambassador Dieter Boden, the Head of the OSCE/ODIHR long-term mission, said: "We have noted an election which has been prepared in a professional manner but we would do a disservice to Georgian democracy if we did not also speak out openly where it was not in line with OSCE commitments, such as cases of intimidation. Those are challenges which should be addressed urgently and through the appropriate channels."

Despite the short timeframe, the Central Election Commission prepared the election in an overall professional manner, operating transparently and carrying out an extensive voter education campaign. However, on contentious issues, its members acted in a partisan manner, not always observing the neutrality required of an election administration.

The campaign was overshadowed by widespread allegations of intimidation and pressure, a number of which were substantiated. The implementation of social welfare programmes was frequently combined with campaigning for the former President.

In most polling stations visited, election day was organized and relatively peaceful but with significant regional variations and isolated cases of serious violations. In some precincts the process was chaotic and with procedural problems, in particular relating to inking, a safeguard measure against multiple voting. Some 5 per cent of voters were added to the voter list on election day. Observers evaluated the counting less positively, noting a slow process and procedural shortcomings.

For further information, please contact:

- Ambassador Dieter Boden, Head of the OSCE/ODIHR EOM, in Tbilisi (+995–32–487 841);
- Urdur Gunnarsdottir, OSCE/ODIHR Spokesperson (+48–603–683 122); or Tatyana Bogussevich, OSCE/ODIHR Election Adviser, in Warsaw (+48–22–520 0600);
- Andreas Baker, OSCE PA (+45–60 1080 30);
- Bas Klein, PACE (+33–6622 65489);
- Stefan Pfitzner, European Parliament (+32–498 983 295)