



NATIONAL  
DEMOCRATIC  
INSTITUTE  
FOR INTERNATIONAL AFFAIRS

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

*Tbilisi, Georgia, May 2, 2014*

This statement is offered by an international delegation organized by the National Democratic Institute (NDI). The delegation's purpose was to accurately and impartially assess electoral preparations in advance of the June 15 local elections; review the broader political environment; examine factors that could affect the integrity of the electoral process; and offer recommendations to support increased dialogue and consensus-building toward peaceful, credible elections and public confidence in the process.

**SUMMARY**

Georgia continues to benefit from the fundamentals of democracy. However, there are concerns that could jeopardize those achievements if not addressed.

Voters felt confidence in the results of the 2012 parliamentary and 2013 presidential elections, which led to peaceful transfers of power. The overall political environment is characterized by pluralism and activism. As the June 15, 2014, local elections approach, the electoral administration appears equipped to support a credible process, and the legal framework, while still open to improvement, provides a solid foundation. The government has expressed a strong commitment to ensuring a fair and open campaign process. The Georgian people are to be commended for their contributions to these accomplishments.

Yet polarization continues to be a problem. Efforts to delegitimize and criminalize political adversaries are still commonplace. The line between state and party remains blurred. Allegations of politically-motivated harassment tarnish an otherwise vibrant political landscape. The responsibility now lies with Georgia's officials and political leaders to set examples of impartial governance, constructive campaigning, defense of the rights of opponents and minorities, and respect for the country's democratic institutions.

The delegation believes that additional steps would enhance public confidence in the fairness and integrity of these and future elections. These steps relate to:

- improving the local electoral and local self-governance codes;
- promoting women as mayoral, gamgebeli and sakrebulo candidates;

- deterring violence and intimidation;
- avoiding politically-selective prosecutions and interrogations;
- respecting minority rights; and
- reinforcing the professionalism of the local civil service.

Further development of democratic practices still offers the best chance for international integration and for long-term economic prosperity and stability. The local elections provide an important opportunity to deepen, expand and institutionalize democratic processes in the country.

## **ABOUT THE DELEGATION**

The delegation included Per Eklund, former ambassador and former head of the European Union Delegation to Georgia; Sam Gejdenson, former ranking member of the U.S. House Foreign Affairs Committee and a member of the NDI Board; Robert Adams, international elections and democratization expert for Electoral Reform International Services (ERIS) and Democracy Reporting International (DRI); Laura Jewett, NDI regional director for Eurasia; and Luis Navarro, NDI senior resident country director in Georgia.

From April 28-May 1, the delegation held meetings in Tbilisi with candidates, parties and campaigns participating in the elections from across the political spectrum; members of the Central Election Commission; the Prime Minister; the Ministers of Justice and Internal Affairs; domestic and international observer groups; members of parliament; media representatives; the international and diplomatic communities; and civic groups. The delegation conducted its activities in accordance with the laws of Georgia and international standards presented in the *Declaration of Principles for International Election Observation*,<sup>1</sup> which was launched in 2005 at the United Nations. NDI is one of 47 intergovernmental and international nongovernmental organizations that have adopted the Declaration. NDI does not seek to interfere in Georgia's election process, nor does it intend to, nor could it, render a final assessment of the election process. The Institute 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 therefore offers this pre-election statement in the spirit of supporting and strengthening democratic institutions and processes in Georgia.

NDI's observations are also informed by the Institute's ongoing work in the country and the long-term monitoring efforts of the International Society for Fair Elections and Democracy (ISFED), the Georgian Young Lawyers' Association (GYLA), Transparency International - Georgia, Georgian Democracy Initiative (GDI), Public Movement Multi-national Georgia (PMMG) and the International Republican Institute (IRI). NDI will also deploy a team of long-term analysts, who will follow up on the delegation's pre-election findings and remain in Georgia through the local election process. IRI will conduct an international observer mission on Election Day.

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<sup>1</sup> The Declaration is available at [ndi.org/files/DoP-ENG.pdf](https://ndi.org/files/DoP-ENG.pdf).

The delegation wishes to express its appreciation to the United States Agency for International Development, which has funded the work of this delegation and, along with 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 mission. NDI stands ready to continue to assist Georgian efforts to build and sustain democratic practices, institutions and values.

## **POLITICAL CONTEXT**

On June 15, 2014 voters will elect executives and legislators to Georgia's 71 local governments. This will include 2,088 members of sakrebulo (local assemblies), as well as mayors of the 12 largest cities and gamgebelis (or city managers) of the remaining 59 municipalities

For the first time, under revisions to the election code passed in March, all of the mayors and gamgebelis will be directly elected. Previously, only the mayor of Tbilisi had been directly elected; the other mayors and the gamgebelis were appointed by their respective sakrebulo, which will continue to be elected through a mixed system of party lists and majoritarian districts. The changes will thus give voters a greater say in determining who governs their communities.

At the same time, the local self-government code expands the number of self-governing localities from 64 to 71 while increasing their financial resources and powers. These changes thus shift some governing power away from the center and provide a basis for local authorities to be held accountable for exercise of these powers.

Parliamentary and presidential elections in 2012 and 2013 established a commendable trajectory of democratic processes. It will be important for the local elections to exceed those standards. Indeed, these will be the first elections under a parliament, government and presidential administration all controlled by the Georgian Dream coalition, so they give the ruling party a clear opportunity to demonstrate its commitment to credible elections, opposition rights, and a broader political environment conducive to democratic progress.

They also provide parties with a fresh framework for building bases of support and give voters new occasions for expressing political choices. Parties and candidates that run issue-based campaigns will strengthen their positions among voters.

The election results will have impact beyond deciding the composition of Georgia's mayoral offices, gamgebelis and sakrebulo. The outcomes of the sakrebulo party list races will be used to determine parties' eligibility for state funding and access to television air time in the next parliamentary elections, expected in 2016.

Unfortunately, politics in Georgia remains highly polarized. The animosity between Georgian Dream and the United National Movement party (UNM), in particular, shapes much of the political environment, diverting attention from more constructive discussions on Georgia's future.

In its meetings, the delegation detected signs of these political conflicts spilling over into governance. The delegation was informed of numerous unsubstantiated criminal allegations that seemed intended to delegitimize political opponents. The local elections are an opportunity to move beyond this dynamic.

The delegation also noted, as did previous NDI missions, an element of disregard for minority rights. As noted by the US State Department Human Rights report on Georgia, there continue to be political, civic, economic and cultural obstacles to the integration of ethnic minorities. Several religious minorities have reported on restrictions on their right to assemble and insufficient government responses to their persecution. Many minorities continue to lack Georgian-language skills, which makes their participation in elections difficult.

As the parliament considers passing anti-discrimination legislation, the delegation acknowledges this effort as representing a good faith effort by the ruling coalition to comprehensively codify various rights already provided in other aspects of the legal code and constitution.

The June 15 elections will take place against the background of nationwide changes in allegiances and party affiliations of local governments following the parliamentary elections. Transparency International-Georgia reported that between October 2012 and March 2013, more than 5,000 public employees at the central and local levels resigned or were dismissed. Before the October 2012 parliamentary elections, the UNM held the majority in all of Georgia's municipal governments. Now all but three are headed by Georgian Dream. In some cases, the officials switched parties or departed voluntarily. Others reported being pressured to leave office. These elections will return to the voters the right of selecting their community leaders.

By governing in an open, consultative, responsive and inclusive manner, newly elected mayors, gamgebelis and sakrebulos will contribute to the consolidation of Georgia's democracy as well as progress toward the prosperity, stability and European and Euro-Atlantic integration to which Georgians aspire.

## **OBSERVATIONS AND RECOMMENDATIONS**

No election can be viewed in isolation from the context in which it takes place. 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.

Following are the pre-election assessment delegation's observations about areas of progress, as well as recommendations on potential improvements that could be undertaken in advance of the June 15 polls and additional proposals for electoral reform in the medium term.

## **Legal Framework**

On March 7, the parliament adopted amendments to the election code that received mixed reviews. On balance they seem conducive to a democratic electoral process, but a number of provisions merit reconsideration immediately after June 15, if not before.

The delegation noted with appreciation that a working group including parliamentary and non-parliamentary parties, as well as observers from civil society and international organizations, deliberated on the law. However, some participants informed the delegation that representatives from the ruling faction did not appear to have full representational powers, which detracted from the working group's effectiveness and potential as a confidence-building measure.

Some amendments have been widely praised. The law provides financial incentives for parties to include women on party lists for sakrebulo seats, which will provide a much-needed boost to gender equity. The transition of mayors and gamgebelis from indirect to direct elections is generally seen as a step toward making local governments more responsive to their communities. The law sets the electoral threshold for mayors and gamgebelis at 50 percent (it was previously 30 percent for Tbilisi). Some of the delegation's interlocutors viewed the higher threshold as increasing democratic competition by raising the chances of a second round between the top two vote-getters. In sakrebulos, the new law lowers the threshold for party list representation from five to four percent, which is expected to facilitate more pluralism in local legislatures. The formulas for allocating state funding to parties were revised in ways that should make qualification for those funds more accessible. Also, new provisions allow "non-qualified" parties to receive state funding to support the participation of party proxies on election commissions.

At the same time, according to ISFED, GYLA and TI-Georgia, the amendments did not go far enough to ensure that each vote would have approximately equal value or that votes would be proportionately translated into mandates.

Some changes generated concerns. The law stipulates that mayors and gamgebelis, in contrast to every other elected office in the Georgian political system, can be nominated only by parties, not by individuals or initiative groups. ISFED and GYLA have appealed this provision to the constitutional court, saying that it violates articles 14, 26, 28, and 29 of Georgia's constitution. As a participating State of the Organization for Security and Cooperation in Europe (OSCE), Georgia also has a commitment to article 7.5 of the Copenhagen Document, which calls for respecting the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.

Further, although mayors and gamgebelis will be directly elected, the new code on local self-government stipulates that their respective sakrebulos can remove them through a two-thirds vote of no confidence. The law establishes no criteria for impeachment and the termination of an elected mandate. This provision effectively shifts some of the mayors' and gamgebelis'

accountability from the voters back to the sakrebulo, diluting the significance of the direct elections.

The new local government reform also includes a provision that all local civil servants would be placed on interim status following the elections. This has raised concerns about disruptions to governance and to the lives of affected employees. Also, it has created a perception that reappointments may be politically-influenced. This provision was unpopular among most parties and even some government leaders, yet no steps have been taken yet to mitigate its consequences. Transparency International-Georgia, the public defender and employees of the Tbilisi government have appealed this provision with the Constitutional Court. An important European standard, as defined by the OECD-EU SIGMA program, is that of a stable, politically neutral public administration appointed on the basis of merit-based recruitment. The delegation underlines the long-term benefits to Georgia of a stable, merit-based civil service.

Collectively, these provisions have created a perception among some observers that the governing party is seeking to build its political advantage into otherwise commendable reforms.

#### Recommendations:

- The Central Election Commission (CEC), political parties and NGOs should conduct extensive civic and voter education efforts so that citizens understand their rights and responsibilities under the new laws.
- All reports about election law violations should be fully, transparently and objectively investigated by the appropriate ministries, agencies or the CEC, and violations should be penalized to the full extent of the law.
- After June 15, the parliament should undertake a comprehensive review of the election code through a collaborative and inclusive process, to address remaining legislative concerns, including equality of the vote, allowing independents to run for mayoral and gamgebeli positions, setting a clear and high standard for no-confidence procedures against directly elected mayors and gamgebelis.
- The parliament should consider comprehensive merit-based civil service reform to ensure continuity among personnel, independent of election outcomes, and should take measures to prevent the large-scale dismissal of local civil servants following the election.

#### Election Administration

The CEC and its chairperson inspire widespread confidence in their impartiality and competence. To date, preparations for the elections appear to be proceeding smoothly. The Commission chairperson expressed concern about the difficulty of recruiting 48,000 qualified individuals to staff 3617 precinct commissions. In response, the Commission will be conducting a four-stage training process, including an election-day simulation, for all precinct-level officials.

Many of the delegation's interlocutors raised concerns, however, about the formula determining the composition of district and precinct commissions. Each commission is composed of 13

members, of which seven are appointed by political parties and six are “professional” nonpartisan members elected by the next higher level commission (or, in the case of the CEC, by parliament). The law has been interpreted to count the GD coalition’s six member parties individually, thereby allowing it to hold six of the seven party seats. This scenario, while technically valid, will result in commissions in which one “electoral subject” is disproportionately represented and other electoral subjects, except UNM, have no representation whatsoever. Domestic and international observers have advocated strongly for changes to these rules to enhance confidence in the impartiality of the commissions.

#### Recommendations:

- The CEC should ensure the expeditious, transparent and independent review of electoral complaints.
- After June 15, parliament should revise the formula determining the composition of district and precinct commissions to ensure more equal representation and more diverse leadership.

#### **Women’s Participation**

The inclusion in the election legislation of financial incentives for placing women on the the sakrebulo party lists is a welcome advancement. It demonstrates a willingness to build upon similar initiatives for party lists in the 2012 parliamentary elections. The increase in women in parliament following the 2012 elections and the 2013 milestone of a woman passing the qualification threshold for state funding in a presidential election for the first time also demonstrate Georgia’s potential as a leader in advancing political opportunities for women.

The Labor Party has nominated a woman to stand for mayor of Tbilisi. The delegation hopes that other parties will follow this lead in their remaining nominations for mayors and/or gamgebelis. Efforts of the CEC to track candidates and voter turnout by gender will provide useful information for the participation of women in future Georgian elections.

#### Recommendations:

- Parties should take full advantage of financial incentives for placing women on party lists for sakrebulos.
- Parties should nominate more women as mayoral and gamgebeli candidates in cities and municipalities where their party is electorally competitive.

#### **Campaign Environment**

Parties have begun naming their candidates through primaries and direct nominations. The deadline for registration of candidacies is May 16. The CEC must register mayoral and gamgebeli candidates by May 22 and sakrebulo candidates and lists by May 23. Some opposition representatives conveyed to the delegation their expectation that parties and candidates would have the freedom to campaign without undue interference. Others expressed concerns about campaign-related violence and intimidation, based on experiences prior to the

2012 and 2013 elections, as well as more recently.

### ***Violence***

In an election environment, even the perception of intimidation can have an adverse effect on party activists and voters. ISFED has reported on four cases of campaign violence and one case of violence against a UNM MP. Among the most serious allegations by ISFED are an alleged beating and attempted kidnapping of UNM MP Nugzar Tsiklauri and eggs thrown at former UNM Tbilisi mayor Gigi Ugulava after leaving a court appearance. UNM claims that these incidents represented a systematic effort to intimidate their candidates and supporters prior to the official election period and affected their ability to organize their municipal campaigns.

In a written statement, Georgian Dream leaders said it is “inadmissible for the public to express aggression through violent means.” The Minister of Justice and chair of the Inter-agency Task Force on Free and Fair Elections (IATF) re-issued recommendations from September 2013 that call upon political parties to ensure their activists do not disrupt campaign events of other parties; local governments to ensure their employees are aware of campaigning rules for civil servants; and the Ministry of Internal Affairs to apply all possible means to ensure safety at political rallies. These steps are welcome and should be supported with concrete actions, as necessary.

The Georgian constitution guarantees the right to free assembly. Authorities should take concerted action against any attempts by citizens or groups of citizens to interfere with the exercise of this right. Public officials, party activists and candidates must be allowed to carry out their electoral campaign efforts without intimidation or fear of physical harm.

### ***Prosecutions and Interrogations of Former Officials***

The need to uphold the rule of law must be balanced against the need to avoid the reality or perception of selective prosecution. The best approach for achieving this balance is to invest in the independence and credibility of Georgia’s judicial system while ensuring that judicial decision making is confined to that system and not aired in partisan contexts within the executive or legislative branches.

As a part of the Georgian Dream’s electoral pledge to restore justice, the government has launched a series of investigations into alleged crimes and abuses of power by high-profile UNM leaders. Approximately 90 officials of the previous government have been arrested or investigated, and many of its activists nationwide have been questioned, according to UNM. Some Georgian and international observers see these investigations as politically motivated a perception that may be reinforced by the prevalence of unsubstantiated criminal allegations in public discourse.

ISFED has issued statements expressing concern about the arrests of opposition municipal



office-holders so close to the upcoming elections. UNM alleges that the arrests have affected their candidate recruitment. The Prime Minister on April 14 issued a moratorium on “legal restrictions of rights and detentions” of people engaged in the election campaign, except in cases of justified and urgent necessity. This directive should be followed in both letter and spirit.

#### Recommendations:

- Law enforcement authorities should protect the right of assembly by providing sufficient protection to prevent violence.
- Police, prosecutors and judges should ensure that sanctions for crimes and administrative offenses, such as election-related violence, are proportional to the violations and serve to deter such violations in the future.
- Political leaders should strenuously renounce and condemn any use of violence by their supporters and urge cooperation with authorities to investigate incidents.
- Political leaders should refrain from making unsubstantiated allegations about criminal activity. This is particularly incumbent upon government office holders.
- Parties should develop, publish and enforce internal party codes of conduct for all those involved in their campaign.

#### **Abuse of Administrative Resources**

Formal campaigning has just begun, so it is premature to assess the extent to which abuse of administrative resources will play a significant role in these elections. Past elections have elicited many complaints about inappropriate or partisan use of the state’s coercive, legal, institutional, financial and media resources. NDI has advised in the past that there needs to be more clarification of the distinctions between state and campaign resources.

In this context, the delegation appreciated government officials’ assurances of their commitment to avoid repetition of problems with administrative resources, including the IATF’s recommendations to ministries on this topic and the Ministry of Internal Affairs’ (MIA) adoption of a code of conduct for all MIA employees outlining their restrictions and responsibilities in the election environment.

#### Recommendations:

- Ministries should consider adopting codes of conduct on administrative resources, similar to the MIA’s, that reflect IATF recommendations. These should be rigorously enforced in order to guarantee a level playing field for all contestants.
- All reports about violations should be fully, transparently and objectively investigated and violations should be penalized to the full extent of the law.

#### **Voters’ List**

As in previous elections, the CEC is responsible for composing the list of voters based on data received from relevant state institutions. Some of the delegation’s interlocutors expressed concerns about inaccuracies on the list related to potential voters who have emigrated, do not

have an address or are not included in the civil registry. The voters' list is posted online and will also be available at precincts so that citizens can confirm the accuracy of their data. According to the new amendments to the electoral legislation, the list will include voters' photos. The State Services Development Agency (SSDA) under the Ministry of Justice launched a campaign to identify and eliminate duplicate entries in the electoral database. This data will be shared with the election administration. The photos of voters attached to the list will allow precinct election commission officials to visually verify the identity of a voter.

In a regime of free movement of people, accuracy of population and or voter registers depends on citizens reporting their migratory movements through consular services. The exercise of out-of-country voting rights provides an important reporting opportunity.

#### Recommendation:

- The government should work towards the creation of an accurate, up-to-date population registration in line with European best practice, comprising both a civil status and address register, as the basis for transparent, sustainable and accurate voter registration. Consideration should be given to removing unreasonable barriers to registration and up-dating of records, such as high fees, and providing appropriate incentives for registration and updating.

#### **Media Environment**

Controversies continue to surround the Georgian Public Broadcaster (GPB), which may impact its ability to cover the election process in an impartial manner. In the midst of accusations and counter-accusations about political partisanship, the general director has been fired and re-hired, and political talk shows have been cancelled. In addition, the board of directors was for a time short of a quorum and now exceeds the quorum. These leadership and management disruptions are interfering with the GPB's ability to provide voters with reliable information about political developments.

Television stations all criticized perceived government attempts to interfere with the TV ratings system through Ministry of Finance Revenue Service audits of household viewing meters. Representatives of Tabula and Rustavi 2 cited instances of government pressure, including public criticism, intimidation of journalists and prosecution of executives, creating the impression of an effort to silence opposition views.

#### Recommendations:

- Allegations of intimidation or harassment of journalists or interference with their rights should be fully and expeditiously investigated and violations should be prosecuted to the full extent of the law.
- The Georgian Public Broadcaster should strive to maintain balanced coverage of elections, particularly as it undergoes a change in management and programming.

#### **Campaign Financing**

The campaign season for the local elections is only just beginning, so it is early to assess the procedures for campaign finance reporting and auditing. Opposition parties complained that, based on a fear of repercussions, corporations are reluctant to make contributions to their campaigns. Whether based in reality or not, these types of concerns merit attention. The State Audit office was criticized for over-reaching its mandate in 2012 and for under-performing in 2013. Given the significance of monitoring campaign finances to promoting confidence in the process, the independence and competence of the SAO are important to protect.

Recommendations:

- Political parties and candidates should provide timely and accurate reports on their funding sources and expenditures.
- The SAO should apply campaign finance rules and levy sanctions even-handedly and consistently.

**Inter-Agency Task Force**

The Inter-Agency Commission for Free and Fair Elections (Inter-Agency Task Force or IATF) was established in 2008 as an *ad hoc* forum for addressing electoral violations by public officials. In 2011, it was codified as a standing quasi-government agency with the power to recommend remedial action to government and political parties. In August 2013, the Task Force was transferred from the auspices of the National Security Council to the Ministry of Justice. The 12-member group includes senior officials from various ministries and state agencies.

Formal complaints about the electoral process should be lodged with the appropriate ministries, state agencies, courts or CEC. However, the IATF can serve as a transparent forum for the referral and aggregation of concerns. NDI and other international observers have recognized the IATF in previous elections for its confidence-building role. The Task Force has reissued a set of recommendations that clarify some provisions of the election code regarding the use of administrative resources. The Task Force Chairman described its function as educating electoral participants about the separation between state and electoral politics. This is a worthy objective. Some participants complained, however, that the IATF does not serve as an effective venue for processing reports on alleged violations, referring these to the appropriate dispute resolution mechanisms, or issuing recommendations and that its proceedings are more politicized than constructive.

Recommendations:

- Provide regular and comprehensive updates to citizens on all electoral complaints the IATF has referred to the competent authorities, including aggregations of the types of complaints and the status of their resolution.
- Continue efforts to ensure that all public officials, at every level, are fully informed of the rules related to the use of administrative resources and that violations are proportionately sanctioned.

## **Election Observation**

The government, parliament and election authorities have welcomed both domestic and international observation. Georgian civil society organizations are actively and constructively engaged in the electoral process as monitors, advocates and voter education activists. For example, ISFED, TI, GYLA, and PMMG are deploying long-term observers and between them will have thousands of short-term observers (STOs) in precincts throughout the country. ISFED will conduct a national parallel vote tabulation (PVT) that will include the Tbilisi mayoral race.

### **Recommendations:**

- All international and domestic observers should operate in accordance with the *Declaration of Principles for International Election Observation* and the *Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations*, respectively.