



The Pre-Election Environment in Georgia

A report by the International Republican Institute's
Long-Term Election Observation Mission
Second Interim Report
August 26 - September 22, 2016

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Introduction

As part of its long-term election observation mission to Georgia ahead of the October 8 parliamentary elections, the International Republican Institute (IRI) has collected the findings of seven long-term observation teams in Ajara, Samegrelo, Imereti, Samtskhe-Javakheti, Kvemo-Kartli and Kakheti.¹

This report describes the findings of IRI's long-term observation efforts from August 26 - September 22, and provides recommendations designed to increase public confidence in the electoral process. The observations recorded in this report have been confirmed or corroborated by IRI's observers, and should not be interpreted to impute motivation to government officials or organizations, political parties or activists, or any other election-related actor.

From August 26 to September 22, IRI's long-term observers held a total of 537 meetings with election stakeholders, broken down as follows:

- 126 meetings with political party officials, leaders or representatives;
- 91 meetings with candidates;
- 176 meetings with electoral management bodies;
- Seven meetings with local and national government officials;
- 14 meetings with media representatives;
- 46 meetings with civil society representatives;
- 24 meetings with private citizens;
- Nine meetings with representatives of the judiciary;
- One meeting with law enforcement officials;
- Eight meetings with diplomatic or international organization representatives;
- 32 political party rallies;
- Two debates; and
- One candidate panel.

IRI's long-term observers recorded the following key findings:

Electoral Administration

- 51 election-related complaints and 44 statements have been filed with the Central Election Commission (CEC) and 12 appeals have been filed with the relevant courts.
- Observers have noted a distinct lack of transparency in the selection of Precinct Election Commissioners in Kakheti Region.

¹ As in IRI's first long-term observers' interim report, each of the seven teams have been based in their respective regions for the duration of the election period, with support from IRI's core team in Tbilisi. The core team is responsible for assessing national observation trends and observing election-related activities and developments in Shida-Kartli & Mtskheta-Mtianeti.

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- District Election Commissions (DEC) have applied inconsistent methods for selecting Precinct Election Commission (PEC) members, decreasing trust in the overall transparency of the selection process.
 - Electoral guidelines by which political parties register to participate in the election are unclear.
 - Precinct Election Commissions are fully-staffed and running effectively.

Pre-Election Campaign Environment

- The campaign period has grown more competitive and aggressive.
- Opposition parties allege that the ruling party has engaged in electoral violations.
- In certain areas, campaign activities and legal protests are regularly obstructed.
- Opposition parties have alleged misuse of power by municipal governments and officials.
- There are reported cases of campaign finance violations under court consideration.

Gender and Minority Inclusion

- Women are under-represented as candidates.
- A limited number of polling stations are accessible to persons with disabilities.
- Armenian ethnic minorities feel underrepresented in campaigning, while Azeris feel more included than Armenians, but Azeri communities are divided by party rhetoric.
- Language barriers have undermined the quality of training among minority members of election commissions.

Media Environment

- Plans to conduct exit polls on Election-Day have raised concerns with political stakeholders regarding potential bias.

FINDINGS

I. Electoral Administration

Key Observation: 51 election-related complaints and 44 statements have been filed with the Central Election Commission (CEC), while 12 appeals have been filed with the relevant courts.

The Central Election Commission has documented 51 complaints, 12 appeals and 44 statements. Complaints range from alleged violations of pre-election campaigning rules; the appointment of Georgian Dream - Democratic Georgia (GDDG) loyalists to Precinct Election Commissions; inaccurate voter lists; and the abuse of administrative resources. Appeals have primarily centered on attempts to abolish a range of CEC decrees and ordinances.

Key Observation: *Long-term observers observed a transparency deficit in the selection of Precinct Election Commissioners in Kakheti Region.*

After carefully examining District Election Commission (DEC) voting records for each of the electoral districts in the Kakheti Region and analyzing voting patterns, IRI's observers were informed that voting blocs of between eight and nine members were instructed to vote in favor of certain pre-selected individuals, each of whom were then selected to be the DEC-appointed members of the PECs. In order to confirm the veracity of this broad observation, LTOs in Kakheti performed a full analysis of votes cast within electoral District #23 (Sagarejo). They discovered that the voting bloc was comprised of the CEC-appointed DEC member, the professional DEC members, along with the GDDG, Conservative and Industrialist party representatives (all members of the ruling Georgian Dream Coalition).²

The long-term observers then performed a spot analysis of the votes for 20 percent of the PECs from each of the other electoral districts in Kakheti. The findings of these spot checks were consistent with those from District #23, except when the block included all six CEC-appointed DEC members. Overall, the evidence indicates that DEC members pre-selected individuals to sit on PECs in a way that violates the spirit of the electoral code by placing clearly partisan individuals in seats designated for politically neutral, professional commissioners. This finding is consistent with the complaints of opposition political stakeholders, who expressed ongoing concerns that CEC-appointed professional members of DEC are functioning as an extension of the ruling party.

² Each DEC is comprised of 13 members, six professional members (one of them directly appointed by the CEC) and seven partisan members including: one member each from the GDDG, Conservatives, Industrialists, UNM, Free Democrats, Republicans, and UDM. Four of these parties (UNM, Free Democrats, Republicans, and UDM) are in opposition to the current government.

While political stakeholders have consistently maintained that District Election Commission members were utilizing “pre-determined” lists in the selection of Precinct Election Commissioners, and IRI observers can confirm the use of pre-selected partisan lists in Kakheti Region, the long-term observers were unable to ascertain the degree to which pre-selected lists have been used across the country, or to identify the motives for using them.³ However, the broader issue at stake is the CEC’s failure to clearly define best practices for the selection process. The failure to clearly state expectations creates opportunities for government-aligned DEC commissioners to hijack the selection process and create a de facto political majority in a nominally neutral body.

Key Observation: Electoral guidelines are unclear, creating confusion among parties attempting to register.

By the conclusion of the political party registration period, 19 political parties and six blocs were officially registered to compete in the elections. Initially, 29 entities were denied registration. One party, “Topadze-Industrialist-Our Homeland” (Industrialists), were rejected on the grounds of submitting an incomplete election list, and appealed the decision on their registration. After appealing to the Tbilisi City Court, it was found that Industrialists did indeed submit a full list, but that it was electronic. In light of the fact that it has never been stipulated in the Georgian Electoral Code that all lists must be submitted in hard copy, the courts ruled in favor of Industrialists and restored their registration.

Key Observation: Precinct Election Commissions are fully formed, staffed and running effectively.

On September 7 and 8, District Election Commissions held a simulation for newly-selected Precinct Election Commissioners, in order to demonstrate the proper selection process for PEC leadership. On September 8 and 9, PEC members across the country selected their respective Chairs, Vice Chairs and Secretaries. During this period, LTOs observed 82 PEC sessions that included the official PEC opening, trainings of newly-selected PEC members and the leadership selection process, including 13 in Ajara, 11 in Samagrela, 43 in Imereti, 7 in Akhaltsikhe and 8 in Kvemo Kartli. IRI’s observers noted that in these initial PEC sessions, a quorum was present when the PECs voted for the three leadership positions. All votes were completed under the supervision of DEC staff, and were carried out in a transparent and open manner.

II. Pre-Election Campaign Environment

During this period, the electoral environment has grown increasingly contentious and hostile. IRI’s observers received dozens of reports of increased violence and verbal

³ IRI, *The Pre-Election Environment in Georgia*, September 19, 2016, http://www.iri.org/sites/default/files/fields/field_files_attached/resource/2016-09-19_georgia_lto_report.pdf.

harassment among political stakeholders. For example, on September 21 the Industrialists and United Democratic Movement (UDM) candidates in Marneuli (Kvemo Kartli) engaged in a physical fight during a televised debate.

Georgian President Giorgi Margvelashvili recently called on political parties to adopt GDDG's "peace memorandum," which would serve as both a code of conduct committing the parties to participating peacefully, fairly and democratically. A number of opposition political parties have expressed reservations about signing a document written by representatives of the ruling party, and some have vowed not to sign it.

***Key Observation:* Opposition parties allege that the ruling GDDG has engaged in electoral violations.**

During the campaign period, both the GDDG and UNM parties accused each other destabilization and provocation. While both sides appear to be engaging in a degree of sensationalism, UNM has publicly released video and photographic evidence of GDDG supporters violently disrupting a UNM event in Zugdidi (Samagrelo), vandalizing UNM campaign banners and posters in multiple locations, and beating a UNM supporter in Tbilisi. GDDG representatives have made similar accusations against the UNM, even claiming to have concrete information of UNM plans for electoral destabilization. Thus far, GDDG has not filed any official complaints or disclosed evidence supporting these accusations.

Opposition parties have lodged a range of complaints from multiple political parties and interlocutors against GDDG, most of which center on the abuse of administrative resources and voter intimidation. GDDG has been reported as having used state administration officials within municipal and local governments to intimidate state workers who support opposition candidates or parties on a nationwide scale.

Additionally, IRI's observers received dozens of reports that state administration officials assisted GDDG's campaign during work hours, including by posting campaign materials in government buildings and other public spaces, as well as unauthorized locations and monuments (a clear violation of Article 46 of the Election Code). Opposition parties have also alleged multiple disruptions of campaign activities; the forced relocation of campaign offices; verbal harassment of candidates; the destruction or vandalism of campaign materials; intimidation and physical violence by GDDG.

***Key Observation:* Campaign activities and legal protests have been obstructed by political entities across the spectrum.**

On September 12, 2016, former Prime Minister Bidzina Ivanishvili delivered a closed presentation in Kutaisi (Imereti) at the Dramatic Arts Theater. Approximately 300

protesters amassed in front of the theater to confront Ivanishvili in a demonstration that observers reported was tense but peaceful. When the news spread that Ivanishvili would exit from the back of the building, the protest shifted to a gated parking lot, where Ivanishvili's car was seen to be exiting. Protesters became more agitated and swarmed the car, with some standing directly in front blocking its exit.

When the word spread that the car was a decoy and that Ivanishvili was in fact exiting through the front of the building, security locked the 2-meter high gates to the parking lot, trapping the protesters and IRI's observers. Security again opened the gates after Ivanishvili's car departed, enabling protesters to disperse. This was a clear violation of freedom of expression and movement, protected under Article 161 of the Georgian Criminal Code, and may have constituted unlawful detention.

On September 17, while conducting door-to-door campaigning in the village of Plavismani (Gori region), UNM's candidate Badri Basishvili was allegedly followed by a group of approximately 25 people reportedly connected with GDDG. According to the UNM candidate, he was followed and verbally accosted, while the group attempted to disrupt and undermine campaign activities. Even more significantly, it was claimed that the group was led by the Deputy Head of the *Gamgebeli* (local council) and the Deputy Chair of PEC #93 (who is supposed to be non-partisan and avoid political activity). This violates the Election Code, which bans public servants from campaigning during working hours. The allegations are currently under investigation, and IRI's observers will continue to monitor the case as it develops.

In late September, IRI's team observed a Precinct Election Commissioner and a GDDG activist in Vake (Tbilisi) distributing voter information cards and party campaign materials. This action on behalf of the PEC commission openly violates the law. While this may have been an isolated incident, it demonstrates an abuse of power by an election commissioner in support of the ruling party, bolstering claims that GDDG has used administrative resources for its own benefit.

Key Observation: Opposition parties allege the misuse of power by municipal governments and officials.

In September, a private phone conversation between the Director General of the television station Rustavi-2 Nika Gvaramia and State for People Bloc leader Paata Burchuladze was illegally recorded and released to the public by an unknown source. While IRI's observers cannot conclusively determine the source of the wire-tapping, opposition parties have blamed the national government and State Security Service (SSSG). This episode highlights the low level of trust in the SSSG, and calls into question the impartiality of state security officials as both Gvaramia and Burchuladze are in opposition to the government.

IRI's observers noted that the Kutaisi (Imereti) Mayor's Office and Bolnisi (Kvemo Kartli) *Gamgebeli* have created new branches of government service that never previously existed, allegedly to provide non-commercial employment for ruling party

activists. The Kutaisi allegations were confirmed via FactCheck.ge,⁴ and IRI directly observed the same practice in Kvemo Kartli.

Key Observation: Reported campaign finance violations have been referred to Tbilisi City Court.

The State Audit Office (SAO) has investigated 597 physical persons and 30 legal entities for campaign contribution violations, subjecting 125 of these to in-person interviews (45 of these in September alone). Eleven cases were referred to the Tbilisi City Court, seven regarding illegal donations, and four regarding failure to submit full reports. Those who did not file full declarations were fined 2,000 GEL (approx. 900 USD).

The majority of complaints were lodged against GDDG, but the State for People Party has received the greatest number of individual filings. Filings against State for People includes a case in which six people made donations of the same amount (60,000 lari, the maximum amount allowed for a personal donation), at the same bank branch, at the same hour of the same day. Lastly, the Patriotic Alliance had one donor attempt to donate 91,600 GEL through proxies (exceeding the maximum personal allowance by 90,000 lari), resulting in a fine of 183,300 GEL issued by the SAO.

III. Gender & Minority Inclusion

Key Observation: Women are underrepresented as candidates.

There are currently 147 women candidates out of 854 majoritarian candidates (17.20 percent). Additionally, there are 1,330 women candidates out of 3,592 party list candidates (37 percent of the total). Lastly, among initiative groups (locally-organized, non-party entities running for office), there are eight women candidates out of 57 majoritarian candidates (14 percent).

Despite the fact that multiple parties took advantage of voluntary incentives which provide additional state funding to parties which place women in a minimum of 30 percent of their proportional list spots, most of these women do not occupy high positions on their respective lists. Therefore, even if their parties win enough votes to gain seats in parliament, it is unlikely that 30 percent of those seats would actually go to women, as the voluntary incentive intended. This failure to list women high on party lists, combined with the underrepresentation of women as majoritarian candidates, virtually guarantees that parliament will continue to include a minimal number of women MPs.

⁴ Davit Liklikadze, "Kutaisi City Hall gave employment to approximately 90 individuals in non-entrepreneurial (non-commercial) legal entities before the elections," FactCheck.ge, August 30, 2016, <http://factcheck.ge/en/article/kutaisi-city-hall-gave-employment-to-approximately-90-individuals-in-non-entrepreneurial-non-commercial-legal-entities-before-the-elections>. Accessed September 28, 2016.

Key Observation: A limited number of polling stations are accessible to persons with disabilities.

While the CEC has indicated that as many as 30 percent of polling stations across the country are wheelchair accessible, according to IRI's observers in Ajara, only 10 percent of polling stations in that location are accessible. While the CEC has openly stated that mobile ballot boxes will be available for those who cannot access polling stations, the local civil society organization Changes for Equal Rights has noted that disabled and mobility-challenged voters wish to be more independent, rather than relying on the mobile ballot box.

Key Observation: Armenian ethnic minorities feel underrepresented in campaigning. Azeris feel more included, but their communities are divided by party campaign rhetoric.

Prior to the campaign period, Armenian stakeholders in Samtske-Javakheti stated that they felt underrepresented in government as a result of educational and language barriers. This was exacerbated by the redistricting process, which broke apart some ethnic Armenian communities and undermined their ability to elect candidates representing their interests. In Akhalkalaki, for example, 17 villages were incorporated into the Borjomi electoral district, and are now part of a majority ethnic Georgian district.

Some political parties appear to be making a concerted effort to engage Azeri voters. GDDG has held public events in the Azeri language in Rustavi (Kvemo Kartli), and the Marneuli FM radio station has been airing information on voter education programs in Azeri. According to the Congress of Azeris in Georgia, there are 12 ethnic Azeri majoritarian candidates representing multiple political parties in the Kvemo Kartli Region, a significant improvement from previous elections. However, the Patriotic Alliance has used hate speech against Muslims, especially Turks in Batumi (Ajara), and has employed ethnically-divisive rhetoric in Gardabani (Kvemo Kartli). Observers report that GDDG and UNM's campaigns have attempted to sow divisions within the town of Mamkhuti (Bolnisi, Kvemo Kartli).

Key Observation: Language barriers have decreased the quality of training given to ethnic minorities in election commissions.

The IRI observers noted that PEC members from ethnic minorities had difficulty understanding the content of PEC trainings. Many trainers chose to conduct the training in Georgian and Russian because of this difficulty. This showcases the extent of the language barrier issue, which places a burden on the trainers, many of whom have limited fluency in Russian. In light of the fact that the trainings were not designed to be conducted in two languages, this practice not only decreases the quality of the sessions, it limits the understanding of electoral processes in certain PECs. Moreover, although Russian is spoken by relatively more members of ethnic

minorities than Georgian, a proportion of Armenians and Azeris do not speak either language, and are thus excluded from understanding the proceedings.

IV. Media

Key Observation: Plans to conduct exit polls on Election Day have raised concerns over potential bias.

Three private television companies (Imedi, Maestro and GDS) and one public television company (Georgian Public Broadcaster) announced their intention to jointly conduct exit polls on Election Day. While the four companies claim to have entered into this partnership in order to increase transparency, this has raised concerns among political parties and civil society. Privately-owned television stations in Georgia tend to reflect the political interests and preferences of their owners, while publicly-owned stations are expected to remain impartial.

Observers including the Coalition for Media Advocacy have expressed concerns that the marriage of opposing public and private interests to conduct exit polls will compromise the validity and impartiality of polling results and undermine public trust in electoral administration.⁵

Following the formation of the first media partnership, TNS Opinion joined forces with Rustavi-2 and GFK - two privately-owned media stations with perceived pro-opposition tendencies - to conduct a second exit poll on Election Day. This is likely a response to the perceived pro-government orientation of the Imedi/Public Broadcaster poll. (The TNS/Rustavi Exit Poll will be posted online at exitpoll2016.ge).

It is important to note that the alleged political affiliations of the two exit poll consortiums are at least superficially opposed to each other. This may create confusion if the results of the two polls are in significant statistical conflict.

The International Society for Free Elections and Democracy (ISFED) will also be conducting a Parallel Vote Tabulation (PVT) on Election Day, but the results will not be released until midday on October 9, the day following the election.

PVTs are significantly more accurate than exit polls, as they are tabulated directly from actual DEC-level results and do not suffer from response or self-selection biases. However, the ISFED PVT will take time to tabulate and results will not be available until at least 12-18 hours after the exit polls are released. Since ISFED is not sponsored by media organizations, its results may not gain traction if they conflict with the media-sponsored exit polls, which will be publicized immediately after polls

⁵ The Coalition for Media Advocacy includes eleven non-partisan organizations including: Georgian Young Lawyers Association, Georgian Charter of Journalistic Ethics, Institute for Development of Freedom of Information, Open Society Georgia Foundation, Regional Broadcasters Network, Regional Media Association, and Georgian Association of Regional Broadcasters.

close at 8 pm on October 8. The exit polls will be published while the CEC is still finalizing the results, potentially leading the public to question the veracity of official results if they significantly differ from the exit polls.

V. Recommendations

- ***Electoral bodies should work to increase confidence in the electoral administration.*** Throughout the remainder of the campaign period, electoral management bodies—including the CEC, DEC and PECs—need to carry out their roles and responsibilities transparently and in strict adherence to the Georgian Election Code. Additionally, the CEC should continue to incorporate international best practices into its procedures, particularly regarding political party registration and the selection of electoral management bodies. Complaints and appeals—which will likely increase in number, intensity, and complexity in the last few days before the election—must be handled in a manner that is unbiased, lawful, and proportionate to the infraction.
- ***Political parties should engage in a peaceful, respectful and cooperative election environment.*** In the interest of maintaining a safe and open campaigning environment, IRI’s observers call on all parties to respect each other’s campaign events and materials, and avoid engaging in confrontational rhetoric or behavior. In light of the increased tensions between parties, IRI’s observers urge all political parties to sign and adhere to a statement undertaking to compete fairly, transparently and peacefully. Party leaders must send a clear message to their representatives in local government that they will not condone or reward actions taken in unofficial “support” of their party, regardless of the party targeted by such actions. Party leaders should take positive steps to prevent further disruptions of their opponents’ right of assembly.
- ***Officials should respect the distinction between their public and political roles.*** IRI’s observers were troubled by the mounting evidence that GDDG has improperly used government administrative resources for its own political benefit. Local officials affiliated with the GDDG must not use their authority to disadvantage political opponents and intimidate voters. GDDG party leaders should instruct their elected officials not to take any action which might violate the integrity of their respective offices, and make it clear that violations will not endear them to the party.
- ***Electoral bodies should increase access to polling stations for disabled persons.*** Electoral management bodies and relevant institutions need to work together to ensure that polling stations are accessible to disabled or mobility-challenged citizens who wish to vote. While this may not be possible in all cases, efforts should be made to construct make-shift ramps and similar

accommodations in the days remaining before October 8. Enabling disabled persons to exercise their right to vote in the actual polling station instead of a mobile ballot box is a small but important step toward ensuring their representation in Georgian society.

- ***Political parties should continue working to enhance the inclusion of women.*** In order to ensure a balanced and democratic environment, IRI's observers recommend that political parties train young women leaders for their proportional lists, and take advantage of the additional funding available for parties which place women in at least 30 percent of their proportional lists. In order to help increase women's participation, IRI's observers also recommend abolishing the majoritarian system and exploring electoral systems that are more inclusive to all minority groups. Specifically, IRI continues to believe that a regional-proportional system of representation would allow both ethnic minorities and women to be better represented in future parliaments, and urges the new parliament to move affirmatively toward this direction when it enters new session in November.
- ***The role of law enforcement should remain separate from and impartial to election activities.*** IRI's observers encourage Georgia's law enforcement agencies to thoroughly investigate all allegations of electoral violations so that citizens and political actors alike have confidence in the electoral process. The CEC has approved a new Election Day rule which will permit law enforcement to enter polling stations at the request of two of the three PEC leaders. This has the potential to violate the impartiality of law enforcement if it is misused to intimidate voters or opposition commission members. Both the CEC and DEC's should carefully monitor requests for police support to ensure that this provision is not abused or invoked in a partisan manner.
- ***Private and publicly-owned media sources should create a wall of separation to maintain public confidence in the veracity of their reporting.*** IRI's observers note the potential for public skepticism regarding election results if private and public television stations conduct joint exit polls. IRI strongly recommends that privately and publicly-owned media sources remain separate, particularly with regard to national surveys that claim impartiality.

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