

JANUARY 19, 2007

Georgia's Presidential Election:

Information Note by the Government of Georgia
about the Third Interim Report of the OSCE/ODHIR Mission to observe the Extraordinary
Presidential Elections

Saturday • 19 January 2008 • Tbilisi

The Government of Georgia welcomes the third interim ODHIR report and the efforts of ODHIR and other observers to help us strengthen our electoral system.

We take the concerns expressed by the observers very seriously, and address their concerns as soon as they are shared with us. For example, we had a long meeting with ODHIR a week ago, and sought to immediately respond to the concerns included in the third interim report. We are sharing these responses in the table below. We trust that they will be included in the final ODHIR report, which is due sometimes in February.

Technically, the election presented a challenge. The Central Election Commission (CEC) had only 6 weeks to prepare and run a fully unexpected election, and acquitted itself well. The accuracy of the voter lists was improved. Voters were invited to check their records, in some cases by an OSCE-observed door-to-door campaign. A voter education campaign ran on TV. Over 40,000 local election officials had to be trained in the new procedures introduced by the changed electoral law. Electoral material was produced in Georgian, Russian, Armenian and Azeri to ensure access to the voting process by all the country's ethnic minorities.

Numerous allegations of election-related violations were made by opposition parties. Despite repeated requests by the CEC, relayed by all the country's news media, most were never filed with the election commissions or with the courts, making a verification of these claims impossible.

Most formally filed complaints were submitted by NGOs rather than the political opposition. The results of a total of 12 electoral precincts had to be annulled because of irredeemable violations, 5 by the CEC and 7 by the courts. This represents an annulment rate of 0.34% of the 3,511 precincts in Georgia.

This election was not perfect. There clearly are still some deficiencies in our electoral system. We have asked the OSCE, the Council of Europe and IFES, among others, to delegate experts

and specialists to Georgia to help us iron out these deficiencies before the Parliamentary elections to be held in the spring.

It is clear, and confirmed by international and national observers, that these shortcomings did not alter the outcome of the presidential election.

Detailed responses to the Third Report’s findings

<i>Report Statement:</i>	<i>Government Comment:</i>
<p>The OSCE/ODIHR EOM identified a number of problems during the tabulation process, including examples of different data in protocols provided by PECs and DECAs, and PECs reporting unusually high turnout particularly during the last hours of voting.</p>	<p>The executive summary fails to note that both problems affected a very limited number of precincts. Tangible evidence of differences between various protocols affects fewer than 1% of the overall number of precincts.</p> <p>The issue of high turnout during the last three hours affects fewer than 1.5% of precincts, and can be explained by the particularities of the affected precincts. Detailed data to support this assessment is presented below.</p>
<p>In Marneuli, 866 people voted in PEC 50 during the last three hours and 657 in PEC 1. In Sagarejo, 822 voters were processed by PEC 36 in the last three hours, and in Akhalkalaki, 879 by PEC 24.</p>	<p>The Report fails to note that every one of these PECs was equipped with 4 or 5 registration tables and voting booths. This allowed these PECs to simultaneously process several voters. The number of voters that could be processed during any time period was consequently multiplied by a factor of 4 or 5.</p> <p>The high turnout observed in the last hours of voting has a simple explanation: the law allows a PEC to carry on operating past 20:00 if there are still voters queuing to cast their ballots. In these cases, a PEC official counts the number of remaining voters at precisely 20:00 and prevents more from joining the queue. In some PECs, this loophole added up to 3 hours to the precinct opening time.</p> <p>A PEC operating an hour to two more obviously has more time to process each voter</p>

	<p>than the report suggests.</p> <p>The reasons for the high last-minute turnout of voters in some of these PECs, as well as in a number of others, vary. They include extremely harsh weather (it was last so cold in Tbilisi in 1962) and the personal business of voters who choose to go to the precinct at the last minute.</p>
<p>A significant number of PECs reported unusually high turnout during the last three hours of voting. According to the information provided by the CEC shortly after the election day and received by the OSCE/ODIHR EOM, at 79 precincts, more than 500 voters cast their ballots during this period. This figure does not include polling stations which also counted ballots cast at nearby special polling stations, as per information provided by the CEC.</p> <p>Based on more complete information drawn from protocols now posted on the CEC website, as of 17 January, the number of such polling stations now stands at 45.</p>	<p>The total number of precincts affected is 69, not 79. Many of these polling stations do in fact count ballots cast at nearby special precincts (hospitals, prisons, and military units). These are DEC 01 PEC 06, DEC 03 PEC 34, DEC 04 PEC 17, DEC 05 PEC 41, DEC 08 PEC 02, DEC 10 PEC 105, DEC 17 PEC 18, DEC 20 PEC 41, DEC 21 PECs 32, 38,39, DEC 22 PEC 29, DEC 32 PECs 17, 18, DEC 35 PEC 29, DEC 41 PEC 32, DEC 53 PEC 06, DEC 55 PEC 10, DEC 56 PEC 33, DEC 64 PECs 14, 15, 43, DEC 65 PECs 18, 34, DEC 67 PEC 95, DEC 83 PEC 23, DEC 87 PEC 42). Finally, results filed by DEC 40 PEC 04 were annulled by the CEC.</p> <p>Thus, the final tally of affected precincts concerns only 41 out of 3,525 PECs. Whatever the reason for the high turnout, this proportion is too small to significantly affect the overall outcome of the election.</p>
<p>OSCE/ODIHR EOM observers described the tabulation process at the DEC level as slow, not very well organized, and often chaotic.</p>	<p>The law is clear: DEC's do not have a tabulating role in the counting process that leads to the online publication of results. Their role is to review complaints and to assist the PECs with technical and procedural issues. Protocols from the PECs are sent directly to the CEC, which is the body responsible for the tabulation. The DEC tabulation process that your observers monitored was a secondary count.</p>
<p>.. the OSCE/ODIHR observers noted that a</p>	<p>The report should note that every one of those</p>

<p>significant number of ballots from some PECs in certain DEC's appeared to have been filled out in identical fashion, raising suspicion of wrongdoing. In such cases, numbers of all but one candidate on ballots had been circled, or all but one name had been crossed out identically. Such cases in which identical patterns of ballot marking were observed, were noted for DEC 6 (PECs 54 and 56), DEC 32 (PEC 81), DEC 60 (PEC 41) and DEC 61 (PEC 16). While some ballots completed in the above described manner were invalidated, in the majority of cases, these ballots were considered valid based on a new CEC ordinance . . .</p>	<p>ballots, along with other incorrectly filled bulletins (affecting 924 votes out of 35,772 additional votes counted by the CEC) were annulled by the CEC during the count.</p>
<p>The CEC received few complaints, some with serious allegations. It rejected or ruled inadmissible the majority of them, without providing due consideration or sound legal reasoning. It incorrectly refused to consider several complaints requesting annulment of protocols, on grounds that only the courts had authority to do so. In addition, the CEC Chair incorrectly declared that the CEC did not have investigative powers. In one instance refused to review the official video recording of an alleged incident in a PEC, stating that the CEC had no authority to do so. However, in a 17 January statement the CEC announced that it was now ready to provide parties the opportunity to review video recordings of voting day procedures at polling station level, upon written request, although that decision comes after the deadline for the submission of complaints related to election results.</p>	<p>The law states that the CEC has no right to review complaints that were ruled inadmissible by the DEC's. Only the courts can deliver a verdict in those cases.</p> <p>The statement of the CEC Chair refusing to review an official video must be taken in context. The incident the report refers to did not involve a single precinct, but 112. A single day before the final summary of the results had to ready, the UPM party demanded that the CEC review all the videotapes from 6 DEC's, or 112 PEC's, before the final tabulation. Each PEC generates about 18 hours of tape: this would have meant reviewing about 2,016 hours of tape in a single day.</p> <p>It is physically impossible for the CEC to review all 112 recordings in such a short timeframe. To review 2,016 hours of video in a 24 hour period, the CEC would have had to field a minimum of 84 viewing teams, each operating without a break.</p> <p>Legally, the CEC Chairman further explained, correctly, that the purpose of the tapes is to verify allegations documented by other means.</p>

	<p>The tapes' purpose is not to act as primary evidence.</p> <p>Finally, the CEC has made it clear that all of those tapes are available for any election stakeholder.</p> <p>However, Up to now none of the parties appealed to CEC to receive the tapes.</p>
<p>According to IEOM and other domestic party and non-partisan observers, many protocols lacked required information or stamps and signatures. Data frequently showed inconsistencies; CEC staff informed the OSCE/ODIHR EOM that in around 940 of 3511 PECs, the number of voters who voted did not reconcile with the sum of valid and invalid votes.</p>	<p>No protocol lacking the legal minimum of 7 valid signatures or stamps was accepted by the CEC. Three PECs were reported to have had that problem. Their protocols were subsequently annulled.</p> <p>The CEC would welcome concrete indications from the OSCE/ODIHR EOM about which other protocols it believes lack the relevant signatures or stamps, and is ready to jointly check the entire list of protocols.</p> <p>The belief that many protocols lacked required information might be caused by the fact that some domestic observers failed to get proper copies of protocols.</p> <p>In several cases, PEC staff had trouble filling out the protocols and asked for assistance from DEC and the CEC.</p> <p>Finally, we wish to point out that when a voter slips his envelope into the urn, there is no way for precinct officials to check that it contains the three ballot papers he was given. It is perfectly possible for an individual voter to simply slip the ballot paper into his pocket and drop an empty envelope into the urn.</p> <p>The Report should also note that the absolute majority of those errors did not favour any particular candidate.</p>
<p>The OSCE/ODIHR EOM identified a number of problems during the tabulation process, including examples of different data in</p>	<p>The report fails to underline that this problem was only reported in a very limited number of cases. The CEC was only presented with a total of 27 PEC protocols alleging that results</p>

<p>protocols provided by PECs and DEC... For example, protocols provided by DEC for Batumi (PECs 11 and 73), Lentekhi (PEC 1), and Dmanisi (PEC 30) showed a significant increase of votes cast for Mr. Saakashvili.</p>	<p>were altered in favour of Mr. Saakashvili.</p> <p>In 7 of these cases, the CEC itself corrected the data. In the other cases, the protocols submitted by the complaining party were technically invalid. For example, some of the protocols presented by plaintiffs were filed in the form of handwritten notes rather than being a copy of the legal form; others were not officially sealed copies of the original protocols. This raised the risk that this evidence constituted an attempt at outright fraud, and it was therefore dismissed.</p> <p>The Report also fails to demonstrate the scale of the problem. Even if every one of these 27 cases constituted evidence of an attempt to skew the results in favour of Mr Saakashvili, the overall difference would only be of 3,426 votes, or 0.17% of the total.</p> <p>In Lentekhi PEC 1, the total number of voters is 730. Mr. Saakashvili won 263 votes (36%) and Mr. Gachechiladze 294 (40.3%). This cannot constitute “a significant increase of votes”, under any reasonable interpretation, considering that the overall result for Mr.Saakashvili in the Lentekhi DEC was 49%.</p> <p>The Report also fails to mention that in a number of cases, increases in favour of other candidates have also been found. For example, the protocol of DEC 57 in PEC 02 shows a significant increase in the number of votes cast for Mr. Gachechiladze: 400 instead of 40 votes.</p> <p>We have reviewed the issue in all PECs mentioned in the report, and the pattern above holds: variances are in favour of a number of candidates, not in favour of any of them. This clearly demonstrates that the problem is of a technical, not of a political, nature.</p>
<p>The CEC received few complaints, some with serious allegations. It rejected or ruled</p>	<p>The total number of complaints to the CEC was 22, out of which 6 were upheld. Their</p>

<p>inadmissible almost all, without providing due consideration or sound legal reasoning....</p> <p>Of more than 50 appeals to city courts, the vast majority were rejected, most as inadmissible for technical reasons.</p>	<p>results were annulled.</p> <p>38 of the 51 appeals filed with the Courts were ruled admissible, only 13 inadmissible.</p> <p>Out of those 38 appeals, 33 were rejected and 5 upheld.</p> <p>Overall, up to seven thousand votes cast for Mr. Saakashvili were annulled by the CEC decisions and the court rulings.</p>
<p>Some 23 PECs reported 100 per cent turnout. This figure does not include 41 polling stations where PECs mistakenly entered the number of voters who voted in the one of the protocol intended for the total number of voters on the voter list.</p>	<p>100 per cent turnout has been confirmed for 9 PECs only (DEC 35 PEC 40, DEC 40 PEC 27, DEC 41 PECs 15, 24, 31, 32, 33, DEC 80 PEC 05, DEC 84 PEC 50), the majority of which are small villages.</p> <p>The total number of voters for all 9 affected PECs was 2,561, or 0.13% of the total number of voters. The problem, when put into perspective, is thus insignificant.</p>
<p>Around 85000 voters were added to additional voter lists on election day. As provided by law, some 930 PECs did not count ballots cast by these voters themselves and sent these ballots to the CEC, which on 7 January decided to count them. Under the law, decisions by PECs to count ballots cast by voters registered on additional voter lists on election day at polling stations are taken by two-thirds of votes of a commission...</p> <p>... Some PECs did not send voter lists and copies of IDs to accompany the ballots as required by law, but the ballots were counted anyway.</p>	<p>Out of these 85,000 votes, 36,000 had been transferred to the CEC for counting (the others being counted by PECs). On January 7th, the CEC unanimously made a decision to count those votes. The law states that the CEC has the same requirement as a PEC for this kind of decision: a two-third majority of the Commissioners is required.</p> <p>It is worth noting that the number of contested votes was only 6,000 with a breakdown resembling the national voting pattern: slightly over 50% of the votes (slightly over 3,000 votes) were cast for Mr. Saakashvili.</p>
<p>On 10 January, the UPM at a press conference claimed its members had found sealed envelopes with ballots cast by voter lists on a rubbish tip on the outskirts of Tbilisi. On 12 January, a UPM representative presented these envelopes during a CEC</p>	<p>The alleged bulletins that were found on a rubbish tip on the outskirts of Tbilisi were not presented to the CEC in an official complaint.</p> <p>In case those ballots were not fabricated and were really found on the rubbish tip, they</p>

<p>session by the CEC Chair refused to accept them, arguing that ballots are State documents and that the finder should hand them to the police for criminal investigation.</p>	<p>represent an evidence of a criminal case and should be presented to the police in order to be treated as such by the criminal investigation, in compliance with Georgian legislation.</p>
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