



## STATEMENT OF THE NDI ELECTION OBSERVER DELEGATION TO GEORGIA'S 2012 PARLIAMENTARY ELECTIONS

*Tbilisi, October 2, 2012*

This preliminary statement is offered by the National Democratic Institute (NDI) election observer delegation to Georgia's October 1, 2012, parliamentary elections. The delegation included observers from seven countries and was co-led by: U.S. Congressman Gregory Meeks, ranking member of the House Foreign Affairs Subcommittee on Europe and Eurasia; former U.S. Congressman Sam Gejdenson, former ranking member of the House Foreign Affairs Committee; former European Union Ambassador to Georgia, Per Eklund; and NDI President Kenneth Wollack.

The delegation visited Georgia from September 26 to October 4. The mission builds upon the findings of NDI's [June 2012 pre-election delegation](#) and the [ongoing observations of NDI long-term analysts](#), who have worked with NDI's Tbilisi-based staff since early August. The delegation observed more than 100 polling stations in all regions except Racha-Lechkhumi and Kvemo Svaneti and conducted its activities in accordance with Georgian law and the [Declaration of Principles for International Election Observation](#), which has been endorsed by over 40 intergovernmental and nongovernmental organizations worldwide. NDI cooperated closely with other international observer missions and Georgian civic groups, including the International Society for Fair Elections and Democracy (ISFED), Transparency International - Georgia (TI), the Georgian Young Lawyer's Association (GYLA) and Public Movement - Multinational Georgia (PMMG), among others.

*The delegation would like to stress that it is not possible to render a final judgment on the October 1 parliamentary elections at this time. The official tabulation of results is not complete and any complaints that may be lodged have yet to be resolved. This statement is therefore preliminary in nature. The Institute will continue to monitor the electoral process and issue reports at appropriate times. NDI does not interfere in electoral processes and recognizes that it is the people of Georgia who will ultimately determine the credibility and meaning of their elections.*

The delegation wishes to express its appreciation to the United States Agency for International Development (USAID), which has funded the work of this delegation and, along with the Swedish International Development Cooperation Agency (SIDA) and the National Endowment for Democracy (NED), has supported NDI democracy assistance programs in Georgia. In addition to the work of this delegation, NDI supported the election monitoring efforts of ISFED and major groups that carried out the "This Affects You" campaign.

## SUMMARY

Georgia's October 1 elections were the most competitive in a decade and mark an important step in establishing a pluralist legislature. Notwithstanding serious problems, primarily in the pre-election period, the electoral process allowed citizens to make informed choices and express their will at the ballot box. Irrespective of the final results, the winning party going forward is unlikely to have a 75 percent constitutional majority and will need to develop a consultative and participatory legislative process; the parliamentary minority will have to share in the responsibilities of governing.

The Georgian people, election officials and citizen observers are to be commended for their contributions to the election process. The responsibility now lies with political leaders to engage immediately in constructive dialogue and reconciliation.

### I. POLITICAL CONTEXT

The October 1, 2012, parliamentary elections will result in a legislature with increased powers when constitutional amendments go into effect following the 2013 presidential election. The parliament will then have the authority to elect the prime minister, who will then name the government. Also, parliament will move from the capital, Tbilisi, to a newly-constructed facility in Kutaisi, Georgia's second largest city. The Georgian government has described the constitutional reforms and relocation of the parliament as measures to decentralize authority and promote development of the regions. The move nonetheless presents challenges to how civil society will interact with parliament and how the legislature will provide oversight of the government in Tbilisi.

These elections are also significant because they will be viewed by some as a prelude to a presidential vote in 2013. Two-term incumbent President Mikheil Saakashvili, who has led Georgia since the 2003 "Rose Revolution," is prohibited by the constitution from running again.

NDI public opinion research shows that many Georgians are optimistic about democratic and economic advancements in their country. They have high expectations for continuing reforms and hopes for further integration with Euro-Atlantic organizations.

Four years after the August 2008 war with Russia, Georgians are also concerned about the country's security and territorial integrity. Advancing democratic development is widely viewed as the best chance for Western integration and for long-term economic prosperity and stability in the country. The election of a representative, accountable and effective legislature is thus central to meeting Georgians' hopes and aspirations.

International and domestic observers have cited improvements to electoral administration and procedures with each successive vote, including the 2008 presidential and parliamentary polls and the 2010 municipal elections. At the same time, they have regularly pointed to a consistent advantage enjoyed by the ruling party, especially with regard to financial resources and media access. In sharp contrast, the emergence of the Georgian Dream bloc, backed by billionaire Bidzina Ivanishvili, unified a significant segment of Georgia's political opposition and lessened

the disparities in resources and visibility that have characterized previous elections.

Parties and candidates were able to campaign vigorously and, according to NDI polls, most prospective voters felt they had “enough” information about their electoral options. Notably, there was uncertainty up to election day about the outcome of the balloting. At the same time, voters were poorly served by the vitriol and mistrust traded between the two leading political groups. This charged, and at times inflammatory rhetoric had the effect of weakening the very political institutions -- elections, political parties and the parliament -- through which those groups sought public support. Citizens’ interests and the integrity of the process were too often eclipsed by parties’ electoral self-interest. Certain laws and the government’s selective enforcement of them appeared at times to be politically motivated, while Georgian Dream appeared early on to challenge the legitimacy of some laws related to the electoral system. Several parties with small but significant followings struggled to garner support in the highly polarized environment. These parties could hardly match the resources of the two major political forces.

## **II. ELECTORAL FRAMEWORK AND PRE-ELECTION ENVIRONMENT**

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

The 150-member parliament will be seated for a four-year term under a mixed system. Seventy-seven members will be allocated from party lists in a proportional system with a 5 percent threshold for representation; 73 will be allocated from single-mandate constituencies with a 30 percent threshold. Two blocs, 14 parties and four independent candidates participated.

At various stages of the election reform process since 2008, parliament, political parties, and civil society organizations engaged in dialogue and negotiations that led to a number of amendments to election legislation. These addressed some of the concerns raised by the international community and domestic observers.

They included:

- a shift in the division of party-list and majoritarian seats decided through the mixed voting system (to 77 and 73, respectively, from a previous even split of 75-75);
- some improved definitions regarding the use of administrative resources in the campaign;
- stricter regulations on political party financing;
- financial incentives for parties placing women on their candidate lists;
- provisions to facilitate participation of minority populations;
- removal of a blanket ban on prisoner voting;
- allowance for individuals to run as independent candidates;

- a “must-carry” provision to make opposition television channels available to a wider audience; and
- automatic authorization for parties that clear the 5 percent threshold to form a parliamentary faction.

The amendments also further developed an existing inter-agency task force (IATF) charged with responding to violations by public servants; established a new Commission for Ensuring Voters’ List Accuracy (known by the initials “VLC”); and gave responsibility for monitoring compliance with campaign finance laws to the Financial Monitoring Department of the State Audit Agency (known as the Chamber of Control or by the initials “SAO”).

One critical item left unaddressed, which undermines equality of each citizen’s vote, is the wide disparity in the number of voters among majoritarian districts. Currently the number of voters in a single district can vary from less than 6,000 to more than 160,000, meaning that votes are weighed unequally. These discrepancies have tended to favor the ruling party. In addition, other legal changes were made too late in the process to allow adequate discussion or implementation.

*The Election Campaign:* Following the release of graphic videotapes, the issue of prisoner abuse sparked public outrage and dominated the final two weeks of the campaign. Demonstrations around the country galvanized public opinion, which undoubtedly influenced how citizens voted.

The campaign period overall was vibrant, with parties and candidates holding large rallies, campaigning actively and freely around the country and, with some exceptions, taking advantage of the communication tools available to them. Smaller parties took advantage of free media time and state financing incentives, but were in the end unable to compete with the resources of UNM and Georgian Dream. However, the dearth of civil discourse tarnished the campaign period. The vilification of political adversaries and vitriolic rhetoric became commonplace; and hate speech against religious and ethnic minorities can still be found in Georgian campaign rhetoric. At the same time, there were incidents of threats, intimidation of party activists and voters, with some isolated clashes. Vote buying by the two main electoral competitors was frequently the subject of complaints and was a major concern raised in NDI’s [public opinion polls](#).

*Election Administration Bodies:* The Georgian election is governed by a tri-level election administration, headed by the Central Election Commission (CEC). The CEC is comprised of 13 members, six of whom are appointed by the government and seven who are appointed by political parties (one from each party that cleared the parliamentary threshold in 2008). In addition, the electoral administration is comprised of 73 district election commissions (DECs) and 3,766 precinct election commissions (PECs). The CEC reports the number of eligible voters abroad as 43,402. Forty-five polling stations were established in 36 countries. However, due to a lack of diplomatic relations, no PECs were set up in Russia, the country with the largest concentration of Georgian expatriates.

Most observers gave generally positive assessments to the pre-election work of the CEC. The Commission was proactive about educating voters and training and supporting lower-level election officials. The Commission made progress on processing complaints, making special

provisions for ethnic minorities and managing independent candidacies. Civil society organizations commended the CEC for its openness and transparency, although concerns were raised about the impartiality of some officials at the district and precinct levels.

*Commission for Ensuring Voter Lists Accuracy (VLC):* The accuracy of the voter lists had long been the top electoral concern cited by Georgian citizens, according to NDI public opinion research. In order to continue to improve the voter lists, and to increase public confidence in the process, a state-funded 21-member commission was formed in November 2011 to verify the accuracy of the voter lists. The chairman of the Commission is a member of the opposition as mandated by the law. Opposition parties not currently serving in parliament declined to take seats on the Commission. The Commission is constituted by three equal parts of civil society, ruling party, and opposition representatives. Following the VLC's door-to-door verification campaign, NDI public opinion research reflected increased voter confidence in the lists. ISFED, the nonpartisan election monitoring group, conducted an audit of the voter lists in late 2011 and found, based on a random statistical sample, that 98.4 percent of eligible voters appeared on voter lists. However, a significant number of Georgians were still listed at addresses where they no longer reside, and concerns were expressed to the delegation by opposition parties and some civil society organizations about this and some other aspects of the voter lists.

*The Inter-Agency Task Force (IATF):* The IATF was established in 2008 to address allegations of improper behavior by government authorities and the inappropriate use of administrative resources. In 2011, it was codified as a standing quasi-government agency with power to recommend remedial action to government and political parties. The IATF issued recommendations to a variety of electoral-related institutions and local authorities, many of which were implemented. Parties and nongovernmental organizations (NGOs) from across the spectrum gave the IATF credit for its role in responding to complaints about violations, although some opposition representatives complained about the slowness of its responses. Overall, the IATF was seen as making a positive contribution to the electoral process.

*Administrative Detention:* From September 21 to 28, surrounding revelations on television of shocking prison abuses, opposition parties and civil society groups claimed that 60 activists were subjected to administrative detentions of 10 to 40 days without trial. Authorities reported to the delegation that 45 persons were under administrative detention: 42 Georgian Dream supporters and three supporters of the United National Movement (UNM). This disproportionality has been severely criticized by the Georgian Dream and civil society groups, though authorities claim the detentions were needed to maintain public safety. According to authorities, in the months leading to the elections, the distribution of those administratively detained was relatively evenly distributed between UNM and Georgian Dream supporters (approximately nine UNM and 10 Georgian Dream).

International law generally frowns on administrative detentions, because of the loss of personal freedom that detention inflicts and the lack of minimum due process of law that criminal procedures require. Administrative detentions have been criticized by civil society in Georgia irrespective of the limited due process procedures that have been introduced -- such as access to a lawyer and a rapid court review of the administrative order to detain -- and such detentions

remain highly controversial. On September 26, the IATF recommended that fines be imposed, rather than administrative detentions, in events related to the elections.

*Adjudication of Complaints:* Complaints submitted to the election commissions were, for the most part, resolved in a timely and transparent manner. Opposition parties voiced concerns about the impartiality of decisions, but did not always provide sufficient evidence to substantiate their claims or pursue available legal remedies. Complaints were filed to the CEC and to DEC's prior to election day. The CEC resolved most complaints, including challenges to polling stations being assigned to governmental buildings and called on DEC's to investigate allegations of electoral violations. The DEC's processed complaints, including ones concerning the appointment of PEC members, PEC boundaries and the functioning of PECs. While some CEC and DEC rulings were challenged in court, none were reversed.

*Campaign Finance:* Party financing has long been a topic of discussion in Georgia, where disparities among parties' resources have traditionally been dramatic. Parliament amended the law on political parties in late 2011, empowering the Financial Monitoring Department of the State Audit Office (SAO) to enforce a new finance law. While technically in general compliance with the recommendations of the Council of Europe and the OSCE/ODIHR, the amendments were seen as a reaction to the level of political spending by Mr. Ivanishvili.

The SAO began its work quickly in January, and was widely seen as having serious shortcomings. It appeared to make decisions hastily and without clear or transparent guidelines. Critics maintained that it acted in a partisan manner, while others cited gradual improvement in its operations. The SAO levied millions of dollars in fines, predominantly against Mr. Ivanishvili and the Georgian Dream. NDI's June pre-election report had recommended that neither the chairman, deputies, nor staff of the SAO run for political office or engage in partisan political activities. Nonetheless, both the chairman and a deputy were placed on the UNM party list and the chairman's replacement was a UNM parliamentary leader. These moves only reinforced the perception that the SAO was partisan.

*Abuse of Administrative Resources:* A consistent complaint in all Georgian elections has been the blurring of lines between government and party resources, with widespread allegations of misuse of administrative personnel, premises and equipment for partisan purposes. There is also pervasive confusion about what constitutes legitimate government activity or investment in an election period. In August, the CEC, IATF and some NGOs signed a memorandum of understanding clarifying the definition of administrative resources and the IATF has made an effort to respond to complaints. Yet through election day, civil society organizations and opposition parties continued to raise concerns and submit complaints about inappropriate or alleged illegal practices.

*Media Environment:* The media environment often mirrored the vitriol of the political landscape, offering citizens few sources for independent corroboration of partisan allegations. Nonetheless, citizen monitors and political party representatives noted progress in the media environment in the weeks preceding the elections.

Most Georgians receive their political news through television sources. The Georgian Public

Broadcaster (GPB), along with Rustavi 2 and Imedi (both private TV channels) broadcast nationwide, while Kavkazia, Maestro and Channel 9 have limited broadcast ranges and are accessible via satellite linkage. Credible media monitoring groups report that GPB provides more politically balanced news coverage, while Rustavi 2 and Imedi have a pro-government bias, and Kavkazia, Maestro and Channel 9 are biased in favor of the opposition. Concerns raised by watchdog groups earlier in 2012 had led the parliament to adopt laws obligating cable operators to carry a more diverse set of Georgian broadcasters and TV channels through election day. The so-called “must carry” provision gave more Georgians access to a plurality of information sources, particularly access to pro-opposition media perspectives for a significant number of households outside major cities. The “must carry” requirement, however, did not extend beyond election eve, as NDI and other observer groups had advocated.

Georgian Public Broadcaster (GPB) hosted first-ever televised debates among party list leaders and prime ministerial candidates, and GPB and other channels hosted public service announcements to educate citizens about aspects of the process. These efforts contributed to constructive, issue-based discourse.

*Women’s Participation:* Georgia has ranked last among OSCE participating states in terms of the percentage of women in parliament (a total of nine, or just 6 percent). Although 726 out of 2,312 party-list candidates registered were women (31 per cent), only 68 out of a total 436 majoritarian candidates were women (16 per cent). Several parties took advantage of the government’s incentives for placement of women on party lists but the UNM and Georgian Dream did not meet the criteria. Women are also under-represented in the upper echelons of the election administration. No specific measures were introduced to address this issue. This remains an important challenge for the Georgian political system.

*Ethnic Minorities:* In 12 districts densely populated by ethnic minorities, the CEC set up 337 PECs with a majority of members from those communities. The CEC also supported voter education efforts, distribution of election-related materials in minority languages, television programming and other outreach efforts targeting women and youth populations in communities densely populated by ethnic minorities. These steps represented notable improvements over previous elections.

*Election Observation and Monitoring:* Civil society groups demonstrated unprecedented engagement, collaboration and professionalism in the months preceding the elections. These efforts were aimed at educating voters and contributed measurably to the integrity of the electoral process. A record number of groups, both domestic and international, sought accreditation as election-day observers, reflecting high levels of citizen engagement and international interest. Some of these groups, however, did not reveal their funding sources, which raised serious questions about their impartiality. As a result, there was a disturbing blurring of lines between partisan and nonpartisan observation, which contradicts international norms and standards enumerated in the *Declaration of Global Principles for Election Observation and Monitoring by Nonpartisan Citizen Organizations*. The proliferation of public opinion and exit polls, and parallel vote tabulations without transparent methodologies and funding sources, was also troubling.

### **III. ELECTION DAY**

Georgian voters went to the polls in large numbers in a mostly calm and orderly process, demonstrating once again their desire for democratic governance. Polling officials, the majority of whom were women, worked diligently over long hours to organize a proper election process, and party agents and citizen election observers cooperated with electoral officials in the vast majority of polling stations, though some problems were noted.

Representatives of multiple, competing political parties were present in the vast majority of polling places, as were nonpartisan citizen election observers, thus providing transparency and a further basis for confidence in the character of the voting and counting.

*Opening and Voting Processes:* The polls opened across the country mostly on time and with few incidents. Voter turnout was approximately 60 percent, which represents a 7 percent increase above the 2008 elections. Voter participation was particularly high in Tbilisi.

Polling lines varied across the country, with long waits and overcrowding in many places, while the administrative process appeared to be orderly in most polls. No major incidents were reported by NDI observers concerning the voting period, nor were they recorded by organizations with which NDI cooperated in observation efforts.

NDI observers noted that in CEC selected districts, with dense minority populations, minority-language voting materials were available. However, such materials were not available in other localities even though they had significant minority populations. NDI observers in such localities near Tbilisi noted that this caused some confusion and, moreover, the absence of PEC officials who could speak Azeri exacerbated the problem.

*Counting Processes:* The counting process proceeded generally well across the country, though it was slow in many places. Isolated troubling incidents occurred, for example, at three PECs in Khashuri in which security forces allegedly used tear gas to disperse people outside the polling station. At two PECs, one in Bolnisi and one in Batumi, significant delays in the transition from closing to counting compelled some observers to leave the precinct before counting. Officials in one PEC in Kutaisi delayed delivering the protocol, which gave the impression to NDI observers that there may have been an effort to avoid scrutiny.

There was an initial delay in posting preliminary results on the CEC website. At 5:00 am, results were posted from fewer than 200 PECs, though many more reportedly had been received.

According to a CEC spokesperson, a cyber attack temporarily brought down the CEC website. At noon on October 2, the CEC had uploaded approximately one quarter of the preliminary results.

### **IV. THE DELEGATION AND ITS WORK**

The NDI delegation arrived in Tbilisi on September 26 and held meetings with national political leaders, election officials, senior government officials, opposition and ruling party candidates, representatives of non-governmental organizations, the media and the diplomatic community. On

September 29-30, NDI observers deployed in teams to all the regions of Georgia except Racha-Lechkhumi and Kvemo Svaneti, where they met with local governmental, political and civic leaders. On election day, the teams observed voting and counting processes in polling stations across the country. The observer teams reported regularly on developments around the country and returned to Tbilisi to share their findings.

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

NDI is a nonprofit organization working to strengthen and expand democracy worldwide through citizen participation, openness and accountability in government. NDI has conducted more than 150 impartial pre-election, election day, and post-election activities around the globe.

NDI will continue its long-term observation through the tabulation of official results and resolution of any complaints that may be lodged. In a later report, and in the spirit of international cooperation, NDI will offer appropriate recommendations to enhance Georgia's election process, particularly in preparation for the country's 2013 presidential election.

## **VI. NDI CONTACT INFORMATION**

Kathy Gest, director of public affairs, at [kgest@ndi.org](mailto:kgest@ndi.org)

Luis Navarro, director of NDI's Georgia office, at [lnavarro@ndi.org](mailto:lnavarro@ndi.org)