



## STATEMENT OF THE NDI PRE-ELECTION DELEGATION TO GEORGIA'S 2008 PRESIDENTIAL ELECTIONS

*Tbilisi, December 14, 2007*

This statement is offered by an international pre-election delegation organized by the National Democratic Institute (NDI). The delegation visited Tbilisi from December 10 to December 14, 2007, to assess preparations for the January 5, 2008, presidential election.

The delegation was comprised of Frances Fitzgerald (Ireland), leader of the opposition of the Upper House of the Irish Parliament; Tom Dine (United States), former president of Radio Free Europe/Radio Liberty; Kenneth Wollack (United States), president of NDI; Laura Jewett (United States), NDI's regional director for Eurasia, and Mary O'Hagan (United Kingdom), resident director of NDI in Georgia.

The delegation's purpose was to demonstrate the international community's continued support for democratic processes in Georgia, to make an accurate and impartial assessment of the election environment and its implications for democratic development, to offer recommendations for enhancing confidence and participation in the process, and to assess the need for an NDI Election Observation Mission on election day.

The NDI pre-election delegation met with Georgian political and civic leaders including presidential candidates, campaign representatives, senior government and parliamentary officials, election authorities, non-governmental organizations, domestic election groups, and representatives of the media and the international community in Tbilisi. The delegation conducted its activities in accordance with the laws of Georgia and the international standards outlined in the *Declaration of Principles for International Election Observation*. 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. NDI recognizes that, ultimately, it will be the people of Georgia who will determine the credibility of their elections and the country's democratic development. The delegation offers this pre-election statement in the spirit of supporting and strengthening democratic institutions and processes in Georgia.

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.

The delegation wishes to express its thanks to the United States Agency for International Development, which has funded the work of this delegation and other NDI democracy assistance programs in Georgia. This delegation recommends that NDI sponsor an international observer mission for the forthcoming presidential election. Delegation members believe that such a mission, working alongside other international and domestic observers, would be welcomed by the full range of political and civic groups and contribute to the electoral process. This delegation was preceded by a group representing the Parliamentary Assembly of the Council of Europe. We share a number of views expressed in its statement.

The delegation is grateful to all those who gave up 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.

## **I. DELEGATION OBSERVATIONS**

### ***Political Context***

The events of last November, including six days of large-scale demonstrations, which were violently dispersed on November 7, resulted in President Mikheil Saakashvili declaring a state of emergency and calling for early presidential elections for January 5, 2008. In addition, Imedi TV and Radio, which the opposition sees as its main vehicles for delivering messages to the public, were closed for several weeks. These events exacerbated tensions in the country to the point that the political environment has become dangerously polarized. Many Georgians expressed to us that this polarization may undermine confidence in, and challenge the credibility of the upcoming presidential poll. These elections are particularly significant as they represent the first truly competitive presidential election in Georgia's history; and the delegation found a commonly shared view among its interlocutors that this election, as well as the parliamentary elections to follow, must be credible for Georgia's democracy to advance.

The short election time frame poses many difficulties — both in terms of parties' ability to mount their campaigns and officials' ability to organize for the election. These difficulties are compounded by the need to implement recent, substantial changes to the Election Code. With only 22 days remaining, urgent steps will be needed to meet the challenges to democracy.

### ***Legal Context***

In November and December 2007, Parliament adopted a wide range of amendments to the Election Code of Georgia, many of which were recommended by the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), and the Venice Commission; others were advocated by Georgia's political opposition. These changes were to:

- allow voters to register at polling stations on election day;
- require the Central Election Commission (CEC) to conduct, or hire a contractor to conduct, media monitoring;
- clarify the rules for free air time for candidates;

- change the CEC composition to include six presidential nominees confirmed by Parliament and seven nominees from state-funded parties;
- alter the composition of Precinct Election Commissions (PECs) to include six nominees from the District Election Commissions (DECs) and seven nominees from state-funded parties;
- abolish DECs' ability to annul PEC election results;
- require the CEC to publish election results by precinct immediately on its official website;
- allow candidates to correct minor mistakes in their filing documents;
- instate new rules for determining candidate sequence on the ballot;
- reduce the maximum number of voters in many PECs from 2,000 to 1,500;
- abolish the 1/3 voter turnout threshold and 1/5 total vote threshold currently required to declare a winner in the second round of a presidential election;
- drop the requirement that international observers notify the CEC in advance which polling stations they will observe; and
- allow election information to be published in minority languages.

In addition, important changes have been proposed to constitutional provisions governing the parliamentary elections, including lowering the threshold for entry into the Parliament and establishing a two-tier proportional system.

These amendments to the Election Code and proposed changes to the Constitution represent a substantial effort to provide an opportunity for Georgia's democratic system to develop.

### ***The Electoral Campaign***

The atmosphere of the current electoral campaign is deeply disturbing. It is characterized by accusation and counter accusation, a loss of trust, a dearth of dialogue and predictions of civil unrest in the immediate aftermath of the election. There are those who see this election as a zero-sum game in which compromise is virtually unattainable. As a result, attention is already being drawn away from the campaign and the vote, and toward the post-election period. Some go so far as to suggest in advance that the outcome of the election may be determined not through the ballot box but on the streets of Tbilisi.

Lack of trust in the process is exemplified by claims of abuse of administrative resources, unbalanced news coverage and intimidation of civic groups, party activists and prospective voters. In addition, concerns have been raised about the integrity of the voters list, the secrecy of the ballot, the impartiality of election administration officials and the potential for fraud arising from registration of voters on election day. There are opposition politicians who assert that the election is already fatally flawed. For its part, the governing party alleges irresponsible campaigning by several opposition candidates and an absence of commitment to the electoral process. This polarization is also reflected in the media. The delegation has received reports of pressure placed on media outlets to present favorable coverage of one candidate or another and interference in their ability to freely cover political events. Media monitoring efforts and the establishment of codes of conduct are positive steps. The polarization nevertheless threatens the

social and economic wellbeing of the country and its nascent democratic institutions. It is the delegation's view that these trends can be addressed and reversed.

NDI's experience worldwide has found that confidence in an electoral system and a perception of fairness are as important as the letter of the law. Genuine democratic elections require that the public, including the political contestants, have confidence that the results of the elections will reflect accurately the free choice of the voters and that the outcome will be respected. Therefore, when concerns are raised about the fairness of an electoral system, additional safeguards, as added measures of transparency, should be introduced even if the law meets otherwise acceptable standards. This is particularly true in countries where a history of fair political competition has not yet been established.

### ***Election Administration***

The Central Election Commission and all Precinct Election Commissions have been reconstituted to include party representatives. The CEC has begun training new election commissioners and CEC staff on election day procedures. It is also developing new polling station manuals to account for the election law changes.

The CEC has completed a nationwide door-to-door survey checking voter lists and has already published the preliminary voter lists on its website for public review and correction. The CEC has also completed redrawing the precincts to account for the new legal maximum of 1,500 voters per voting site (precinct).

It is encouraging that the CEC plans to publish as soon as possible preliminary results by polling site. If carried out, this would be an important step forward for the transparency of elections in Georgia. The delegation notes, however, that the capacity of the CEC website needs to be improved in order to ensure swift and timely access to the preliminary results as they become available.

The addition of party representatives as officials at each polling station can provide an opportunity for each party to protect its interests and, collectively, the integrity of the voting and counting processes. The inclusion of party representatives at CEC and PEC levels should increase public trust in, and scrutiny of, the administration of the election. This will require all parties to participate in the process actively and constructively.

### ***Observing the Election***

The government has invited international observation of the elections. The OSCE/ODIHR began its long-term observation mission on December 6 and will also field 28 long-term and approximately 300 short-term observers for the election. Other international organizations are also planning to field election day observation missions. A number of Georgian organizations are mounting a nationwide monitoring effort, including NDI's long-time civic partner, ISFED. Interim President Nino Burjanadze has established an Inter-Agency Task Force that will liaise with international and domestic monitoring organizations and is tasked with investigating and responding to claims of electoral irregularities. Electoral complaints are also being received by

the Ministry of Interior, the Central Election Commission and the Public Defender (Ombudsman).

## **II. DELEGATION RECOMMENDATIONS**

In the spirit of international cooperation and in response to requests from Georgian political and civic leaders, the NDI delegation offers the following recommendations:

### ***Political Parties and Campaigns***

- The opportunities presented by this election, and the forthcoming parliamentary elections, should be seized. All participants have a responsibility to document and present irregularities, advocate for improvements and participate fully in all aspects of the process, both in the administration of the election and the campaign itself.
- All parties are responsible for the actions of their activists. Public trust might be enhanced if parties developed, published and enforced codes of conduct for all those involved in their campaigns.
- All participants in the election have a duty to respect the roles of domestic and international monitors and to desist from any form of intimidation or other interference in their work. We cannot emphasize enough the importance of domestic monitoring efforts. Acts to impede this work can adversely affect the integrity of the entire electoral process.

### ***Government***

- The newly created Inter-Agency Task Force should make every effort to respond fairly and expeditiously to real and expressed concerns brought to its attention.
- Engagement with domestic monitoring groups by the Inter-Agency Task Force should be continued through January 5<sup>th</sup> and beyond.
- The Task Force should cooperate on an ongoing basis with other bodies receiving electoral complaints. These bodies include the Central Election Commission and the Public Defender (Ombudsman).
- The forthcoming code of conduct for public employees should be published and widely disseminated as quickly as possible, and strictly enforced.
- Greater efforts must be made to define and respect the boundary between the governing party and the state in the election period. This includes the use of financial and human resources. For example, the recent distribution of vouchers, which have been presented as a “gift from the President,” should not be used by governing party workers as a campaign tool.

### ***Election Administration***

- Voters must believe their ballots will be cast in secret. Cameras were originally installed to deter misconduct inside polling stations, but concerns have now been raised about their impact on the secrecy of the ballot. The CEC should consider covering voting booths and providing public information about the role of cameras in polling stations.
- Early publication of election results by polling site increases transparency of the election and builds public confidence in the counting process. Every effort should be made to install fax machines in all polling sites so that preliminary results can be transmitted directly from PECs to the CEC and published on the CEC website as soon as possible.

- There are concerns about the capacity of the CEC website and these should be addressed before the election. A suitable back up site should be found and used. If a consensus can be reached between the legislature and the CEC, the Parliament's website might be appropriate on this occasion.
- In view of concerns about the integrity of the voters list, the CEC should publish the results of its recent door-to-door campaign to check the voters list. A significant percentage of the names on the list could not be traced. Yet many of these names cannot be removed from the list for legal reasons. It would be advisable to publish the results of the door-to-door campaign so that reasonable estimates of likely turnout can be established.

### *Media*

- The media are an essential part of this election. Each news outlet, electronic and print, has a responsibility to be accurate and balanced.
- It is important that media monitoring efforts include both qualitative and quantitative assessments and that their findings are published. Media outlets should respond quickly to those findings.
- We hope that presidential candidates will take part in debates in order to demonstrate constructive political discourse and as a means to enable voters to make an informed choice.
- The efforts of the CEC and domestic NGOs in monitoring the media environment will be important as the campaign progresses as will the response of broadcasting authorities to any complaints received.

There are undoubtedly other steps that could be taken to further Georgia's democratic progress if competing parties and civil society pursue through peaceful means all avenues for dialogue in a spirit of compromise and tolerance.

### **III. NDI CONTACT INFORMATION**

For further information, please contact Mary O'Hagan in Tbilisi at +995-32-935-830 or Laura Jewett in Washington at +1-202-728-5500.