

## **ENEMO REPORT ON 2008 EXTRAORDINARY ELECTIONS OF PRESIDENT OF GEORGIA**

The European Network of Election Monitoring Organizations (ENEMO) fielded 50 short-term observers, 5 core team members and 5 election experts to monitor 2008 extraordinary presidential elections in Georgia on January 5, 2008. Teams of short-term observers were deployed by Core Team to cover 24 DEC's of Georgia. ENEMO observers monitored all stages of the voting process, including the opening, the vote, the vote count and the tabulation of results in polling stations and district electoral commissions throughout the country. ENEMO observers monitored the 24 opening of polling stations, vote procedures in 253 polling stations and the 25 vote count in polling stations.

### **SUMMARY OF FINDINGS AND CONCLUSIONS**

ENEMO delegation acknowledges that the legislative and institutional framework ensures the fundamental electoral rights of parties and candidates to run in elections. However, the pre-election period was characterized by abuse of state resources, intimidations on political parties representatives and voters and polarized political environment.

ENEMO assesses the voting process as mainly conducted in correspondence with the national law and international standards. Although ENEMO observers registered a number of different infringements on this stage, violations during voting process were not systematic. Nevertheless, ENEMO observers noted various organizational deficiencies throughout the country.

Given the wide range of problems observed during the counting at polling stations, and considering the visible fraud attempts, ENEMO assesses that the counting process was the most deficient part of Election Day, and might adversely affect the way the results of the election are perceived.

## **ELECTION ADMINISTRATION**

Georgia's election administration is a three-pronged system comprised of the Central Election Commission (CEC), 87 District Election Commissions (DECs) and 3,512 Precinct Election Commissions (PECs). The very recent amendments to election law stipulate the new manner in which these structures should be formed, function and interact. 7 political parties represented in parliament have been given right to nominate their representatives in Central Election Commission and PECs. This means that the new CEC consists of 13 members (7 representing parliamentary parties and 6 professional members nominated by President and Parliament). The District Election Commissions have 5 members selected by the CEC as professionals and parties could not nominate their members at this level. Precinct Election Commissions have been formed on the same mixed membership rule as the CEC having 13 members (7 representing parliamentary parties and 6 professional members selected by DECs). As for the formation and work of lower-level commissions there were reports that DECs did not notify all PEC members on initial meetings and in some cases protocols of these meetings were annulled.

### **Central Election Commission**

ENEMO mission noted on positive side that the new CEC has worked in transparent manner, its sessions were open for public and media and its decisions were published on website. Given the nature of extraordinary elections, the CEC had to cope with amended election legislation and fulfill its role of organizing elections in time constrained circumstances and under new structure of election administration. To clarify new Election Day procedures the CEC had to issue instructions on its implementation and conducted also voter education programs to explain public novelties in election procedures.

Due to sharp political divisions among the commission members, some CEC decisions have been highly politicized and voting of members followed party affiliations resulting in 7-6 vote. Some decisions of Central Election Commission lacked factual argumentation or clear legal grounds.

## **VOTER REGISTRATION**

Central Election Commission has been involved in efforts to improve the quality of voter lists. Having verified data on voter list using door-to-door verification method and on basis of Civil Registry of Ministry and other state bodies, the CEC announced that some 28 123 names of deceased persons were removed, 65 491 were added and 49 100 data input changes. The total number of voters thus reached 3 405 475 (in comparison to 2006 it was 3,2 million and in 2004 it was 2,2 million).

For 2008 extraordinary elections, the amendments to the law have affected voter registration process, since it introduced possibility to add voters to voter lists on Election Day and precinct boundaries have been changed in effort to reduce maximum size of election precinct from 2000 voters to 1500 voters. Opposition criticized these recent changes and pointed at a number of mistakes in voter lists such as double entries, non-existing addresses, double registration of one name in two precincts.

## **CANDIDATE REGISTRATION**

During candidate registration process, CEC received 22 applications for registration, out of which 13 parties and initiative voter groups submitted signature lists within the deadline. The CEC finally registered 7 candidates and 4 of 6 candidates rejected due to insufficient number of required 50 000 signatures, have challenged the CEC decision in Tbilisi City Court., which upheld the CEC decisions.

## **COMPLAINTS AND APPEALS**

The Central Election Commission has received 23 complaints by January 5, out of which 4 were related to denial of registration of candidates, 16 were connected to pre-election period (campaign violations, intimidation, abuse of administration resources) and 3 concerned process of voting (ballot stuffing). Seven complaints against the CEC decisions were brought to the Tbilisi City Court and appealed. Court ruled against the CEC only in one case of establishing polling stations for soldiers in Kosovo and Iraq.

The process of adjudication of complaints in CEC and courts was criticized for being arbitrary and for failure to be based on reasonable interpretation of the law.

ENEMO acknowledges positive role of complaint hotlines established by CEC, government and NGOs to receive complaints and provide citizens with legal assistance.

## **CAMPAIGN VIOLATIONS**

### **Abuse of state resources**

Abuse of state resources by governmental party in favor of its candidate, Mikheil Saakashvili, represents one of the most important violations in the pre-election period that affected the competitiveness of the electoral process. Most common types of violations are: widespread involvement of central and local public officials in the electoral campaign, discriminatory access to state owned premises and distribution of vouchers while directly promoting the governmental party candidate.

Although not violating the legal framework, the recent governmental social programmes initiated at the beginning of the electoral campaign are considered to offer an advantage for the governmental party's candidate. Among these initiatives we noticed: cancellation electricity debts of internally displaced people, offering New Years gifts to vulnerable groups, as well vouchers for natural gas, electricity, wood, and flour for rural communities.

### **Vote-buying and intimidations**

ENEMO is particularly concerned about the cases of vote-buying that have been reported during the pre-election period, as the distribution of free tickets to entertainment park together with campaign materials promoting candidate Mikheil Saakashvili. Following a complaint from GYLA (Georgian Young Lawyers Association), the court decided to reject the allegation and considered the free tickets as campaign materials and not as gifts. Other instances of offering or promising goods and vouchers to people if they support Saakashvili were reported to take place in Dusheti and Batumi according to Transparency International Georgia.

Another candidate, Arkadi (Badri) Patarkatsishvili, promised monetary assistance and other benefits for the voters from his own funds, if he would be elected as president. The court noted that Mr. Patarkatsishvili's statement represented a violation of the law, but didn't impose any sanctions.

ENEMO mission receive a significant number of reports on intimidations on party activist, voters, media and business sector. Party activist were subjects of pressures from the police and some regional offices of opposition parties were attacked by unidentified persons. United Opposition stated that the outdoor billboards are monopolized by several private companies which refuse to rent advertising space to opposition parties, while Mikheil Saakashvili appear in all cities of Georgia.

### **Transparency of campaign financing**

As regards the transparency of campaign financing, ENEMO acknowledges that the legal framework offer necessary requirements to ensure transparency of income and expenditure of political finances. However, due to exceptional character of the snap presidential elections and its shorted deadlines, the transparency provisions of the law will not be fully implemented in order to inform the voter in a timely manner. ENEMO appreciates the efforts of domestic NGO GYLA to

pursue CEC to adapt the deadlines for publication of financial report to the calendar of the snap presidential elections. However, CEC decided reject this request.

### **Domestic observers and monitoring groups**

ENEMO is especially concerned about the pressures and intimidations on ISFED observers, who were threaten by public officials and security service. Some observers, who are teachers were told that they risk losing their jobs if they continue to cooperate with ISFED. ENEMO considers that nongovernmental organizations and independent observers are a key element to ensure the transparency and fairness of the electoral process.

ENEMO express its consideration for the work of domestic non-governmental organizations efforts to monitor the pre-election period and election day and underlines the importance of independent and non-partisan as essential to ensure the credibility of the electoral process.

## **CAMPAIGN IN MEDIA**

Most of the Georgian media actively showed electoral campaign, its various aspects through news coverage, TV debate programs and paid political advertisements. .

However, at the same time, ENEMO expresses its disappointment due to lack of televised candidate debates offering direct confrontation of views of all candidates.

Very serious incident in media landscape was related to stoppage of broadcasting of the "Imedi" television at the time of the elections. Controlling package of share of this television is owned by the businessman and presidential candidate Badri Patarkatsishvili. On 26 December, employees of the television stopped their work as a sign of the protest against "dirty political games". They announced that they disagree with both methods of the Georgian authority imposing temporary ban on broadcasting of 'Imedi' television after the 7 November protests, as well as the methods used by Patarkatsishvili to get into power. The journalists promised to renew the work after the elections.

Media monitoring conducted by Central Election Commission, local NGOs and international organizations (OSCE/ODHR, Center "Gorbi", Group of Michnik) showed overall domination of candidate Mikhail Saakashvili on the Public Broadcasting TV "1 channel" and on private TV channels "Rustavi 2" and "Mze".

Although there were not reported cases of media refusing candidates access, very high costs for paid ads by TV channels hindered ability of some candidates to campaign.

Opposition parties complained about the one case when the channels "Rustavi 2" and "Mze" refused to air 2 TV advertisements announcing opposition meetings. TV channels representatives argued that these ads were commercials and not political agitation. The dispute was brought to CEC but complaints were rejected.

According to ENEMO the law provision regulating free time allocation in media discriminates some candidates which are supported only by initiative group of voters (so called unqualified candidates), since these are left without any free air time. .

Overall campaign of Saakashvili dominated over other candidates using various means such as posters, billboards and advertisements in the public transports. Outdoor campaign of other candidates was much less visible.

## ELECTION DAY

### Opening

Mostly polling stations were open on time and PECs followed the requirements of the legislation on this stage. However, ENEMO observers found that at a number of polling stations (usually due to bad weather conditions), the opening procedure has not started on time, at 7 a.m. Furthermore, the voting also started after 8 a.m., and often before the opening procedure was completed. Observers also noted that at some precincts opening procedure was confusing and hard to observe, usually it was also a result of lack of time.

Although some operations during opening were not conducted sequencing the procedure, according to ENEMO assessment, the failures on this stage could not influence the outcome of the elections.

### Voting

ENEMO assesses the voting process as mainly conducted in correspondence with the national law and international standards. Although ENEMO observers registered a number of different infringements on this stage, violations during voting process were not systematic. Nevertheless, ENEMO observers noted various organizational deficiencies throughout the country.

At a majority of polling stations, the voting procedure took place in a calm atmosphere, and without serious infringements. However, there were moments when voters had to wait in line in order to get inside polling stations, due to the slow issuing of ballots. Sometimes this situation created a tense atmosphere, and caused disorder during the ink checking procedure at the entrance to the voting premises.

Some polling stations had inadequate set up and were not equipped with all the necessary materials; many of the voting premises were too small and cold. In several cases, the physical set up and preparations of the polling stations created chances for potential violations, including ballot boxes in inconspicuous place, having less than one voting booth for every 500 voters, and ballots that were unsupervised.

The most spread problem at polling stations during the voting process was absence of some essence information required to be posted according to the law (especially special and mobile box lists of voters, rules for filling the ballots and terms under which ballot boxes are considered invalid). Such shortcomings were approximately observed at every second polling station.

At some places ENEMO observers received many complains regarding quality of the voter lists. In instance significant number of people who either are deceased or changed place of residence was reported in PECs 4, 47 (DEC 28), PECs 2, 3, 56 (DEC 58), PEC 5 (DEC 21) and others. Some voters weren't included in the lists. In average their number was about 20-30 people per polling station. However, at a majority of polling stations no significant problems with voter lists were observed or reported.

The procedure of marking voters with indelible ink was conducted properly with an exception of very few cases, e.g. PEC 40 (DEC 35) suspended voting for a short time because ink supplies at the polling station came to an end.

With rare exceptions voting process was conducted in a secret manner, although some minor cases of family voting were observed.

Presence of minibuses with symbol of candidate Saakashvili on it have been noticed nearby many polling stations during the voting, and reports on a subject were related to the observers. Representatives of opposition blamed Saakashvili's HQ for using these minibuses for organizing "carousels". Regarding ENEMO mission, it's impossible to draw a clear conclusion concerning the involvement of any candidate's HQ in such practices.

Many domestic and international observers and representatives of the candidates were present at polling stations during the vote. With a few exceptions, observers were able to observe all the different aspects of the voting procedure without any restrictions.

A number of filed complains, composed by different observers during voting procedure was not significant.

### **Counting**

The counting process at a significant number of polling stations was conducted with several violations of the procedure that were the result of bad organization of the process at PECs. Moreover, in some cases during the counting, ENEMO observers witnessed frauds that could have an impact on the election results at the PECs.

Many PECs were not able to follow the procedure because of lack of competence; as a result, the counting process was disorganized and confusing. In many cases, election commissioners conducted several recounts because different data of the protocol were not in correspondence with each other. As a result, the counting process was extremely slow. For example, PEC 2, DEC 32 was still opening envelopes even after 4 hours of counting.

The most widespread infringements at polling stations during the counting were the fact that the PECs did not invalidate unused and spoiled ballots, information not being entered correctly in the protocol, and the protocol not being posted in a visible place for public acknowledgement.

In addition to different organizational problems, in a few cases ENEMO observers witnessed obvious fraud during the counting at PECs. For example, at PEC 5, DEC 27 an attempt to cast additional 30 envelopes with ballots was observed when the commission opened the ballot box. A similar problem took place at the PEC 2, DEC 27 – the lighting went out when the commission opened the ballot box; when the light was turned back on, some envelopes were found in disorder on the floor.

At other polling stations, ENEMO observers faced difficulties when trying to receive a copy of the protocol (PEC 51, DEC 81). Some PECs seemed to drag out the counting deliberately, waiting for the observers to leave the polling station.

Given the wide range of problems our observers have met with, and considering the visible fraud attempts, ENEMO assesses that the counting process was the most deficient part of Election Day, and might adversely affect the way the results of the election are perceived.

## RECOMMENDATIONS

In order to improve both the legal framework and the election procedures for the next election cycles in Georgia, ENEMO offers the following key recommendations:

- The legal framework should stipulate clear rules and restrictions for state and local officials involvement in election campaign.
- To abolish discrimination of some candidates (so called nonqualified candidates) which are not allocated free airtime in the television. All registered candidates shall have equal conditions and access to media including free air time and televised candidate debates
- Campaigning on election day should be prohibited in all forms.
- The professional members of PEC should be better trained, regarding both the legal and the technical aspects of the voting process.

*This report was written in English and remains the only official version.*

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**European Network of Election Monitoring Organizations (ENEMO)** is a group of 19 civic organizations from 17 countries of the former Soviet Union and Central and Eastern Europe. These nonpartisan organizations are the leading domestic election monitoring groups in their countries. In total, ENEMO member organizations have observed 200 national elections in their countries, monitored more than 100 elections abroad, and trained over 200,000 election monitors.

Since 2004 ENEMO has conducted multiple international election observation missions to Ukraine, Kyrgyzstan, Kazakhstan and Albania.

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