



**STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE  
PRE-ELECTION DELEGATION TO GEORGIA**

*Tbilisi, Georgia, June 29, 2012*

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation included Secretary of State of the state of Missouri, Robin Carnahan; former U.S. Congressman Sam Gejdenson; former European Union Ambassador to Georgia, Per Eklund; NDI President Kenneth Wollack; and NDI Resident Director in Georgia, Luis Navarro.

The delegation's purpose was to accurately and impartially assess the electoral preparedness in advance of the October parliamentary elections; review the broader political environment; examine factors that could affect the electoral process; and offer recommendations to support increased dialogue and consensus-building towards peaceful, credible elections, and give voters confidence that the elections reflect the will of the people.

The delegation held meetings with leaders of the ruling and opposition parties contesting in the elections, the Chairman of the Central Election Commission, the President of Georgia, members of parliament including its Chairman, the Ombudsman, the Chairman of the Commission for Ensuring Voters' List Accuracy, members of the Inter-Agency Task Force for Free and Fair Elections, the Chairman and Deputy of the State Audit Agency (Chamber of Control), domestic citizen election monitoring and other non-governmental organizations, U.S. and European diplomats, the Georgian Public Broadcaster, members of the Georgian National Communications Commission (GNCC), and national and regional media outlets. The delegation conducted its activities in accordance with the laws of Georgia and international standards outlined in the *Declaration of Principles for International Election Observation*, which has been recognized with appreciation by the United Nations General Assembly. NDI does not seek to interfere in Georgia's election process, nor does it intend to, or could it, render a final assessment of the election process. The delegation recognizes that, ultimately, it will be the people of Georgia who will determine the credibility of their elections. The delegation therefore offers this pre-election statement in the spirit of supporting and strengthening democratic institutions and processes in Georgia.

The delegation wishes to express its appreciation to the United States Agency for International Development (USAID), which has funded the work of this delegation and, along with the National Endowment for Democracy and the Swedish International Development Cooperation Agency, supports NDI democracy assistance programs in Georgia. This delegation is also grateful to all those who contributed valuable time to share their views freely. Their perspectives have informed this statement and made possible the work of the delegation. NDI stands ready to

continue to assist Georgian efforts to build and sustain democratic practices, institutions and values.

## SUMMARY

It has been more than eight years since the Rose Revolution and nearly four years after the Russian-Georgian war; and while many Georgians have expressed optimism regarding certain democratic and economic advancements in their country, they hope for further reform toward Euro-Atlantic integration. While challenges to Georgia's security and territorial integrity remain, further development of democratic institutions and practices offer the best chance for western integration and for long-term economic prosperity and stability. The upcoming parliamentary elections provide an important opportunity to deepen, expand and institutionalize democratic processes in the country.

The delegation acknowledges a number of positive steps taken since 2008 in preparation for the upcoming election cycle. New election-related institutions have been established, such as the Commission for Ensuring Voters' List Accuracy (known by the initials "VLC") and the Financial Monitoring Department of the State Audit Agency (better known as the Chamber of Control). Others have been further developed as in the case of the Inter-Agency Task Force for Free and Fair Elections. Combined with amended electoral legislation and the proposed so-called "Must Carry" provisions for the media, the 2012 electoral process is more formalized and regulated compared to past elections. These initiatives also present a challenge for developing the competence of, and public confidence in, the institutions and processes in a short timeframe.

At various stages of the election reform process, parliament, political parties, and civil society organizations engaged in dialogue and negotiations that led to a number of legislative amendments. These included:

- the division of party-list and majoritarian seats decided through the mixed voting system;
- the creation of a voters' list verification commission;
- some improved definitions regarding the use of administrative resources in the campaign;
- stricter regulations on political party financing;
- financial incentives for parties placing women on their candidate lists;
- removal of a blanket ban on prisoner voting;
- allowance for individuals to run as independent candidates; and
- automatic authorization for parties that clear the 5 percent threshold to form a parliamentary faction.

Citizen monitors have noted that the Central Election Commission has, thus far, operated in a transparent and inclusive manner. There have been vibrant and major opposition rallies that have, thus far, taken place largely without incident. The proposed expansion of media access demonstrates responsiveness to the concerns of civil society and, if implemented properly, could enhance the opportunities for Georgian citizens to make more informed choices at the polls.

At the same time, the delegation is concerned about growing political polarization in the country and a dearth of civil discourse among political leaders. The vilification of political adversaries has become commonplace. Moreover, hate speech against religious and ethnic minorities can still be found in Georgian campaign rhetoric. Reports of politically motivated harassment, improper campaign spending, claims of attempted bribery of state officials, and use of administrative resources persist. During the delegation's visit, a violent incident took place between opposing groups in the village of Mereti in the Gori district. A thorough and impartial investigation should occur and those found responsible should be punished in accordance with the law. The delegation believes that additional steps can enhance public confidence in the fairness and integrity of the process. These steps relate to:

- party financing;
- the media environment;
- the accuracy of the voter registry;
- some provisions of the legal framework and its implementation;
- the capacity of election administration, especially as it relates to election support in ethnic minority regions;
- international and domestic election observers; and
- increased gender representation.

## **DELEGATION OBSERVATIONS**

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

### **Conditions Set by the Legal Framework for the Elections**

Georgia's constitution provides a framework for organizing democratic elections. Amendments to the electoral code, adopted in late 2011 and early 2012, addressed many of the concerns raised by the international community and domestic election monitors while leaving others unaddressed.

Among the amendments made in 2011 and 2012 was a shift to 73 single-mandate (majoritarian) districts and 77 proportional, party list seats, from an even 75-75 split in the 2008 legislature. Additionally, the law states that any party clearing the 5 percent threshold will automatically garner six seats in the legislature, enough to form a parliamentary faction. The revised law also removed the blanket ban on voting rights for prisoners and provided financial incentives for parties to include women on their party list rolls. Furthermore, recent constitutional changes lowered the minimum age for serving in parliament from 25 to 21.

The new law has not responded to the suggestion from relevant international bodies to redraw electoral districts to make them more equal. Currently the number of voters in a single district can vary from 6,000 to 158,000, meaning that votes are weighed unequally.

Shortly following Mr. Ivanishvili's announcement of his intent to enter politics, he was stripped of his citizenship. This step set off a chain reaction of accusations and counter-attacks between the government and opposition parties. While the process governing citizenship is disputed by opposing sides, public opinion research conducted by NDI shows that citizens overwhelmingly support the reinstatement of his citizenship. Following unsuccessful appeals to have his citizenship restored, the Parliament passed a constitutional amendment making it possible for him to run for elective office. However, Mr. Ivanishvili has so far rejected this constitutional remedy.

### **Commission for Ensuring Voters' List Accuracy and Voters' List**

The accuracy of the voters' lists has been the most cited electoral concern by Georgian citizens according to NDI public opinion research. In order to continue to improve the voter rolls, and to increase public confidence in the process, a state-funded 21-member commission was formed in November 2011 to verify the accuracy of the voter lists. The Chairman of the Commission is a member of the opposition as mandated by the law. Most non-parliamentary opposition parties have declined to serve on the Commission. The Commission is constituted by three equal parts of civil society, ruling party, and opposition representatives. The VLC is expected to produce a final list of recommendations to the CEC by August 1, 2012.

One issue is a dispute between the Civil Registry Agency (CRA) and the VLC over a group of voters which the Agency says no longer reside at their residence of record. The VLC has expressed its doubts about the validity of the CRA's list and has refused to remove these names from the registry.

The election monitoring group, the International Society for Fair Elections and Democracy (ISFED), conducted an audit of the voters' list in late 2011 and found, based on a random statistical sample, that 98.4 percent of eligible voters appeared on voters' list. However, a significant number of Georgians are still listed at addresses where they no longer reside. The delegation was told by the VLC that its door-to-door verification process will address this problem.

### **Party Financing and the State Audit Agency (Chamber of Control)**

Party financing has long been a topic of discussion in Georgia, where disparities among parties' resources have traditionally been dramatic. At the end of 2011, Parliament was seen to amend the law on political unions in reaction to unprecedented levels of political spending by Mr. Ivanishvili. The same legislation empowered the Financial Monitoring Department of the State Audit Agency (Chamber of Control) with enforcing the new law.

The State Audit Agency began its work quickly in January, and was seen at least in its early operation as having serious shortcomings. It appeared to hastily make decisions and without clear or transparent guidelines. Critics have maintained that it acted in a partisan manner while others cite steady improvement in its operations.

To date, the State Audit Agency has levied millions of dollars in fines, predominantly against Ivanishvili and his political coalition, the Georgian Dream. The most prominent case thus far involves a recent decision regarding a contribution related to the distribution of satellite dishes. Critics of the Agency cite the hastiness of the process and assert the amount of the levies is unreasonable. Others believe Mr. Ivanishvili is utilizing vast resources to challenge the laws and institutions of the country, and that violations of the law must be punished. Civil society organizations and many opposition political parties with which the delegation met expressed concern regarding the lack of impartiality of the judiciary in enforcing electoral and campaign finance legislation.

Mr. Ivanishvili initially paid fines imposed, but has recently refused to pay the largest and most recent fines. In response, the government has begun to seize his assets. Fines have also been levied against the ruling United National Movement, but these have been relatively minor.

New guidelines are being developed with civil society input regarding the operation of the Agency and efforts are being made to more proactively communicate about its activities.

### **The Inter-Agency Task Force (IATF):**

The Inter-Agency Task Force was established in 2008 to address allegations of harassment and improper use of administrative resources during elections. In 2011, it was codified as a standing quasi-government agency with power to recommend remedial action to government and political parties. Civil society organizations and political parties have expressed appreciation for the Task Force starting its work early and taking action on a number of issues related to the politically motivated firings of teachers, the distribution of confiscated property and changes in the system to establish government benefits.

The IATF recommendations have led to directives intended to halt all dismissals of teachers, except for disciplinary violations, to transfer the responsibility of the public distribution of confiscated property to civil society and charitable organizations, and halt any changes in the point based system for social aid benefits. In response to a clash between political parties in the Mereti village of the Gori district, the most recent recommendation by the IATF calls upon political parties to refrain from close contact in campaign events and for police to take timely and appropriate action to prevent physical confrontations among citizens with opposing views.

Expectations of all electoral actors regarding the IATF's ability to address charges of misuse of state resources and harassment are high.

### **Media Environment and "Must Carry"**

According to NDI public opinion research, 92 percent of Georgians get their information about current events and politics mainly from television. While Georgians have ready access to a variety of television stations, all national channels (Rustavi 2, Imedi, and Georgian Public Broadcaster Channel 1) are perceived to be pro-government in their coverage, and Adjara TV is government-owned and -operated. Kavkasia and Maestro are channels seen more as reflecting the interest of opposition viewpoints. These channels are based in Tbilisi, but neither is available on most cable and satellite networks. Georgian Public Broadcaster Channel 2, which was established for the purpose of providing more equal access to various political forces to a nationwide audience, has been underfunded and is not available in most of the country.

In late 2011, Mr. Ivanishvili announced his intention to relaunch a television channel, Channel 9, which began broadcasting in spring 2012 via satellite and terrestrial signals. The channel was dropped by major cable providers.

The discussion over the media environment has led several Georgian watchdog groups to call on the Parliament to adopt laws that would obligate cable operators to carry a more diverse set of Georgian broadcasters and TV channels. This so-called “Must Carry” provision would provide more Georgian voters with greater access to information in the lead up to the elections. The Parliament is expected to pass this initiative as early as today. Government representatives with whom the delegation met indicated that they did not expect any technical hurdles that would unnecessarily delay the implementation of the legislation.

The Public Broadcaster and other channels plan to host debates during the official campaign period.

### **Women’s Political Participation**

According to the Inter-Parliamentary Union, Georgia ranks last among Organization for Security and Cooperation in Europe (OSCE) member states in terms of legislative representation of women. While women constitute more than half of the Georgian population, they hold only nine seats (or 6 percent) out of 150 in the Georgian parliament, compared to a worldwide average of nearly 20 percent. Elections present critical opportunities for women to participate and lead, which is central to realizing universal and equal suffrage and democratic governance. In December 2011, the Parliament adopted amendments to the Law on Citizens’ Political Unions that included financial incentives for parties to include two women in every 10 positions on the party lists. Parties that meet this threshold will receive an additional 10 percent in state funding, above what they already receive. It remains unclear whether these elections will serve as a vehicle for promoting more women into positions of political leadership. As there is currently only one woman in parliament who won a majoritarian race, the slating of women candidates in competitive majoritarian districts will also be important.

### **Election Administration**

Democratic elections require effective and impartial election administration, transparent organization and accurate, honest reporting of election results and expeditious resolution of electoral complaints with provision of effective remedies where warranted. The Georgian

election will be administered by a tri-level election administration, headed by the CEC. The CEC is comprised of 13 members, six of whom are appointed by the government and seven are appointed by political parties (one from each party that cleared the parliamentary threshold in 2008). The CEC Chairman won praise from the international community for his management of the 2010 municipal elections, and his attempts to reach consensus among the CEC members. In addition, the electoral administration is comprised of 73 district election commissions (DECs) and more than 3,800 precinct election commissions (PECs).

One concern in ethnic minority districts has been the lack of local language capability of electoral officials and materials available in those languages.

Another issue is the change in the law that does not *require* the reconciliation of the number of ballots at the end of the voting process. While the Commission told the delegation that procedures will be put in place to reconcile the ballots periodically throughout election day, there is no plan to record these numbers in the summary protocol.

## RECOMMENDATIONS

In the spirit of international cooperation, the NDI delegation respectfully offers the following recommendations for consideration to help build further public confidence in the process leading up to the October parliamentary elections:

### **To the Parliament or Government:**

- **Commit to a credible election:** Contribute to a level playing field and equal application of election law towards all. Respect the spirit as well as letter of the election law so that all procedures are transparent and serve to increase the trust in the electoral process.
- **Campaign and political party financing:** Ensure transparent, equal and reasonable application of campaign finance laws. Given the prominence and controversy this issue has played in the pre-election period, the government should review and consider further reforms to address civil society concerns about the proportionate implementation of regulations. Further, we recommend a post-election multi-party review of campaign finance laws based on the lessons learned from this campaign period.
- **Media Access:** The “Must Carry” legislation is a positive step that would expand media access to many Georgian citizens. Consideration should be given to the enactment of “Must Carry” in advance of the campaign period. In addition to other benefits, this could help address any unanticipated problems in implementing the new law. Consideration should also be given to continuing “Must Carry” through the announcement of election results.
- **Accountability through enforcement of election laws:** Public confidence in the electoral process depends on inclusion, transparency, accountability and fairness of the process. Law enforcement, prosecutors and the courts, as well as the Central Election Commission should vigorously pursue their duty to hold

accountable those who breach the election laws or violate voter and candidates rights. Electoral contestants should respect the law or contest rulings through the courts.

#### **To the Inter-Agency Task Force (IATF):**

- **Transparency:** Provide regular and comprehensive updates to citizens on all electoral complaints submitted to the IATF, including aggregations of the types of complaints. Publish reports detailing the decision making process, evidence considered, and actions taken as a result of complaints.
- **Meetings with Political Parties and Civil Society Organizations:** As has been the practice in previous election years, the IATF should consider opening meetings with parties and civil society organizations to observation by international monitors, possibly on a rotating basis.
- **Allegations of the use of Administrative Resource and Intimidation:** Along with the government, ensure that all public officials, at every level, are fully informed of the rules related to the use of administrative resources. Fully, transparently and objectively investigate reports of the misuse of state resources and of the intimidation of voters, candidates and activists. Hold individuals accountable for violations. Although the election law prohibits new state-funded social aid programs during the official campaign period, the IATF should consider recommending that this prohibition take effect as soon as possible.

#### **To the Political Parties:**

- **Gender:** Take full advantage of new financial incentives for placing women on the party list. Nominate more women on party lists as well as candidates in districts where their parties are competitive. Such efforts will help Georgia attain women's participation that is closer to goals set by regional and international institutions.
- **Campaign Funding and Spending:** Refrain from illegally raising and spending campaign funds, and using money, goods or services as a means for improperly influencing prospective voters. Inform and instruct party activists about regulations prohibiting such activities.
- **Internal Accountability:** Parties should develop, publish and enforce internal party codes of conduct for all those involved in their campaign. All participants have a responsibility for their actions and to document any claims of irregularities.
- **Campaign violence:** Political leaders should continuously renounce and condemn the use of violence by their supporters and urge cooperation with authorities to investigate incidents.
- **Issue-based Campaigning:** Engage voters through issue-based campaigns and participate in frequent candidate debates. Furthermore, in making campaign pledges, political leaders and candidates should identify clearly for voters the funding source for those pledges.

### **To the Central Election Commission:**

- **Voter Education:** Support public awareness campaigns to inform Georgian voters of where and when to vote, as well as their rights on election day. Special emphasis should be placed on voter education in ethnic minority regions, including the printing and display of voting procedures in minority languages. In addition, a greater effort should be made to recruit and train election administration staff who are proficient in those languages.
- **Electoral disputes:** Investigate and resolve electoral disputes in a timely, objective, consistent manner using a transparent process.
- **Voters' list:** Fully consider all recommendations provided by the VLC following the completion of their verification process and fully explain any changes therein. Ensure voters have time to check their status on the list.
- **Electoral administration:** Enhance training for election administration officials at all levels to help ensure officials are aware of and properly follow all electoral procedures and regulations. Ensure transparency and provide access to monitoring groups. Refrain from reappointing election officials who have previously violated election laws and regulations.
- **Diaspora voting:** All reasonable efforts should be made to reach out to Georgian citizens living abroad so that they are aware of their right to vote in Georgian missions abroad.
- **Independent candidates:** Ensure that independent candidates are aware of their rights and responsibilities as candidates under the electoral code. Ensure that they are provided the same state support as majoritarian candidates nominated by political parties.
- **Observation:** Apply the criteria for the accreditation of observers transparently and objectively. Respond quickly and comprehensively to requests from registered monitoring organizations. Ensure that all levels of the electoral administration engage professionally and constructively with observers.
- **Complaints:** Ensure the expeditious, transparent and independent review of electoral complaints. In addition, all complaints filed by observers should be recorded.
- **New ID Cards:** Ensure access to identity card readers, netbooks and the SMS verification system in every polling station.

### **To the Commission for Ensuring Voters' List Accuracy:**

- **Confidence in the List:** The Civil Registry Agency, the Commission for Ensuring Voters' List Accuracy, civil society organizations and political parties should consult and coordinate with each other in a manner that enhances the accuracy of the list and does not disenfranchise voters.
- **Potential Conflict of Interest:** Avoid any perception of a conflict of interest by ensuring that no member of the commission is an electoral contestant.

### **To the State Audit Agency:**

- **Criteria and procedures:** Establish, publish and follow transparent, consistent and fair procedures, including public access to relevant information related to the investigation (monitoring). Ensure that all investigation (monitoring) are thorough and impartial. Staff should avoid making press statements during the monitoring process. Moreover, the procedures should include the guidelines for prioritizing which cases are to be monitored.
- **Media Outreach:** Avoid perceptions of partisanship by providing clear, understandable information about its activities and operate more transparently.
- **Potential Conflict of Interest:** Remove the perception of a conflict of interest by ensuring that neither the chairman, deputies, nor staff run for political office or engage in partisan political activity.

#### **To the Media:**

- **Election coverage:** Provide election coverage in accordance with the Ethics Charter of Journalists.
- **Civic and voter education:** Provide access to civic and voter education programs and information.
- **Debates and forums:** Provide access to debates and forums by electoral contestants. Regional and local television stations should make every effort to host or cover debates among local majoritarian candidates. NDI has found worldwide that debates help parties and candidates focus on public policy issues that matter most to citizens. They also provide an opportunity for civil and substantive political discourse

#### **To Civil Society:**

- **Coordination:** Civil society groups demonstrated unprecedented collaboration in recent months through the “This Affects You” campaign to promote the integrity of the electoral process. This effort should continue during and after this election.
- **Credible fact-based observation:** All citizen monitoring groups should adhere to the *Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations*, which is endorsed by over 150 organizations and supported by key international organizations concerned with citizen’s rights to monitor their elections.
- **Civic and voter education:** Contribute to public awareness campaigns so that Georgian voters are aware of where and when to vote, as well as their rights on election day.
- **Voters’ List:** Ensure that any parallel efforts assessing the legitimacy of the voters’ list are transparent about their funding, methodology and activities.

#### **To International and Domestic Observer Organizations:**

- **Conflicts of Interest:** All international and domestic election observers should operate in accordance with the *Declaration of Principles for International*

*Election Observation*<sup>1</sup> and the *Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations*<sup>2</sup>, respectively. Both documents require disclosure of funding sources and prohibit partisan funding.

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<sup>1</sup> [http://www.ndi.org/files/1923\\_declaration\\_102705\\_0.pdf](http://www.ndi.org/files/1923_declaration_102705_0.pdf)

<sup>2</sup> [http://www.gndem.org/sites/default/files/declaration/Declaration%20of%20Global%20Principles%20\(as%20of%204.3.12\).pdf](http://www.gndem.org/sites/default/files/declaration/Declaration%20of%20Global%20Principles%20(as%20of%204.3.12).pdf)