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Observation of the parliamentary elections in Georgia (1 October 2012)

Election observation report
Ad hoc Committee of the Bureau
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1. Introduction

1. Following an invitation by Mr Grigol Vashadze, Minister of Foreign Affairs of Georgia, the Bureau of the Assembly decided, at its meeting on 25 June 2012, to set up an ad hoc committee to observe the parliamentary elections in Georgia, that were scheduled for autumn 2012. I was appointed chairperson and rapporteur of this ad hoc committee.

2. In order to underscore the interlinkage between the Assembly's monitoring procedure and the observation of elections, the Bureau decided to appoint the two co-rapporteurs for Georgia as *ex officio* members of the ad hoc committee.

3. 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 theVenice 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.

4. At its meetings on 29 June and 3 September 2012, the Bureau of the Assembly took note of the composition of the ad hoc committee (see Appendix 1). In accordance with Article 15 of the co-operation agreement, Mr Manuel González Oropeza and Mr Gaël Martin-Micallef were invited to join the ad hoc committee as legal advisers.

5. The ad hoc committee observed the elections as part of the International Election Observation Mission (IEOM), which also included delegations of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE), the European Parliament, the Parliamentary Assembly of the North Atlantic Treaty Organisation (NATO) and the Election Observation Mission of the Office for Democratic Institutions and Human Rights of the OSCE (OSCE/ODIHR).

6. The ad hoc committee met in Tbilisi from 29 September to 2 October 2012 and held meetings with, *interalia,* representatives of all parties competing in these elections, the Chairperson of the Central Election Commission (CEC), the Chairperson of the Voters' List Verification Commission, the Head of the Inter-Agency Task Force on Free and Fair Elections, 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 is reproduced in Appendix 4.

7. On election day, the ad hoc committee split into 13 teams which observed the elections in and around Tbilisi, Gori, Mtskheta, Kaspi, Rustavi, Gardabani, Sagarejo and Dusheti.

8. In order to draw up an assessment of the electoral campaign and political climate in the run-up to the elections, the Bureau sent a pre-electoral mission to Georgia from 11 to 12 September 2012. The cross-party pre-electoral delegation consisted of Mr Luca Volontè (Italy, EPP/CD), Chairperson of the ad hoc committee and Head of Delegation, Ms Merixtell Mateu Pi (Andorra, ALDE), Mr Christopher Chope (United Kingdom, EDG), as well as Mr Boriss Cilevičs (Latvia, SOC) and Mr Michael Aastrup Jensen (Denmark, ALDE), who are the co-rapporteurs of the Assembly in respect of Georgia. In Tbilisi, the pre-electoral delegation met with, *inter alia*, the President of Georgia, the Speaker of the Parliament of Georgia, the Chairperson of the Central Election Commission, the Chairperson of the Voters' List Verification Commission, the Head of the Inter-Agency Task Force on Free and Fair Elections, the Chairperson and members of the Georgian Delegation to the Assembly, the leaders of all parties competing in the elections, representatives of the international community in Georgia, as well as representatives of the mass media and civil society. The programme of the mission and the statement issued by the pre-electoral delegation at the end of the visit are reproduced in Appendices 2 and 3.

9. In its statement of preliminary findings and conclusions, issued on the day after the election, the IEOM concluded that the parliamentary elections on 1 October "marked an important step in consolidating the conduct of democratic elections, although certain key issues remain to be addressed". The press release of the IEOM is reproduced in Appendix 5.

10. The ad hoc committee wishes to thank the Parliament of Georgia, the OSCE/ODIHR Election Observation Mission and the Head of the Council of Europe Office in Tbilisi and her staff for their co-operation and the support provided to it.

2. Political context

11. The parliamentary elections on 1 October 2012 took place at a crucial moment in Georgia's political development. Therefore, these elections were seen by many interlocutors, including the Assembly, as a litmus test for the country to confirm its commitment to democratic values and principles.

12. On 15 October 2010, the Georgian Parliament adopted a new constitution. This constitution considerably changed the division of powers in the country. It moved Georgia from a presidential system to a mixed presidential-parliamentary system, where the executive power is mainly in the hands of the government, which is appointed by and solely accountable to the parliament. The President of the country, while remaining a powerful office, is transformed into guarantor of unity and national independence, as well as a neutral arbiter between State institutions.

13. The constitutional provisions that redefine the balance of power will come into effect only after the next presidential election, which is foreseen for autumn 2013. The enlarged role and increased powers of the parliament in the new constitutional set-up made these parliamentary elections crucially important for the future political direction of the country.

14. The incumbent President Saakashvili, who has led the country since the Rose Revolution, is barred from standing in the next presidential election due to a constitutional consecutive two-term limit. President Saakashvili and his party, the United National Movement (UNM), have dominated the political environment since the Rose Revolution. These parliamentary elections were seen as a dry run for the presidential election and an occasion to clarify the future role of the President in his country and party after he retires from the presidency.

15. The political environment in Georgia changed drastically on 5 October 2011, when Mr Bidzina Ivanishvili entered the political arena by announcing that he would stand in the parliamentary and presidential elections in opposition to President Saakashvili and the United National Movement.

16. Mr Ivanishvili is a Georgian billionaire who made his fortune in Russia in the nineties. Before announcing his intention to enter politics, Mr Ivanishvili had stayed out of the political limelight and was mostly known for his philanthropic work in Georgia. He returned from Russia to Georgia in 2004, following the Rose Revolution. He was initially considered an ally of President Saakashvili. Mr Ivanishvili broke with Mr Saakashvili reportedly over the declaration of the state of emergency following the popular protest in November 2007, as well as over Mr Saakashvili's handling of the consequences of the 2008 war with Russia.

17. Until Mr Ivanishvili's entry into politics, the political playing field was characterised by the *de facto* dominance of the United National Movement over the media and economic resources. This situation changed due to Mr Ivanishvili's considerable private wealth. As a result, the United National Movement for the first time faced a serious challenge to its power in these elections.

18. The reaction of the authorities to the entry of Mr Ivanishvili into politics gave rise to controversy. On 11 October 2011, the authorities revoked Mr Ivanishvili's Georgian citizenship[1] on the grounds that he had obtained French citizenship after obtaining Georgian citizenship.[2] As, at that time, only Georgian citizens could run for parliament and found political parties, the revocation of Mr Ivanishvili's citizenship was widely seen as an attempt by the authorities to prevent him from standing in the elections.

19. On 18 October, criminal charges of money laundering were filed against Mr Ivanishvili's Cartu Bank. These charges were controversial and led to allegations of abuse of the judiciary for political purposes.

20. At the same time, Mr Ivanishvili made repeated statements that indicated that he would use his private wealth without limitation to defeat the governing party. This raised questions and concerns about how far private economic means should be allowed to affect or determine the outcome of an election without undermining its democratic character.

21. In response to the increased tension, and under pressure from its international partners to resolve the issue of Mr Ivanishvili's citizenship, the Parliament of Georgia, on 22 May 2012, adopted a constitutional amendment that allows Georgian-born European Union citizens to stand in parliamentary and presidential elections. Mr Ivanishvili denounced these amendments as being written for the sake of one person and refused to make use of this amendment in the elections.

3. Legal context

22. These elections were governed by the Election Code, the Law on Political Unions of Citizens, the Law on the State Audit Office, as well as provisions in the constitution and Criminal Code.

23. On 27 December 2011, the Parliament of Georgia adopted a new unified election code. This election code resulted from an elaborate negotiation process that started immediately after the local elections in 2010. Following a proposal for electoral reform by eight opposition parties, an Electoral Working Group was

1. Mr Ivanishvili was born in Georgia. At the time of the breakup of the Soviet Union he was living in Russia and had been granted Russian citizenship. Upon his return to Georgia in 2004, he requested and was granted Georgian citizenship, in addition to his Russian citizenship.
2. The Georgian Constitution and the Law on Citizenship prohibits Georgian citizens from obtaining the citizenship of another country without the explicit authorisation of the President of Georgia. Obtaining another citizenship in violation of this law results in the loss of Georgian citizenship.

established on the initiative of the authorities. While the parties in the working group agreed on most issues, consensus could not be reached on some key issues, most notably the election system itself, as well as the threshold for the majoritarian races.[3]

24. The Georgian authorities requested the Venice Commission's opinion on the draft election code. In their joint opinion[4] on this draft, the Venice Commission and the OSCE/ODIHR noted that the proposed election code addressed many recommendations made with regard to previous electoral legislation. The Venice Commission therefore concluded that the new code could be conducive to the conduct of democratic elections. At the same time, the joint opinion also underscored that a number of key recommendations and shortcomings were left unaddressed.

25. In a positive development, the new election code, for the first time, allows independent candidates to be registered for the majoritarian elections. In addition, prisoners, with the exception of those convicted for a grave crime and sentenced to more than five years in prison, have been given the right to vote in the elections.

26. The joint opinion of the Venice Commission and the OSCE/ODIHR was based on the draft election code as transmitted by the authorities on 8 December 2011. However, during the first and second reading of this draft law, on 20 and 23 December 2011 respectively, a number of amendments were introduced and adopted. These amendments were taken into consideration in the assessment of the election code.

27. The amendments adopted on 20 and 23 December 2011, *inter alia*, reduce the residency and age requirements for candidates as well as the number of signatures needed to support individual candidacies. In addition, they reintroduced the inking of voters' fingers – which had been abolished in the first draft of the law – and extended the deadline for the checking of the voters' lists. Moreover, parties and blocs that cleared the threshold would automatically get at least six seats in parliament, which is the number of seats necessary to establish a political faction in the parliament. A number of amendments were also adopted that had as their sole aim to allow Mr Ivanishvili to run in these elections despite the loss of his Georgian citizenship.

28. The fact that the authorities, following recommendations of *inter alia* the Assembly, decided to draft a completely new election code and not to amend further the already heavily amended existing election code is to be welcomed. This totally new code greatly improved the internal coherence of the electoral legislation for these elections.

29. Regrettably, a key issue that was left unaddressed is the variation in the size of the majoritarian election districts. The Venice Commission, as well as the Assembly, strongly criticised the difference in size of the majoritarian constituencies in Georgia. The difference exceeds by far the maximum allowable variance of 10% to 15%[5] and is in contradiction with the principle of the equal weight of each vote. The new election code does not address this shortcoming and is therefore at odds with European standards. The argument that the current district boundaries are needed to ensure that regional minorities are represented in parliament does not hold sway. Far better mechanisms exist to ensure minority representation in a parliament and which are in line with European democratic standards.

30. A number of other concerns also remain, including the possibility for parties to be disqualified from taking their seats for serious campaign violations or for elected candidates not to be sworn in for failing to pass the mandatory drug test for members of parliament.

31. Previous observation reports expressed concern about the lack of a comprehensive regulatory framework for party and campaign financing. In response, the Georgian authorities prepared a set of amendments to the Law on the Political Union of Citizens. The authorities sent these draft amendments to the Venice Commission for opinion.[6] However, during the debate on these amendments in the Georgian Parliament, on 28 December 2011, the proposed amendments were considerably changed and additional amendments were introduced. These changes were not assessed by the Venice Commission.

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3. The opposition parties wanted to introduce a proportional regional system. The UNM, wished to maintain a mixed proportional – majoritarian system. When it was clear that the mixed system would not be changed, the opposition parties asked for a 50% threshold for the elections in the single mandate constituencies. However, the UNM would not agree to a threshold of more than 30%.
4. Document CDL-AD(2011)043.
5. The variance between the smallest and largest constituencies is over 2 500%, namely between 6 000 and 140 000 voters.
6. Document CDL-AD(2011)044rev.

32. These amendments, for the first time, provided a detailed framework for party and campaign financing, which is to be welcomed. However, a number of provisions are ambiguous, overly broad and inconsistent. Many of the last-minute amendments of 28 December 2011 seem to have been introduced with the aim of preventing Mr Ivanishvili from using his private wealth to finance his party and its campaign.

33. The law gives the State Audit Organisation[7] broad discretionary powers to control and enforce the legal provisions with regard to campaign financing.

34. The Law on the Political Union of Citizens, as amended, extends the regulatory framework for political party financing to organisations and individuals with "electoral goals"; these provisions were highly controversial and caused an outcry among civil society and media organisations, which feared that the ambiguity of the law would lead to inconsistent and selective application. These non-governmental organisations (NGOs) started a campaign to change these provisions under the slogan "It affects you too".

35. Mr Maina Kiai, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, criticised these amendments and expressed his concern that they would create an uneven playing field and would restrict the civil-political activities of civil society organisations.

36. On 8 May 2012, the Parliament of Georgia passed a number of amendments to the Law on the Political Union of Citizens that, *inter alia*, narrow the range of entities and individuals that are covered by the party and campaign financing provisions and allows the State Audit Office to propose lower fines for violations. However, concerns about the law's ambiguity and possibility for selective and inconsistent application remain.

4. Election system

37. The Georgian Parliament is elected via a mixed proportional-majoritarian election system. The Georgian parliament has in total 150 members. Of these, 77 are elected in proportional elections and 73 in single- mandate majoritarian constituencies.

38. The proportional part of the elections takes place on the basis of closed party lists in a single national constituency with a 5% threshold to enter the parliament. Parties that pass the 5% threshold receive a minimum of six seats[8] in parliament, irrespective of the number of votes obtained.

39. In the majoritarian elections, the winning candidate must obtain at least 30% of the votes to be elected. If none of the candidates obtains more than 30% of the votes, a second round is organised between the two candidates who received the most votes in the first round. In a welcome development – following recommendations of *inter alia* the Assembly – independent candidates were allowed to participate in the majoritarian races.

5. Candidate and voter registration

40. All Georgian citizens of 18 years and over enjoy full active and passive voting rights. Following a constitutional amendment, adopted on 22 may 2012, Georgian-born European Union citizens are also given, until 1 January 2014, full active and passive voting rights. Persons sentenced to more than five years' imprisonment for a serious crime, as well as persons declared incompetent by a court, have their voting rights – active and passive – revoked.

41. According to the new election code, the compilation and verification of the voters' list is the responsibility of the newly created "Commission for Ensuring the Voters' List Accuracy". This commission is composed of representatives of both the ruling majority and the opposition, as well as representatives of civil society organisations. By law, this commission is chaired by a member of the opposition.

42. The Commission for Ensuring the Voters' List Accuracy organised a door-to-door verification programme. While structural problems, such as the absence of a uniform address system, hamper the overall quality of the voters' list, all political stakeholders agreed that the work of the commission had greatly improved the quality of the voters' list and public trust in it. This bipartisan effort was strongly welcomed by the pre-electoral delegation of the Assembly's ad hoc committee to observe these elections.

43. In total 3 613 851 people were registered to vote in these elections.

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7. Formerly the Chamber of Control.
8. Six seats is the minimum number needed to set up a political faction in the parliament.

44. Georgian citizens living abroad could vote in the proportional part of these elections. In order to vote, they needed to register specifically for these elections in a Georgian consular office. There was some confusion about this registration process as the requirement to give a legal address was interpreted as the need to be a legal resident in the country where the person wanted to vote. Following criticism from civil society organisations and opposition parties, the registration deadline was extended by three days. The largest Georgian community abroad resides in Russia. There have been no diplomatic relations between Russia and Georgia since the 2008 war between the two countries. Regrettably, Georgian citizens residing in Russia were therefore disfranchised for these elections.

45. In order to participate in the proportional part of the election, all political parties must register with the Central Election Commission (CEC). Parliamentary parties as well as qualifying parties[9] must obtain 1 000 supporting signatures, while non-qualifying parties need to provide 25 000 signatures to be registered for the proportional component of the elections.

46. A candidate in a single mandate constituency should be nominated by an initiative group of at least five persons. In order to register, the candidate must provide an electoral deposit of GEL 5 000[10] and provide supporting signatures of at least 1% of the registered voters in that constituency. Incumbent members of parliament do not have to provide supporting signatures. A person may be both included on the party list for the proportional elections and nominated as a candidate in a single-mandate constituency.

47. Eight political parties and two election blocs[11] were registered for these elections. In total, they registered 2 313 candidates for the proportional elections and 425 majoritarian candidates. In addition, four independent candidates were registered in four single-mandate constituencies.

48. Following a public outcry after the publishing of videos documenting the abuse and torture of prisoners in a Georgian prison, a number of opposition candidates in single-mandate constituencies withdrew in favour of Georgian Dream candidates.

49. Georgian Dream had expected that it could use the number that had been assigned previously to one of its constituent parties for its list. However, the CEC attributed a new number to the Georgian Dream list in line with the election code and consistent with its decisions on similar cases during previous elections. Georgian Dream had already prepared campaign material with the number it had expected to get and protested against the decision. However, they did not appeal against the CEC decision before the courts.

50. According to the election code, parties that include two female candidates in every ten positions on their party list, are entitled to a 10% higher subsidy from the State budget. Neither of the two main contenders in these elections, the United National Movement and Georgian Dream, fulfilled this voluntary quota.

6. Election administration

51. These elections were administered by a three-tiered election administration consisting of the Central Election Commission (CEC), 73 District Election Commissions (DECs) and 3 648 Precinct Election Commissions (PECs). In addition, the CEC established 71 special polling stations in hospitals, military bases, prisons and detention centres, as well as 41 polling stations in consular representations abroad. Two polling stations were established for Georgian troops serving in the NATO mission in Afghanistan.

52. As prescribed by the election code, all election commissions are composed of 13 members. Seven of these members are nominated by qualifying[12] political parties. For the CEC, the chairperson and the five remaining members are appointed by the parliament. For the DECs and PECs, the remaining six members are appointed by the higher level election commissions. As a result of this appointment formula, the UNM had a *de facto* majority on all election commissions.

53. Contrary to previous elections, the CEC had no responsibility for ensuring the accuracy of the voters' list and for the monitoring of the media or of stakeholders' compliance with the relevant campaign financing regulations.

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9. According to Georgian legal provisions, "qualifying parties" are parties that obtained at least 4% of the votes in the previous parliamentary elections or at least 3% of the votes in the previous local elections.
10. Approximately 2 400 euros.
11. Giorgi Targamadze – Christian Democratic Union, comprising two parties and Bidzina Ivanishvili – Georgian Dream comprising six parties.
12. According to Georgian legal provisions, "qualifying parties" are parties that have received at least 4% of the votes in the previous parliamentary elections or at least 3% of the votes in the previous local elections.

54. By all accounts, the CEC administered these elections in a transparent, inclusive and efficient manner. As a result, it enjoyed a very high level of trust among most stakeholders in these elections.

55. There was some controversy around the establishment of 27 polling stations in the barracks of the security forces. Opposition parties alleged that polling stations would be used to distort the outcome in majoritarian races in constituencies where the ruling majority was not performing well. In order to dispel these fears, the Inter Agency Taskforce for Free and Fair Elections (IATF) recommended that conscripts enlisted after 1 June 2012 should vote in their regular polling station.

56. In order to ensure an efficient conduct of the vote in the polling stations, as well as to respect voter privacy, the CEC adopted, on 24 September 2012, a decree regulating, and limiting the use of video and photographic cameras in polling stations. This decree led to criticism by civil society as well as opposition parties, who claimed that this would reduce the transparency of the vote. During election day, we observed a great number of persons videotaping all the proceedings during the vote and vote count. It was clear to us that no undue limitations on the use of video and photographic cameras were in place on election day.

7. Election campaign and the media

57. As previously mentioned, the entry of Mr Ivanishvili's Georgian Dream Coalition into the election contest meant that for the first time the ruling coalition was facing a serious challenge to its power. This resulted in a very competitive, but regrettably also a very tense and polarised campaign environment, which was characterised by antagonistic and harsh campaign rhetoric, as well as instances of violence between the supporters of both parties.

58. In this respect, a very constructive role was played by the Inter Agency Taskforce for Free and Fair Elections. This task force, which was led by the Secretary of the National Security Council, Mr Giga Bokeria, was composed of, *inter alia*, representatives of the Ministries of Internal Affairs, Justice, Regional Development and Infrastructure, Finance and Foreign Affairs, as well as of the National Security Council. Representatives of election stakeholders and civil society participated in its work. The task force, which was tasked with fostering co-operation between the State agencies and electoral stakeholders, facilitated communication between the authorities, the ruling majority and the opposition, despite the polarised environment, and acted proactively to address campaign violations or perceptions thereof. As such, it played an important role in defusing some of the tenser moments during the election campaign.

59. The campaign centred mostly on issues of abuse of administrative resources and the advantages of incumbency by the ruling party and on the abuse of private financial resources by opposition leaders. These allegations and mutual incriminations overshadowed the debate on political platforms and preferences.

60. All parties campaigned actively during the campaign period, during which the principles of freedom of assembly, association and expression were respected, despite some isolated individual incidents. Active civil participation added to the vibrancy of the campaign environment.

61. The abuse of administrative resources continued to be an issue during these elections, including allegations of pressure on civil servants and opposition activists. International observers noted that the distinction between State and the ruling party was often blurred. Local civil society organisations played an important watchdog function in this respect. In a number of cases, the IATF made recommendations to address both proven cases and allegations of misuse of administrative resources.

62. The issue of campaign and political party financing also overshadowed the electoral campaign. As mentioned above, the Law on the Political Union of Citizens gives the State Audit Service very wide discretionary powers to investigate possible violations of campaign financing provisions. The State Audit Service initiated a large number of investigations into donations made to the Georgian Dream coalition, often for as little as 100 GEL.[13] In contrast, only 10 investigations were initiated into donations received by the United National Movement, most of them only after international organisations had raised the issue of the impartiality of the State Audit Service. In a prominent case, the free distribution of satellite dishes by a company belonging to Mr Ivanishvili was considered to be illegal campaign financing and vote buying and Mr Ivanishvili was fined 148 million GEL (approximately 75 million euros). This fine was later reduced by half by decision of the court. The fact that both the Head and Deputy Head of the State Audit Service stepped down at the end of August 2012 in order to run as UNM candidates in these elections, compounded the problem of the impartiality of the State Audit Service during the election campaign.

13. Approximately 50 euros.

63. The excessive and disproportionate fines, the questionable impartiality of the State Audit Service, as well as questions with regard to due process and the independence of the judiciary, led to strong criticism by domestic and international observers. The rapporteurs for Georgia of our Assembly's Monitoring Committee issued a statement expressing concern that the actions of the State Audit Service were undermining the level playing field in the election campaign. The statement of the rapporteurs is reproduced in Appendix 6. In response, the authorities decided not to levy during the campaign period the fines handed down to the parties that make up the Georgian Dream coalition. This decision was welcomed by the pre-electoral delegation of the ad hoc committee, which also called on all contestants to fully abide by the electoral and campaign financing legislation.

64. The campaign environment changed drastically on 18 September 2012, when videos were aired on television that showed abuse and torture of prisoners in a Georgian prison. This led to a public outcry and demonstrations all over the country. Two government ministers resigned immediately and the authorities promised to punish those responsible to the fullest extent of the law. This scandal nevertheless galvanised criticism of the authorities and appeared to negatively affect the position of the ruling party in the final weeks of the election campaign.

65. Throughout the campaign, there were reports of arrests and detention of political activists, mainly from the side of the opposition. This led to allegations of abuse by law enforcement agencies for political purposes. In order to calm the tensions, the IATF called upon law enforcement agencies to use, whenever possible, sanctions less severe than arrest and administrative detention.

66. Television is by far the most important source of news in Georgia. While there is a diverse media environment, only two private channels – both seen as supporting the authorities – have nationwide coverage.

67. The coverage of other private broadcasters that are seen as more sympathetic to the opposition is limited to Tbilisi and the cable and satellite networks. Initiatives by these channels to increase their coverage by means of the distribution of free satellite dishes was seen as illegal campaign financing and vote buying. As a result, the satellite dishes were impounded by the Georgian courts. Negotiations between the authorities and one of these broadcasters,[14] with the aim of finding a way to distribute these dishes in a mutually acceptable manner before polling day regrettably did not lead to any results.

68. Confirming the positive trend noticed during the previous local elections, the public broadcaster, which also has nationwide coverage, offered balanced and impartial coverage of the election campaign, in line with its function as a public service.

69. The NGO community and several media lobbying groups launched the "Must Carry, Must Offer" initiative. This initiative called on the authorities to adopt provisions that would oblige cable networks and satellite providers to include in their network packages all media outlets that have a satellite broadcasting licence and a market share of 20% or more. In June 2012, the authorities dropped their opposition to this initiative and made the necessary changes to the election code. Regrettably, the "Must Carry, Must Offer" provisions were only mandatory until election day. However, in a welcome move, most broadcasters continued to abide by these provisions on election day and in its aftermath.

70. In a welcome development, a number of debates were organised between all the parties and their candidates. Regrettably, Mr Ivanishvili declined to participate in a debate between the leaders of the parties participating in these elections.

71. Print and internet media together provided a diverse and wide ranging set of views. However, their outreach outside of the main cities was limited.

8. Election day, vote count and results

72. The vote took place in a well organised and calm manner. A large number of observers and party proxies were present in all polling stations. This increased the transparency of the process, but led to overcrowding in a number of PECs. Reportedly, this overcrowding, as well as the large number of supporters of all parties present around many polling stations, occasionally led to some tensions.

73. The voter turnout was 61%. It should be noted that this is the turnout based on all registered voters on the voters' list, which included persons temporarily residing outside Georgia. The real turnout of voters living in Georgia was therefore considerably higher.

14. Maestro TV.

74. Overall, the vote count took place in line with legal procedures in most places, but was less positively assessed by international observers than the conduct of the vote, especially in the regions. In the regions, a number of isolated incidents took place during the vote count and pressure was exerted on party proxies and observers. These incidents led one reputable domestic observer organisation, ISFED, to withdraw its observers from several polling stations out of concern for their safety. As a result of these incidents, the CEC cancelled the result in 12 polling stations where the vote count had been compromised and ballot stuffing seemed to have occurred.

75. On 2 October 2012, the CEC published the preliminary results of these elections. According to these preliminary results, the Georgian Dream coalition won the proportional elections with 54.9% (44 seats) of the votes, while the United National Movement obtained 40.3% (33 seats) of the vote. None of the other political parties participating in these elections passed the 5% threshold necessary to enter parliament. In the majoritarian races, Georgian Dream initially won 38 of the majoritarian seats, while the United National Movement won 32 seats. Following the re-run of the majoritarian races, on 14 October 2012, in the polling stations where the results had been cancelled by the CEC, three additional seats were gained by the Georgian Dream coalition. In total, Georgian Dream won 85 of the 150 seats in parliament and the United National Movement won 65.

76. Immediately after the preliminary results were published, President Saakashvili conceded defeat and announced that his party would go into opposition in the new parliament. He furthermore pledged to facilitate a peaceful handover of power between the outgoing UNM and incoming Georgian Dream governments. He appointed a special team of high-level UNM representatives to work with counterparts from the Georgian Dream Coalition in order to ensure an efficient handover of power.

77. 77. On 10 October 2012, President Saakashvili accepted the resignation of the UNM government. In line with constitutional requirements and deadlines, on 17 October 2012, he appointed Mr Ivanishvili as the new Prime Minister. The latter had 10 days to select his ministerial candidates in agreement with the President. The President then had three days to submit this government to the parliament for confirmation. The cabinet needs to be confirmed by a majority of the total number of members of parliament (76 votes).

78. Mr Ivanishvili already announced his selection of government ministers on 16 October 2012. The new parliament was convened on 21 October in the new parliament building in Kutaisi.

79. The Georgian Dream coalition had announced that once in parliament they would disband the coalition and that the member parties would form individual factions. While this will increase the pluralism of the newly elected parliament, it is to be hoped that it will not undermine the ability of the new government to act efficiently and in unison.

80. On 16 October 2012, President Saakashvili restored Mr Ivanishvili's Georgian citizenship on the ground of "national interest".

81. During the inaugural session of the new parliament, six parliamentarian factions were formed. As announced before the elections, the Georgian Dream coalition divided itself into three factions.[15] The UNM members also divided themselves into three factions[16] while five members elected in single-mandate constituencies on the UNM ticket declined to join any faction, On 29 October 2012, one more member left the UNM faction and declared himself independent. On 6 November 2012, these self-declared independent members formed a new parliamentary faction. Parliamentary factions enjoy a number of privileges, including reserved seats on committees, parliamentary delegations and ad hoc investigation commissions as well as additional speaking time during parliamentary debates.

82. On 21 October 2012, the new parliament elected Mr Davit Usupashvili (Republican Party) as its new President.

83. On 25 October 2012, the parliament confirmed Mr Ivanishvili as the new Prime Minister and confirmed the members of his cabinet as well as the new government's programme.

15. Georgian Dream, Georgian Dream–Free Democrats and Georgian Dream–Republicans.
16. United National Movement, United National Movement–Majoritarians and United National Movement–Regions.

9. Conclusions

84. The parliamentary elections of 1 October 2012, despite a polarised and tense election campaign in which serious shortcomings were observed, were generally conducted in a democratic manner in line with European standards and Council of Europe commitments. Many of Georgia's partners, including the Assembly, considered the parliamentary elections a litmus test for its commitment to democratic values and principles. These elections therefore marked an important step in consolidating the conduct of democratic elections in line with international standards.

85. As a result of these elections, a new government has been formed and the former ruling majority will enter into opposition in the new parliament. This is the first time that the political power in Georgia has changed hands peacefully via the ballot box. This is an enormous achievement and an example for the region. The prompt concession of defeat by President Saakashvili and his constructive approach in order to facilitate the handover of power shows great statesmanship and should be lauded.

86. The new government will find a parliament with a strong and well-organised opposition. This should ensure a proper system of strong checks and balances in the governance of the country. At the same time, the ruling coalition has a comfortable majority in the parliament, but lacks a constitutional majority. It will therefore need to build a constructive relationship with the opposition, if it is to be successful in implementing some of the reforms that were part of its election programme. These factors will strengthen the role of the parliament and political debate in the country. This is to be warmly welcomed.

87. The election campaign was harsh and antagonistic. For the democratic development of the country, it is now important for all political actors to overcome such polarisation and stigmatisation of the other as the enemy and to work together in a constructive fashion.

88. These elections, and especially the pre-electoral period, highlighted a number of shortcomings that still exist in the electoral legislation. The newly elected parliament should amend the election code to address the shortcomings observed. Given that the presidential election will take place in autumn 2013, this should be done without further delay.

89. A key democratic deficit of the election code is the continuing excessive difference in the size of the majoritarian constituencies which exceeds by far the maximum allowable variance of 10% to 15%. This runs counter to European standards and is unacceptable. This should be addressed as a priority. The genuine possibility that different parties could have won the majoritarian and proportional races with a considerable majority as a result of these unequal district sizes underscores the seriousness of this problem.

90. In addition to the election code, a number of provisions in the Law on the Political Union of Citizens and their implementation, especially in relation to campaign and party financing, proved to be problematic during the pre-electoral period. The incoming parliament and authorities should address the shortcomings noted. The authorities should seek close co-operation with the Venice Commission on this subject so as to ensure that all provisions of that law are fully in line with European standards and principles.

91. The ad hoc committee invites the Monitoring Committee to follow closely the implementation by the Georgian authorities and Parliament of the recommendations in this report in the framework of its monitoring procedure in respect of the country.

Appendix 1 – Composition of the ad hoc committee

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

– Luca VOLONTÈ, Head of the Delegation

– **Group of the European People's Party (EPP/CD)**
  - Jean-Marie BOCKEL, France
  - Lolita CIGANE, Latvia
  - Renato FARINA, Italy
  - Bogdan KLICH, Poland
  - Inese LĪBIŅA-EGNERE, Latvia
  - Marietta de POURBAIX-LUNDIN, Sweden
  - Yves POZZO di BORGO, France
  - Giuseppe SARO, Italy
  - Luigi VITALI, Italy
  - Luca VOLONTÈ, Italy

– **Socialist Group (SOC)**
  - Lennart AXELSSON, Sweden
  - Stefan SCHENNACH, Austria

– **Alliance of Liberals and Democrats for Europe (ALDE)**
  - André BUGNON, Switzerland
  - Paolo GIARETTA, Italy
  - Merixtell MATEU PI, Andorra
  - Andrea RIGONI, Italy

– **European Democrat Group (EDG)**
  - Christopher CHOPE, United Kingdom
  - Sir Roger GALE, United Kingdom
  - Ganira PASHAYEVA, Azerbaijan

– **Co-rapporteurs of the Monitoring Committee (ex officio)**
  - Boriss CILEVIČS, SOC, Latvia
  - Michael Aastrup JENSEN, ALDE, Denmark

– **Venice Commission**
  - Manuel GONZALEZ OROPEZA, Mexico

– **Secretariat**
  - Bas KLEIN, Monitoring Committee
  - Bogdan TORCATORIU, Interparliamentary co-operation and Election Observation Unit
  - Franck DAESCHLER, Interparliamentary co-operation and Election Observation Unit
  - Gael MARTIN-MICALLEF, Venice Commission
  - Nathalie BARGELLINI, Press Officer

The pre-electoral mission was composed of five members, one from each political group in the Assembly:

– Luca VOLONTÈ, Head of the Delegation

– **Group of the European People's Party (EPP/CD)**
  - Luca VOLONTÈ, Italy

– **Alliance of Liberals and Democrats for Europe (ALDE)**
  - Merixtell MATEU PI, Andorra

– **European Democrat Group (EDG)**
  - Christopher CHOPE, United Kingdom

– **Co-rapporteurs of the Monitoring Committee (ex officio)**
  - Boriss CILEVIČS, SOC, Latvia
  - Michael Aastrup JENSEN, ALDE, Denmark

– **Secretariat**
  - Bas KLEIN, Monitoring Committee

- Bogdan TORCATORIU, Interparliamentary co-operation and Election Observation Division
- Franck DAESCHLER, Interparliamentary co-operation and Election Observation Division
- Gaël MARTIN-MICALLEF, Venice Commission
- Nathalie BARGELLINI, Press Officer

Appendix 2 – Programme of the pre-electoral mission (Tbilisi, 11-12 September 2012)

Tuesday 11 September 2012

9:30-10:00	Delegation meeting
10:30-11:00	Briefing by Ms Caterina Bolognese, Head of the Council of Europe Office in Georgia
11:00-12:00	Meeting with Mr Nikolai Vulchanov, Head of the OSCE/ODIHR Election Observation Mission and his staff
12:00-13:00	Meeting with representatives of the ambassadorial working group
15:00-16:00	Meeting with representatives of civil society: – Ms Eka Gigauri, Head of Transparency International Georgia – Ms Nino Lomjaria, Head of the International Society for Fair Elections and Democracy – Ms Tamar Chugoshvili, Head of the Georgian Young Lawyers' Association – Ms Keti Chachava, Head of New Generation New Initiative – Mr Irakli Melashvili, Head of Freedom of Choice
16:00-17:00	Meeting with media representatives: – Mr Zviad Koridze, Media expert – Mr David Paichadze, Journalist at GPB – Mr Kakha Bekauri, Head of TV 9 – Ms Maia Tabagari, Maestro TV – Mr Levan Gakheladze, Head of the Board of the Georgian Public Broadcaster – Ms Ia Antadze, Media expert – Ms Tamara Chergoleishvili, Editor-in-Chief, *Tabula* magazine
17:15-18:00	Meeting with Mr Zurab Kharatishvili, Chairperson of the Central Electoral Commission and Ms Ekaterine Azarashvili, Head of the International Relations Division of the CEC
18:00-18:45	Meeting with Mr Mamuka Katsikadze, Chairperson of the Voters' List Verification Commission
20:00	Working dinner hosted by the Georgian Delegation to the Parliamentary Assembly

Wednesday 12 September 2012

9:00-10:00	Meeting with representatives of the Georgian Dream Coalition
10:15-10:45	Meeting with Mr George Tugushi, Public Defender of Georgia
10:50 -12:20	Meeting with representatives of parties running in the elections: – Christian Democratic Movement – New Rights – Labor Party 12:30-13:30 Meeting with Mr David Bakradze, Speaker of the Parliament, and with representatives of the United National Movement party
Afternoon	Meeting with Mr Mikhail Saakashvili, President of Georgia

Meeting with Mr Giga Bokeria, Head of the Inter-Agency Task Force on Free and Fair Elections

19:30	Press conference

Appendix 3 – Statement of the pre-electoral mission

Upcoming parliamentary elections crucial for Georgia's democratic development

Strasbourg, 12.09.2012 – The forthcoming parliamentary elections in Georgia, on 1 October 2012, are crucial for Georgia's democratic development and will be a litmus test to confirm the country's commitment to democratic values and principles, said the pre-electoral delegation (1) of the Parliamentary Assembly of the Council of Europe (PACE) that visited Tbilisi on 11 and 12 September 2012.

The pre-electoral delegation welcomed the competitive and pluralist election environment, which will give the voter a real choice between distinct alternatives on election day. However, the delegation expressed its serious concern about the increasing polarisation and antagonism in the pre-electoral environment, which is overshadowing the election campaign. Parties should refrain from such negative campaigning and focus on informing voters about their views and party platforms, according to their proper duties and responsibilities.

Genuinely democratic elections need an open and inclusive pre-electoral environment in which all parties have equal opportunities to inform voters about their programmes and political priorities. The authorities and all electoral stakeholders should therefore take all necessary steps to ensure a constructive and inclusive campaign environment and refrain from any action that would increase tensions or undermine the full and equal participation of all parties in the electoral process.

The delegation stresses the importance of an equal playing field for all electoral contestants. It calls upon the authorities to continue to step up their efforts to eradicate the abuse of administrative resources. In addition, the delegation fully reaffirms the statement made by PACE's co-rapporteurs for Georgia regarding the fines levied by the State Audit Service. In that respect the delegation welcomes the decision by the authorities not to levy the fines against the opposition parties that make up the Georgian Dream coalition. At the same time the delegation calls upon all electoral contestants to fully abide by the electoral legislation and stresses that perceived injustices in the law are not, and cannot be, a justification for breaking the law.

The mass media play a crucial role in the electoral process, as they are often the primary source of information for voters to acquaint themselves with the views of the parties contesting the elections. Full and equal access of all parties to the media, as well as impartial coverage by media outlets are therefore an essential condition for democratic elections. In that regard, the delegation welcomed the improvement in pluralism of the media environment as a result of the "must offer, must carry" legislation. The delegation notes that these provisions do not cover election day and the immediate post-electoral period. It invites the authorities to consider extending the period in which the "must offer, must carry" provisions are mandatory and for media providers to consider voluntarily abiding by these principles until the election process has been finalised. At the same time, it notes that cable television is not widely spread in a number of regions in Georgia. The delegation therefore calls upon the authorities to explore all possibilities to improve media access in those regions not covered by cable television.

The delegation noted the efficient technical preparations for these elections as a result of the new Electoral Code. In this respect it especially welcomed the work of the cross-party Voters' List Verification Commission to improve the quality of the voters list, which should contribute to increased public trust in the electoral process and its outcome. This bi-partisan effort underlines the possibilities for co-operation between opposition parties and ruling party to improve the democratic process in the country.

The delegation welcomed the work of the Inter Agency Task Force to increase public trust in the election process. Public trust in the impartiality and fairness of the electoral process is essential for democratic elections. All parties and state actors should therefore take all possible steps to strengthen the public trust in the election process and refrain from any action that could undermine it. For the same reason, the delegation urges all election contestants not to question the legitimacy of the election and its outcome before the elections have even taken place.

The Assembly will return with a delegation to observe the elections in Georgia on 1 October 2012.

Appendix 4 – Programme of the observation of the parliamentary elections in Georgia (Tbilisi, 29 September-2 October 2012)

Saturday 29 September 2012

09:00 – 09:20 Opening by the Heads of Parliamentary Delegations
- Mr Tonino Picula, Special Co-ordinator of the OSCE CiO, leader of the OSCE short-term observers, Head of Delegation of the OSCE Parliamentary Assembly.
- Mr Luca Volontè, Head of Delegation of PACE
- Mr Milan Cabrnoch, Head of Delegation of the European Parliament
- Mr Assen Agov, Head of Delegation of the NATO Parliamentary Assembly

09:20 – 09:45 Political Background
- Ambassador Philip Dimitrov, Head of the EU Delegation to Georgia
- Ms Caterina Bolognese, Head of the Council of Europe Office in Georgia
- Mr William Lahue, NATO Liaison Officer in Georgia

09:45 – 10:30 Electoral Administration
- Mr Zurab Kharatishvili, Chairman of the Central Election Commission

10:30 – 11:15 Meeting with Mr Giga Bokeria, Head of the Inter-Agency Task Force on Free and Fair Elections

11:15 – 12:00 Meeting with Mr Mamuka Katsitadze, Chairman of the Voters' List Verification Commission

12:00 – 12:45 Meeting with Mr Lasha Tordia, Chairman of the State Audit Service

14:00 – 15:30 OSCE/ODIHR Election Observation Mission Core Team:
- Ms Nikolai Vulchanov, Head of the OSCE/ODIHR Election Observation Mission
- Ms Gaelle Deriaz, Legal Analyst
- Ms Ingrid Angela Grossinger, Political Analyst
- Mr Egor Tilpunov, Media Analyst
- Ms Elissavet Karagiannidou, Campaign Finance Analyst
- Ms Linda Edgeworth, Election Analyst
- Ms Robin Seaword, Security Expert

15:30 – 16:30 Round table with observer organisations:
- Ms Tamar Chugoshvili, Georgian Young Lawyers' Association (GYLA)
- Ms Eka Gigauri, Transparency International, Georgia
- Ms Keti Chachava, New Generation New Initiative (NGNI)
- Mr Irakli Melashvili, Head of Freedom of Choice

16:30 – 17:30 Round table with NGO representatives (international and Georgian):
- Mr Luis Navarro, National Democratic Institute
- Ms Andrea Keerbs, International Republican Institute
- Mr Nermin Nisic, International Foundation for Electoral Systems
- Ms Keti Khutsishvili, Open Society Georgia Foundation

17:30 – 18:30 Round table with media representatives:
- Mr David Paichadze, journalist at GPB
- Mr Giorgi Chanturia, Director General of the Georgian Public Broadcaster
- Mr Kakha Bekauri, Head of TV 9
- Ms Tamta Muradashvili, Legal Advisor, Rustavi 2
- Mr Ilia Kikibadze, Head of Maestro TV
- Mr David Kakabadze, Radio Free Europe/Radio Liberty
- Mr Zviad Koridze, Media expert
- Ms Ia Antadze, Media expert

Sunday 30 September 2012

09:00 – 10:00	United National Movement: David Bakradze
10:00 – 11:00	Georgian Dream Coalition: Bidzina Ivanishvili
11:15 – 12:15	Meeting with representatives of opposition political parties in parliament: – Christian Democrats: Giorgi Rukhadze/Levan Vepkhvadze – Political Union “New Rights”: David Gamkrelidze – Labour Party: Kakha Dzagania
	12:15 – 13:15 Meeting with representatives of opposition parties not in parliament: – Free Georgia: Dimitri Lortkipanidze – National Democratic Party: Bachuki Kardava – Freedom The way of Zviad Gamsakhurdia: Malkhaz Gorgaslidze – Political Union Jondi Baghaturia–Georgian Group: Jondi Baghaturia – Peoples Party: Mamuka Giorgadze – Merab Kostava Society: Vaja Adamia
13:15 – 13:45	OSCE/ODIHR Election Observation Mission Core Team: – Ms Linda Edgeworth, Election Analyst – Mr Anders Eriksson, Statistics Expert Election data observation forms
	13:45 – 13:50 Concluding remarks
13:50	Deployment – Area specific briefing conducted by OSCE/ODIHR long-term observer teams – Meeting with interpreters and drivers

Monday 1 October 2012

Observation of opening, voting and vote count

Tuesday 2 October 2012

8:30 – 10:00	Debriefing on preliminary findings of the ad hoc committee
14.30	Press conference

Appendix 5 – Georgia takes important step in consolidating conduct of democratic elections, but some key issues remain, election observers say

Strasbourg, 02.10.2012 – Georgia's parliamentary elections marked an important step in consolidating the conduct of democratic elections, although certain key issues remain to be addressed, concluded the international election observers in a statement released today.

The elections were competitive, with active citizen participation through the campaign, but the campaign environment was polarized and tense, with some instances of violence. The campaign often centred on the advantages of incumbency, on the one hand, and private financial assets on the other, rather than on concrete political platforms and programmes.

While freedoms of association, assembly and expression were respected overall, instances of harassment and intimidation of party activists and supporters negatively affected the campaign environment, and often ended with detentions and fines of mostly opposition-affiliated campaigners. This contributed to an atmosphere of distrust among contestants, the statement said.

The election administration enjoyed a high level of confidence and the Central Election Commission operated transparently, holding frequent open meetings open to observers, party representatives and media.

Election day was calm and peaceful throughout the country, and international observers assessed all stages of the election day process overall positively, although some procedural shortcomings were noted. The Central Election Commission began releasing preliminary results early in the morning hours, contributing to the transparency of the process.

"Despite a very polarizing campaign that included harsh rhetoric and shortcomings, the Georgian people have freely expressed their will at the ballot box," said Tonino Picula, the Special Co-ordinator who led the short-term OSCE observer mission, and the Head of the OSCE Parliamentary Assembly delegation. "The process has shown a healthy respect for fundamental freedoms at the heart of democratic elections, and we expect the final count will reflect the choice of the voters."

"Despite shortcomings, these elections were very competitive," said Luca Volontè, the Head of the Parliamentary Assembly of the Council of Europe (PACE) delegation. "The political forces elected to the new Parliament, both in the majority and opposition, should now take up their responsibilities and work together to address these shortcomings for the further democratic development of the country. PACE will continue to co-operate actively with all forces in the new Parliament in these important reforms."

"Yesterday we witnessed Georgians' profound engagement in the democratic process," said Assen Agov, Head of the Delegation from the NATO Parliamentary Assembly "We were impressed that the mass rallies were peaceful, and the heartfelt involvement we saw can only bode well for Georgia's future."

"Georgia is an important partner for the EU, and we continue to be a steadfast supporter of promoting democracy and reform in Georgia," said Milan Cabrnoch, the Head of the European Parliament delegation. "This will be possible if those who have been elected, in power or in opposition, exercise their democratic privileges responsibly in continuing reform for the benefit of the Georgian people."

"Yesterday's elections highlight the role that key democratic institutions play when they act professionally and impartially," said Nikolai Vulchanov, the Head of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) long-term election observation mission. "Elements of the legal framework, however should still be improved and ODIHR and the Council of Europe stand ready to continue their productive co-operation with the Georgian authorities on this front."

Appendix 6 – Statement by the rapporteurs

PACE rapporteurs for Georgia express concern about financial actions against the Georgian Dream coalition

Strasbourg, 21.08.2012 - The co-rapporteurs for Georgia of the Parliamentary Assembly of the Council of Europe (PACE), Michael Aastrup Jensen (Denmark, ALDE) and Boriss Cilevičs (Latvia, SOC) today expressed their concern about the reports that the Georgian authorities have seized the bank accounts of the Georgian Dream opposition coalition, thereby undermining its participation in the election campaign for the parliamentary elections that will take place on 1 October 2012.

“The excessive and disproportionate fines levied by the State Audit Service effectively undermine normal political activity by an opposition party. This is of concern, especially in the context of recurrent allegations of bias of the State Audit Service and reports by credible organisations, such as the Georgian Young Lawyers Association, that question the fairness of the court decisions in this respect” said the co-rapporteurs.

“The rationale for campaign funding legislation is to ensure a level playing field between all electoral contestants, and not to drive one party or the other out of the electoral race. The upcoming elections, and their democratic conduct, are crucial for Georgia’s democratic development. We therefore call upon the Georgian authorities to demonstrate maximum restraint and to ensure that all parties, including the Georgian Dream Coalition, can participate fully in the electoral campaign”, they added.

The two co-rapporteurs will visit Georgia on 11 and 12 September 2012 as part of the pre-electoral mission of the Parliamentary Assembly of the Council of Europe.