Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 11651
23 June 2008

Observation of the Parliamentary elections in Georgia (21 May 2008)

Election observation report[1]
Bureau of the Assembly
Rapporteur: Mr Mátyás EÖRSI, Hungary, Alliance of Liberals and Democrats for Europe

Contents **Page**

1. Introduction 1
2. Political and legal context 3
3. Election administration 4
4. Voter registration 5
5. Candidate registration 5
6. The media and the campaign 6
7. Election day, vote count and tabulation 7
8. Complaints and appeals 7
9. Conclusions and recommendations 8
Appendix 1 – Ad hoc Committee to Observe the Parliamentary Elections in Georgia (21 May 2008) – pre-electoral mission (Tbilisi, 23 to 26 April 2008) 10
Appendix 2 – Press statements 12

1. Introduction

1. The Bureau of the Assembly decided, on 25 January 2008, to set up an ad hoc committee of up to 30 members to observe the parliamentary elections in Georgia, subject to receipt of an invitation. At its meeting on 18 April 2008, the Bureau appointed Mr Mátyás Eörsi (ALDE, Hungary) as Chairperson of this ad hoc committee.

2. Based on the proposals made by the political groups in the Assembly, the ad hoc committee was composed as follows:

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

- Mr Pedro Agramunt, Spain
- Mr Rony Bargetze, Liechtenstein
- Mr Andres Herkel, Estonia
- Mrs Danuta Jazłowiecka, Poland
- Mr Eduard Lintner, Germany

1. Approved by the Bureau at its meeting on 23 June 2008.

- Mr Piotr Wach, Poland

– Socialist Group (SOC)
  - Mrs Elvira Cortajarena, Spain
  - Mr Zahari Georgiev, Bulgaria
  - Mr Kastriot Islami, Albania
  - Mr Tadeusz Iwiński, Poland
  - Mr Pietro Marcenaro, Italy
  - Mr Andrew McIntosh, United Kingdom
  - Mrs Tineke Strik, The Netherlands
– European Democrat Group (EDG)
  - Mr Remigijus Ačas, Lithuania
  - Mrs Ganira Pashayeva, Azerbaijan
  - Mr Łukas Zbonikowski, Poland
  - Mr Yury Zelenskiy, Russian Federation
– Alliance of Liberals and Democrats for Europe (ALDE)
  - Mr Mátyás Eörsi, Hungary
  - Mr Andrea Rigoni, Italy
– Group of Unified European Left (UEL)
  - No Representative
– Venice Commission
  - Mr Owen Masters, United Kingdom
– Secretariat
  - Mr Chemavon Chahbazian, Deputy to the Head of Secretariat, Interparliamentary Co-operation and Election Observation Unit
  - Mr Bas Klein, Co-Secretary, Monitoring Committee
  - Mrs Daniele Gastl, Assistant, Interparliamentary Cooperation and Election Observation Unit
  - Ms Gaël Martin-Micaleff, Venice Commission, Council of Europe

3. The ad hoc committee acted as a part of the International Election Observation Mission (IEOM), which also included delegations of the Election Observation Mission of the OSCE PA, the European Parliament, the NATO PA and the Election Observation Mission of the Organization for Co-operation and Security in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

4. The ad hoc committee met in Tbilisi from 18 to 22 May 2008 and held meetings with the Head of the EU delegation, the Head of the OSCE Mission, the Special Representative of the Secretary General of the Council of Europe, the EU Special Representative for the South Caucasus and the representative of NATO in Georgia. The ad hoc committee also held meetings with the representatives of political parties competing in these elections, the Chairperson of the Central Election Commission, the Head of the Observation Mission of OSCE/ODIHR and his staff, representatives of domestic and international NGOs, as well as representatives of the mass media. Immediately after the elections the ad hoc committee met with the President of Georgia.

5. 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 23 to 26 April 2008. The cross-party pre-electoral delegation consisted of Mátyás Eörsi (Hungary, ALDE), Chairman of the Ad Hoc Committee and Head of Delegation, Kastriot Islami (Albania, SOC), Andres Herkel (Estonia, EPP/CD) and Ganira Pashayeva (Azerbaijan, EDG). Unfortunately, the Unified European Left Group (UEL) was unable to send a representative to take part in the mission. The memorandum and the press statement on the visit of the pre-electoral mission appear in Appendix I.

6. The IEOM concluded that: “Overall, these elections clearly offered an opportunity for the Georgian people to choose their representatives from amongst a wide array of choices. The authorities and other political stakeholders made efforts to conduct these elections in line with OSCE and Council of Europe commitments. The International Election Observation Mission identified a number of problems which made this implementation uneven and incomplete”.

7. On election day, the ad hoc committee was divided into 11 teams, which observed the vote and vote count in and around Tbilisi, as well as in Bolnisi, Marneuli, Mtskheta, Gori. The joint press release issued by the International Election Observation Mission after the elections appears in Appendix II.

8. The ad hoc committee received the support of the OSCE/ODIHR Election Observation Mission in Georgia and would like to thank Mr Igor Gaon, Special Representative of the Secretary General of the Council of Europe in Georgia for his assistance.

2. Political and legal context

9. The elections took place in a severely polarised political climate, characterised by a considerable lack of trust between the contesting parties and a low level of confidence in the electoral process among the population. The effects of the domestic crisis of November 2007 continued to be perceivable, albeit less strongly than before the presidential election of 5 January 2008. Russia’s moves to unilaterally increase its political and military ties with Georgia’s separatist regions, following Kosovo’s UDI in February, and NATO’s assurances of Georgia’s eventual membership in the Alliance at the Bucharest Summit in April radicalised the political environment even further. The government was forced to simultaneously deal with both the threat to national security and territorial integrity and the complex process of electoral and political reform, decisive not only for consolidating democracy but also for its relationship with Euro-Atlantic institutions.

10. On 5 January 2008, in parallel with the extraordinary presidential election, a non-binding referendum was held in which the Georgian people were asked 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 previously amended constitution. More than 79% of voters in Georgia responded in favour of parliamentary elections in spring 2008.

11. In the aftermath of the state of emergency in Georgia, a dialogue was initiated between the ruling and opposition parties to resolve the political crisis there. This dialogue led, *inter alia*, to an agreement to reform the electoral system. As part of this reform, it was originally agreed to change the electoral system for the 50 majoritarian seats in parliament from a first-past-the-post system to a system of regional proportional lists. However, following the United Opposition’s retraction from the negotiated agreement by refusing to vote on constitutional amendments on 11 March 2008, and upon strong insistence from the majoritarian MPs, the amendments were changed to such an extent that, in the end, not only was the first-pastthe-post system maintained for the majoritarian seats, but the number of majoritarian seats was increased from 50 to 75, while the number of proportional seats was reduced by the same number to 75.

12. On 21 March 2008, the parliament adopted amendments to the Unified Election Code (UEC) on the basis of constitutional changes. Following the adoption of the amendments to the Election Code, the President of Georgia signed, on 21 March 2008, a decree for the holding of the parliamentary elections on 21 May 2008.

13. According to the changes to the Constitution and UEC of Georgia, 75 members of the parliament are elected through party lists based on the proportional electoral system, with a 5% threshold, while 75 are elected on the basis of the majoritarian electoral system. A majoritarian candidate, who receives more votes than others, representing not less than 30% of the election participants in the respective district, shall be considered to be elected (Article 105.5 of the Election Code).

14. The ad hoc committee regrets that the UEC does not require single-mandate constituencies of equal or comparable size as is recommended in the Council of Europe’s Venice Commission Code of Good Practice in Electoral Matters. Paragraph 2.2 of this document states that “the permissible departure from the norm should not be more than 10% and should certainly not exceed 15% except in special circumstances”. In the case of Georgia, the variations range from 6000 to over 140000 voters.[2] Such large variations undermine the principle of equality of the vote. In addition, the amendments to the UEC abolished, contrary to the Venice Commission recommendation, the possibility for individual candidates to participate in the parliamentary elections.

15. Amendments to the UEC introduced several previous recommendations of the IEOM: the number of members of the district election commissions (DECs) increased from 5 to 13; the period for voters to check their entries on the voters' lists increased to fourteen days; the period for lodging complaints on administrative acts of the election administration was defined as one day; and the form of the summary protocol was simplified and a precise procedure was defined for requesting and viewing the video camera recordings. These amendments to the UEC are welcomed by the Assembly; however, the UEC still needs to be further improved in various areas.

16. Notwithstanding the exceptional circumstances leading to these elections being held some six months earlier than foreseen, the ad hoc committee reminds the Georgian authorities of the Code of Good Practice in Electoral Matters of the Venice Commission, which states that: "the fundamental elements of electoral law, in particular the electoral system proper … should not be open to amendment less than one year before an election". While it understands that, due to the result of the plebiscite, time to prepare for the parliamentary election was short, it regrets that, once again, major changes had to be introduced to the election system as late as two months prior to the elections. These last-minute changes exhausted the already failing public confidence in the election system and gave the opposition reason to believe that the changes were specifically geared to provide electoral advantages to the ruling party.[3] It is therefore very important for the newly elected parliament to start working from day one of their mandate on revising the electoral system so as to create an electoral system that could provide a truly equitable basis for fair competition. Optimally, this work should be completed by the end of 2008, with the widest consensus possible in the Georgian Parliament.

17. The low level of public trust in the electoral process, stated by the pre-electoral mission in its statement of 25 April 2008, persisted well into the election day. The unresolved disputes surrounding the conduct of the presidential elections, the publicly perceived reluctance of the authorities to investigate and/or the lack of communication on the substantiated allegations of intimidation during the previous elections, the predictability of election results and the lack of viable campaign programmes by most opposition parties, were among the main factors that contributed to an overall public disinterest in these elections, which was evidenced by a 4.7% drop in voter turnout (51% compared to 55.7% in January).

18. The external tension linked to the situation in Abkhazia and South Ossetia did not only have an impact during the pre-election period. On election day, at about noon, near the village of Khurcha, in Zugdidi region, unknown attackers opened gunand shellfire on the voters arriving from the Gali region. As a result, one woman resident of the village Nabakevi was seriously wounded and two buses were burnt out.

3. Election administration

19. Following the recent amendments to the UEC, the Central Electoral Commission (CEC) is now composed of 13 members. The chair of the CEC and five other members are nominated by the President of Georgia and approved by the parliament. The seven other members are appointed by parties financed from the state budget. In response to the previous recommendations of the Parliamentary Assembly, the Georgian authorities made efforts to reconstitute the District Election Commissions (DECs) in order to make them politically more balanced. The DECs are now composed of 13 members: six members are nominated by the CEC on the basis of open competition and seven members are appointed by parties financed from the state budget. As for the Precinct Election Commissions (PECs), six members are nominated by the majority of the relevant DECs and seven members by parties financed from the state budget.

20. The CEC made obvious efforts to work in an active and more transparent manner and to conduct a more efficient voter information campaign on different aspects of the election process. The training of members of DECs and PECs was assessed positively by the Election Observation Mission of the OSCE/ ODIHR. While handling of complaints and appeals clearly improved compared to the January elections, these procedures still remain a challenge for Georgia in the future. Also, the CEC did not always function in a collegial and independent manner, as provided by law. The ad hoc committee members were informed by opposition parties and NGOs about their lack of trust in the impartiality of the CEC. It should be noted that

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2. In their response to this remark raised by the IOEM, the Georgian authorities justify this disparity by claiming that the single-mandate constituency boundaries correspond to the historically-established administrative units, the changing of which shortly before the elections would have created much confusion and upset the balance of scarcely populated regions vis-à-vis the urban areas.

3. The Georgian Government disagrees with this assessment. It also refers to the information provided by the Inter-Agency Task Force (IATF), according to which the UNM calculations show that, had the regional proportional system been applied, the ruling party would have won a maximum of seven seats less, still well above the constitutional majority threshold.

before the opposition-induced changes of the UEC in December 2007, Georgia had introduced a professional composition of the CEC, which had also been criticised for its government bias. Partly because of shortcomings in the activities of election commissions, and partly because they were constantly the target of political attacks, a considerable part of the electorate does not trust the CEC and the election administration in general.

21. One such incident took place on 21 April 2008, when Ms Nino Burjanadze, the Chairperson of the Parliament of Georgia and one of the key figures in the political life of Georgia over the last ten years, announced, in a surprise move, that she would not run in the parliamentary elections. Her decision generated some controversy regarding the list of candidates of the ruling "United National Movement" (UNM) submitted to the CEC, with the opposition accusing the ruling party of failing to respect the deadline for submitting its list. After a stand-off between the opposition and ruling party representatives on the CEC, the UNM list was made available. This incident raised some questions about the manner in which this issue was handled by the CEC and underscored the need for full transparency in its work in order not to create unnecessary speculation.

22. The ad hoc committee welcomes the initiative of the CEC to sign a joint memorandum with four leading Georgian NGOs on 18 April, on a common interpretation of Article 73 of the UEC regulating the use of administrative resources and participation of central and local public officials in pre-election campaigns. The ad hoc committee believes that the impact of the joint memorandum still needs to be further examined.

23. Complaints and appeals procedures were simplified and clarified to some extent, but nevertheless remained complex and ambiguous. A three-stage procedure was introduced in order to create a clearer system. However, some confusion was noted by observers. According to the information of the Inter-Agency Task Force (IATF), 42 cases were filed in the courts, 36 cases were examined and eight cases were satisfied. The newly introduced deadlines proved to be too short for procedural fairness and due consideration of complaints or appeals. A number of complainants and decision makers were reported by the IEOM to have faced difficulties in meeting these deadlines. A significant number of complaints were not considered for procedural reasons.

24. In general, the election administration failed to exercise its broad authority to investigate and address campaign violations on its own initiative. In addition, election commissions and the courts generally did not give due consideration to complaints and appeals, leading to an apparent bias in favour of the ruling party and public officials. In some cases they refused to hear relevant witnesses or take note of evidence, applied questionable interpretation of the law or failed to provide legal reasoning for their decisions. The CEC did not discuss and analyse complaints in a systematic and legalistic manner, and in general did not adopt legal reasoning for its decisions.

4. Voter registration

25. On 16 May 2008, within the legal deadline, the CEC announced that the total number of voters registered on the voters' lists was 3 456 936, and extended the period for public scrutiny of voters' lists from twelve to nineteen days.

26. In pursuance of the recommendations made by the Parliamentary Assembly following the 5 January 2008 extraordinary presidential election, the amended UEC abolished election-day registration, which was a matter of major concern.

27. The ad hoc committee welcomes the work done by the CEC on the voters' lists, which have been improved. Every citizen had had the possibility to check on the voters' website whether he or she was on the list. However, the opposition and local NGOs continued to express concerns about the accuracy of the voters' lists, especially in rural areas, as well as about the transparency of the procedure for incorporation of the names of voters from additional lists into general lists.

5. Candidate registration

28. On 1 April 2008, 23 parties out of 60 were registered by the CEC to participate in the parliamentary elections. The other 37 parties were refused registration on the grounds of deficiencies in applications or lack of lists of supporters. According to the amended UEC, the parties without representatives in the parliament have to collect the signatures of 30000 supporters within six days. Despite the reduction in required number of signatures from 50000 to 30000 for these elections, and regardless of formally being in compliance with the Venice Commission's recommended 1% of the electorate, the requisite number of supporters' signatures appears to be high.

29. On 8 April 2008, three electoral blocs were created among registered parties. As a result, the three blocs and nine political parties participated in the elections, which provided the voters with a wide range of choices.

30. According to the constitution and amended UEC, only political parties and electoral blocs registered by the CEC can submit lists and present majoritarian candidates, which thus excluded individual nominations for the 75 single-seat constituencies. The ad hoc committee regrets that the amendments removed the possibility for independent candidatures in the parliamentary elections, contrary to Venice Commission recommendations.

6. The media and the campaign

31. After the extraordinary presidential election in January 2008, according to the agreement between the ruling party and the opposition, a new board of trustees of the Georgian Public Broadcaster (GPB) was elected, with members from the ruling party and the opposition. The GPB took the initiative to sign a memorandum of understanding between GPB and all electoral contestants on impartial campaign coverage.

32. The media generally provided voters with a diverse range of views. In particular, public television gave the electorate an opportunity to compare parties and candidates through talk shows and debates, including those between the UNM and United Opposition.

33. Reports and opinions vary as regards the impartiality of private broadcasters. The ODIHR EOM reported that most private broadcasters were less impartial and as a result did not cover the activities of all electoral contestants in an objective manner. This was the case as regards campaign news coverage in favour of the UNM party, even though the law on broadcasting (Article 54) guarantees non-discriminatory media coverage by both public and private media. In comparison, according to the media monitoring conducted by Gorbi, contracted by Transparency International (TI) in Georgia, 93% of the television coverage was noted as being neutral. The prime-time pre-election media monitoring summary report quotes 80% of the altogether one hundred and thirty-eight hours of political air time on four major television channels serving the opposition campaign compared to 20% serving the UNM campaign, the United Opposition covering 22% against 20% for the National Movement. Although Georgian law stipulates that even private media should treat all election contestants equally and impartially, the ad hoc committee generally believes that privately owned broadcasters in a democracy do not need to be objective and impartial as long as the freedom of media allows the activities of different broadcasters with different political views.

34. On the other hand, the ad hoc committee noted cases of non-respect by political parties and individual candidates of the dignity of the journalists covering the campaign and of their non-participation in debates organised by the media. The case of the mutual boycott by both the Rustavi 2 channel and the United Opposition, for example, undermined the fundamental right of citizens to be informed.

35. In general, the election campaign lacked focus on issue-based debates, with few exceptions. Most political parties concentrated their efforts on trying to discredit each other, while the issues relating to major challenges for Georgian society as a whole, such as unemployment, poverty or pensions were not given enough prominence.

36. One of the major concerns during previous elections was the misuse of administrative resources by authorities. Regrettably, in these elections some alleged cases of such practices were again reported by the ODIHR long-term observers, especially in rural areas of Georgia. For example, distribution of fuel vouchers in some regions allegedly coincided with the campaign activities of the ruling party.[4] After complaints by the opposition, there were no further reports of the distribution of vouchers by the authorities. Representatives of the opposition parties and local NGOs informed the ad hoc committee about cases where regional governors had been engaged in campaigning for the ruling party. Regional governors, in contrast to elected officials, are indeed prohibited by law from campaigning.

37. During the election campaign, reports and allegations of intimidation decreased significantly in comparison with previous elections. However, when such cases were reported, they were, in general, from rural areas. The ad hoc committee was informed about a number of allegations by opposition parties of intimidation, especially of potential majoritarian candidates, aimed at persuading them to refrain from standing

4. The IATF refuted these allegations.

in the elections; there were also cases of pressure by local officials on opposition activists, and threats of loss of jobs made to school teachers if they were working for opposition candidates. Although difficult to verify, these allegations are of concern and testify to a polarised election climate.

38. The ad hoc committee welcomed the timely and clear responses by President Saakashvili and the Ministry of Interior against illegal practices during the election campaign. The CEC, in collaboration with the Ministry of Interior, launched an enhanced public awareness campaign, including via television advertisements, against any form of intimidation or harassment. In response to the allegations of intimidation against teachers, the Ministry of Education introduced a number of safeguards intended to prevent politically motivated abuse at educational establishments. The public defender, teachers' unions and NGOs were addressed and called upon to co-operate actively and to react swiftly to any allegations of pressure or intimidation.

7. Election day, vote count and tabulation

39. The voting took place in a generally calm atmosphere and was well organised. Some tensions and shortcomings, such as interference in the election process by unauthorised persons were observed, mostly in rural areas. Local observers also reported cases of alleged intimidation.

40. The authorities reacted rapidly to reported violations, with the CEC announcing the cancellation of the elections in 13 polling stations on the election night itself. At the time of writing of this report, the number of polling stations where election results were cancelled amounted to 45. This is a positive step towards openness compared to the January elections, when only eight polling station results were cancelled.[5]

41. Members of the ad hoc committee noted, as a positive development, the fact that the CEC was able to start posting polling stations' results and protocols on the website shortly after midnight on 22 May.

42. The ad hoc committee also stressed the important role of non-party domestic observers and NGOs present in 83% of the polling stations visited.

43. According to the final results announced by the CEC on 5 June 2008, the elections were won overwhelmingly by the UNM, with 59.18% of the vote (119 out of 150 seats). The UNM obtained 73 seats in the single-mandate constituencies, the two other seats being won by the candidates from the Republican Party. The bloc "The Joint Opposition (National Council, New Rights)" obtained 17.73% (17 seats); the party "Giorgi Targamadze – Christian-Democrats" – 8.66% (6 seats); and the party "Shalva Natelashvili – Labour Party" 7.44% (2 seats). The other electoral contestants received less than 5% of the vote and failed to enter parliament.

8. Complaints and appeals

44. The ad hoc committee was pleased to note the efforts made by the authorities in the attitude of the election administration towards the handling of complaints and appeals compared to in previous elections. Firstly, following recommendations by the Assembly and others, the jurisdictions of the election commissions and the courts were clarified and the complaints procedure was simplified in the amended UEC. A three-layer appeals process was introduced, with clear time frames for the filing of complaints and appeals, as well as for decisions by the election commissions and the courts. In addition, the amended UEC allows for technical errors in complaints and appeals to be corrected and prohibits their rejection solely on technical grounds.

45. Secondly, the ad hoc committee welcomes that, as a result of these changes, very few complaints were rejected on technical grounds, unlike during the recent presidential election, when the rejection of complaints on technical grounds was a main point of concern. The CEC, in collaboration with four major local NGOs, developed a scheme for complaint procedures prior to the election day that followed an agreed reading of the UEC. However, in practice, the one-day deadline stipulated in the UEC proved to be too short for procedural fairness and due consideration of complaints and appeals for both complainants and decision makers. A number of complainants and decision makers were reported to have faced difficulties in meeting these deadlines. As a result, too many complaints were not considered for procedural reasons. This was compounded by the fact that, in the UEC, deadlines for appeals are calculated from the time a decision is reached on the original complaint, and not from the moment the decision is received by the complainant, which can affect the possibility for due process.

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5. It should be it noted that meanwhile changes have been introduced to the UEC, whereby the number of cancelled votes in polling stations is now deducted from the overall number of voters.

46. Thirdly, the ad hoc committee welcomes that the handling of complaints and appeals drastically improved on election day and afterwards, which indicates that the authorities took seriously the concerns expressed over the handling of complaints and appeals made in the pre-election period. Extensive training for election administration and court personnel enabled a more thorough consideration of complaints. Following complaints, the results in 13 PECs were cancelled on election day and the courts annulled the results in another 12 precincts. At the moment of writing, the results in 45 precincts have been set aside.

47. According to information provided by the IATF, during the pre-election period, 42 cases were filed in the courts, of which 36 were examined (eight cases were decided in favour of the complainant). On the election day, a total of 1 233 cases were examined at PEC level, 339 at DEC level and 17 at CEC level. The DECs imposed sanctions in 45 cases. The courts of first instance examined 41 cases, of which 11 were satisfied. Fifteen cases were appealed to the court of higher instance. In the course of investigation, the courts heard testimonies of over 100 witnesses. In two cases, CCTV footage from the precincts was reviewed.

48. Despite the efforts of the authorities, the manner in which complaints and appeals were handled in the pre-election period gave rise to concerns. The OSCE/ODIHR EOM, as well as others, noted that election commissions, together with the courts, seemed to give little consideration to the merits of the complaints and were seen to stretch the interpretation of the law in favour of the ruling party and authorities. It was reported that in some cases they refused to hear witnesses or take note of evidence and failed to give legal reasoning for their decisions. The ad hoc committee would like to stress that, especially in a highly polarised political environment, rife with allegations of intimidation and electoral misconduct, a credible complaints and appeals process is essential to ensure public trust in the electoral process. Only through a credible complaints procedure that is perceived as being impartial can allegations be effectively and satisfactorily addressed and remedied or dismissed.

49. The ad hoc committee calls on the authorities to re-evaluate the deadlines and procedures for complaints and appeals in the light of the experiences of the parliamentary elections, with a view to establishing a credible complaints and appeals process that can inspire the highest public confidence. In addition, the authorities should ensure that any electoral shortcomings are fully investigated and, where misconduct is found to have occurred, the perpetrators are prosecuted and victims remedied in accordance with the law.

9. Conclusions and recommendations

50. The parliamentary elections in Georgia were marked by a significant improvement in the election environment, in particular in the capital city, in comparison with the January 2008 presidential election.

51. These elections offered the Georgian people an opportunity to elect their representatives in the parliament in a generally calm atmosphere and to choose from wide range of distinct political alternatives.

52. The ad hoc committee welcomes the improvements introduced in the election process that contributed to genuinely democratic elections. These include:

– lowering of the threshold for entering parliament from 7% to 5%, as suggested in the recommendations of the PACE;

– improvement in the accuracy of the voters' lists;

– abolition of E-day voter registration;

– balanced representation of the opposition at the level of the DECs;

– more balanced representation of the opposition in the board of trustees of the Georgian Public Broadcaster (GPB);

– simplification of the complaints and appeals process;

– simplification of summary protocols;

– defining the procedure for viewing video camera recordings.

53. The ad hoc committee also noted improved efficiency and professionalism of the election administration, notably in handling the complaints and appeals, while still identifying several problems in this field, which need to be addressed in the near future.

54. On the other hand, the ad hoc committee is concerned about the seriously low level of public confidence in the election process in Georgia. The last-minute changes in the electoral system – which implied politically-motivated actions prior to the elections – the absence of consensus between the main political stakeholders on the most important elements of the electoral system (regardless of who is responsible for the failure of negotiations on this matter), did not help restore public confidence in the election process.

55. The ad hoc committee is convinced that free and fair elections are only possible in a society that has a profound trust in the electoral system and in the election administration. In this regard, regrettably, these elections did not make full use of the democratic potential of the people of Georgia.

56. In order to restore public confidence in the democratic process in Georgia, the ad hoc committee recommends that the following steps be taken:

– the CEC, IATF and the relevant committee of the newly elected parliament should evaluate the amended UEC, in close co-operation with international and domestic non-party NGOs involved in the elections process, in the light of the problems identified during the 2008 extraordinary presidential and parliamentary elections;

– the newly elected parliament should initiate, as soon as all political forces join in the work of the parliament, a fully transparent and credible consultation process with a view to a substantial revision of electoral legislation that would take into account all previous recommendations and elaborate a system that would provide the necessary conditions for the conduct of fully free and fair elections. This process should be based on an as broad a public consensus as possible and should aim at being completed in 2008, well ahead of the local elections to be held in 2010;

– the Venice Commission of the Council of Europe should be involved in this reform work from the outset;

– more specifically, the single-mandate constituency boundaries should be bought into line with the principle of equality of vote;

– the voters' lists should continue to be scrupulously updated at regular intervals before the next elections;

– the complaints procedure and appeals system should be extended time wise so as to allow complainants sufficient time to submit complaints, and the different instances ample time for procedural fairness. To this end, it could be considered to extend the constitutional provision on summoning the parliament to thirty days after the election date;

– all proven violations of the election legislation must be investigated without exception and the public should be informed about the concrete results of such investigations;

– public broadcasters should ensure fair and balanced media access for electoral contestants, as guaranteed by law. In particular, the inordinately high cost of paid political advertising, which is ten times higher than that of rates for commercial advertisements, limits the possibilities for contestants to campaign on television on an equal footing. Laws on the role of public broadcasters should be reconsidered so that privately-owned broadcasters do not need to be objective and impartial as long as the freedom of media allows the activities of different broadcasters holding different political views;

– all political parties, including the opposition, should avoid giving any statements inciting violence or containing threats and intimidation.

57. The ad hoc committee welcomes the effective and useful work which was carried out by many domestic NGOs at all stages of the election process.

Appendix 1 – Ad hoc Committee to Observe the Parliamentary Elections in Georgia (21 May 2008) – pre-electoral mission (Tbilisi, 23 to 26 April 2008)

Memorandum prepared by Mr Mátyás Eörsi (Hungary, ALDE), Chairman of the ad hoc committee

1. The pre-electoral mission visited Tbilisi from 23 to 26 April 2008 to assess the preparations and political climate in the runup to the parliamentary elections in Georgia, scheduled for 21 May 2008. 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). Unfortunately, the Unified European Left Group was unable to identify a representative available to take part in the delegation.

2. The press statement issued by the delegation at the end of the visit is appended.

3. During its visit to Tbilisi, the delegation met with, *inter alia*, the President of Georgia, the Speaker of the Parliament, the Chairman of the Central Election Commission, the Chairman of the Supreme Court, the Public Defender, representatives of opposition and governing parties, representatives of political parties not represented in the parliament, representatives of the international community in Georgia, as well as representatives of the mass media and civil society. The pre-electoral mission wishes to thank the Parliament of Georgia, as well as the Special Representative of the Secretary General of the Council of Europe in Tbilisi, for the excellent programme and logistical support provided to the delegation.

4. On 5 January 2008, the day of the early presidential election, a non-binding referendum was held, asking the Georgian people 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. More than 79% of voters of Georgia responded “Yes” for parliamentary elections in spring 2008.

5. In the aftermath of the state of emergency in Georgia, a dialogue was initiated between the ruling and opposition parties to resolve the political crisis there. This dialogue led, *inter alia*, to an agreement to reform the electoral system. As part of this reform, it was originally agreed to change the electoral system for the 50 majoritarian seats in parliament from a first-past-thepost system to a system of regional proportional lists. However, during the discussion on the constitutional amendments in parliament, the amendments were changed to such an extent that, in the end, not only was the first-past-the-post system maintained for the majoritarian seats, but the number of majoritarian seats was increased from 50 to 75, at a cost of 25 proportional seats. These constitutional amendments were adopted on 12 March 2008. On 21 March 2008, the parliament adopted amendments to the Election Code in line with these constitutional changes. Following the adoption of the amendments to the Election Code, the President of Georgia signed, on 21 March 2008, a decree for the holding of the parliamentary elections on 21 May 2008.

6. In line with the changes to the constitution and Election Code, 75 deputies will be elected via a proportional system on the basis of closed party lists with a 5% threshold. In addition, 75 deputies will be elected via a majoritarian system in singlemandate constituencies. A majoritarian candidate who receives more votes than others, but not less than 30% of the election participants in the respective district, shall be considered elected (Article 105.5 of the Election Code).

7. The pre-electoral delegation noted that a number of amendments to the Election Code address previous recommendations by the Assembly such as, *inter alia*: the abolition of the supplementary voters’ lists and voter registration on election day; the lowering of the threshold from 7% to 5%; the simplification and clarification of the election-related complaints and appeals procedures, as well as the introduction of party representation on the District Election Commissions. Regrettably, the amendments abolished, contrary to Venice Commission recommendations, the possibility for independent candidatures in the parliamentary elections.

8. For these parliamentary elections, nine political parties and three electoral blocs have been registered by the CEC.

9. The democratic conduct of the upcoming elections will be crucial for restoring public trust in the democratic process in the country. The pre-electoral delegation was therefore seriously concerned about the widely reported low level of public trust in the electoral process, which is essential for genuinely democratic elections and the legitimacy of their outcome in the eyes of the Georgian public.

10. The political climate in Georgia remains charged and polarised, albeit less tense than before the presidential elections. A major point of political controversy is the failure to implement the reform of the electoral system in line with the original agreement between the opposition and ruling party, for which both sides blame each other. The continuing polarised climate is not helpful to changing Georgia's election habits towards a constructive issue-based campaign and undermines the public confidence in the electoral process.

11. The delegation welcomed the fact that reports and allegations of intimidation have decreased significantly in comparison with previous elections. However, it noted some allegations by opposition parties of intimidation, especially of potential majoritarian candidates, to refrain from standing in these elections. The delegation called upon the authorities to fully and transparently investigate all substantiated allegations of intimidation they are made aware of, in order to ensure the confidence of the Georgian public in the fairness of the election process.

12. The members of the pre-electoral mission were informed about concerns linked to the voters' lists. The delegation recalls the fact that the problem of voters' lists was a matter of great concern during the presidential elections. The attention of Georgia's authorities was drawn to the need to ensure the accuracy of the voters' lists. While it is understood that in the short time between the presidential and the parliamentary elections the voters' lists cannot be fully improved, the delegation calls for closer co-operation between CEC, the civil registry and government bodies. The accuracy of the voters' lists is also a key element for increasing public trust in the electoral process. On a positive note, the period during which voters can check the voters' lists has been increased up to fourteen days; every citizen can check on the website whether he or she is on the list.

13. On 21 April 2008, Ms Nino Burjanadze, the Chairperson of the Parliament of Georgia and one of the key figures in the political life of Georgia over the last ten years, announced, in a surprise move, that she would not run in the parliamentary elections. Ms Burjanadze had been expected to head the list of the United National Movement (UNM) in these elections. This announcement was made shortly before 6 p.m. on 21 April, which is the deadline for submitting the parties' lists to the CEC. Apparently, the reasons behind her decision are linked to the failure to reach agreement with the rest of leadership of the UNM on the composition of the list of the ruling party.

14. Ms Burjanadze's decision generated some controversy regarding the list of candidates of the UNM submitted to the CEC, with the opposition accusing the ruling party of failing to respect the deadline for submitting its list. After a stand-off between the opposition and ruling party representatives on the CEC, the UNM list appeared, but this incident raised some questions as to the manner in which this issue was handled by the CEC. The pre-electoral mission stressed in this respect the importance of full transparency in the work of the CEC and the election administration in order not to create unnecessary suspicion.

15. The pre-electoral mission welcomed the political will expressed by the authorities to organise parliamentary elections in line with the Council of Europe standards. However, it also stressed that the democratic conduct of these elections will depend solely on the full implementation of the electoral framework by all stakeholders, in good faith, during all stages of the political process.

16. The pre-electoral mission underlined the crucial role of the media, especially the electronic media, in the electoral process, in ensuring truly equitable access of all electoral contestants and balanced coverage of their campaigns. In this context, it called upon all political parties and individual candidates to respect the dignity of the journalists covering the campaign and to participate in debates organised by the media. It welcomed in this respect the announcement by both the Rustavi 2 channel and the United Opposition to end their mutual boycott.

Appendix 2 – Press statements[6]

Democratic conduct of upcoming elections crucial to restore trust in the Democratic Process in Georgia (Tbilissi, 25 April 2008)

Despite efforts to conduct Georgia's elections in line with standards, observers identify problems (Strasbourg, 22 May 2008)

6. This document is available on the Council of Europe Internet site at the following address: www.assembly.coe.int.