

IMPLEMENTATION OF OSCE-ODIHR RECOMMENDATIONS

LEGISLATIVE RECOMMENDATIONS	Implementation			Comments
	Fully	Partially	Not implemented	
<p>General Recommendation</p> <ul style="list-style-type: none"> A comprehensive review of the election legislation should be undertaken to eliminate gaps and ambiguities, address ODIHR and Council of Europe recommendations and ensure uniform application of the law. Any electoral reform should be conducted in an inclusive manner, well in advance of the next election. 		✓		Not all recommendations were considered
<p>Election Administration</p> <ul style="list-style-type: none"> Consideration could be given to aligning the number of commission members at each level to the actual need. If parties retain the right to nominate commission members, the appointment formula could be reviewed to ensure more balanced political representation and contribute to the perception of impartiality. 			⊖	
<ul style="list-style-type: none"> The selection procedures and criteria for the recruitment of lower-level commission members could be further elaborated in legislation and by the CEC, including more time for selection and in a more open and inclusive process. 		✓		Para.2 of art.24 of the Election Code introduces: 1. conflict of interest provision concerning selection of election commission members; 2. an additional criterion for selection of commission members, according to which an individual may not be appointed as a commission member if s/he has been appointed by a political party as an election commission member (at any level) in the last general elections. No changes have been made for ensuring a substantial competition for selection of PEC members.
<p>Voter Registration</p> <ul style="list-style-type: none"> The blanket denial of voting rights of persons recognized by a court to lack legal capacity on the grounds of mental disability and who require inpatient care should be reconsidered. 			⊖	
<ul style="list-style-type: none"> Consideration could be given to introducing a secure mechanism to permit voting by persons who will be away from their official registered address on election day, especially if such persons are in country. Consideration could also be given to providing voters the opportunity to temporarily change their voting address within a limited timeframe. 			⊖	
<p>Candidate Registration</p> <ul style="list-style-type: none"> To align candidate registration provisions with international commitments and other international standards, the existing residency requirement and limitations on dual citizenship should be reconsidered. 			⊖	This issue has been regulated by the law. The residency requirement for a presidential candidate was repealed under the July 2018 amendments in the Election Code and it was established that a person who has resided in Georgia for 15 years may be elected as president. According to art.25 of the Constitution of Georgia, a president may not have a dual citizenship.
<ul style="list-style-type: none"> Consideration could be given to developing an effective mechanism for checking the authenticity of supporting signatures. 	✓			

Election Campaign	Fully	Partially	Not implemented	Comments
<ul style="list-style-type: none"> To ensure a clear separation between party and state, consideration could be given to establish an effective and timely mechanism to address complaints on the misuse of administrative resources, before an impartial and competent authority and where appropriate, be able to apply relevant sanctions. 			-	<p>Agencies that are authorized to address complaints on use of administrative resources have been determined and they are able to apply relevant sanctions</p>
<ul style="list-style-type: none"> To promote a level playing field in the campaign, legislation could be reviewed to ensure that state-funded resources for contestants are not used for the benefit of other candidates. 	✓			<p>Para.12 of art.51 of the Election Code prohibits airing within commercial airtime of one electoral subject an advertisement that advances campaign interests of another electoral subject.</p>
<ul style="list-style-type: none"> To prevent the possible dissemination of hate speech and xenophobia, regulations on acceptable speech during an election campaign should be enhanced. Relevant authorities should be in a position to review potential cases of hate speech and where appropriate, apply sanctions in a timely manner. 			-	<p>ISFED does not agree with this recommendation. Therefore, it welcomes the fact that this issue has been removed from the initial version of the draft.</p>
Campaign Finance				
<ul style="list-style-type: none"> To enhance the transparency and oversight of campaign finance, the legislation would benefit from further elaboration to address identified gaps and previous ODIHR and GRECO recommendations, including those concerning regulating loans and third-party activities. 		✓		<p>With respect to third parties, art.34(2) of the organic law of Georgia on Political Associations of Citizens provides for a sanction for violation of donation rules by third parties, during campaigning against another party.</p>
<ul style="list-style-type: none"> To ensure efficient oversight and transparency of campaign finance, the law should envisage expedited deadlines for the SAO to address campaign finance violations and publish its conclusions and clearly regulate cooperation with other authorities to facilitate timely access to relevant information. 			-	

Media	Fully	Partially	Not implemented	Comments
<ul style="list-style-type: none"> The Election Code could be amended to outline explicit provisions for campaigning in the media, including the allocation of free and paid airtime, once elections are called and between rounds. 	✔			
<ul style="list-style-type: none"> The existing system for free airtime allocation, participation in debates and disbursement of funds for advertising should be reviewed to provide equal campaign opportunities. The allocation of free airtime to contestants should not be at the media's discretion. 		✔		
<ul style="list-style-type: none"> Media outlets should not be liable for the content of political advertisements that they air unless the content was previously ruled unlawful by a court or includes statements that constitute direct incitement to violence. The practice of seeking the media regulator's pre-approval of paid political advertisements should be discouraged. 	✔			
<h3>Complaints and Appeals</h3>				
<ul style="list-style-type: none"> The legal framework for electoral dispute resolution should be reviewed to simplify the complaints procedures and eliminate restrictions on standing. Everyone whose electoral rights have been violated should be entitled to lodge a complaint. 			-	
<ul style="list-style-type: none"> To allow for effective remedy, the law should provide for an expedited review of complaints requesting administrative sanctions on campaign violations. All election commission decisions, even if taken by an individual, should be subject to appeal. 		✔		<p>According to amendments introduced in art.93 of the Election Code: 1. the timeframe for the electoral administration to make a decision on preparing a protocol of administrative offences has been reduced to 10 days; 2. the timeframe for the Communications Commission to make a decision has been reduced to 2 days; 3. The prohibition to appeal refusal to prepare a protocol of administrative offences has not been repealed.</p>
<h3>Second Round</h3>				
<ul style="list-style-type: none"> As previously recommended, the Election Code should be amended to regulate all aspects of possible second round contests. 	✔			

Election Day	Fully	Partially	Not implemented	Comments
<ul style="list-style-type: none"> To ensure that voters cast their ballot free of fear of retribution, consideration could be given to introducing a campaign silence period and an appropriate perimeter around polling stations forbidding campaigning and tracking of voters. 				<p>1. Para. 12 has been inserted in art. 45: within 25 meters from the entrance of a polling station, it is prohibited to place a campaign material; such material will be removed/taken down/dismantled. At a polling station or within 25 meters from its entrance, physically restricting movement of voters that have arrived to the polls is prohibited. 2. Campaign silence period has not been introduced.</p>
<ul style="list-style-type: none"> To strengthen the integrity of counting, the Election Code could clearly stipulate criteria for ballot validity. To ensure vote secrecy, ballots with marks that could identify the voter should be deemed invalid. 				<p>The first issue - criteria for ballot validity is regulated.</p>
<ul style="list-style-type: none"> Authorities should consider further measures to make polling stations fully accessible, allowing all persons with disabilities to exercise their right to vote independently with dignity. 				
Recommendations related with practice	Comments			
<ul style="list-style-type: none"> Political parties, candidates and citizen observer organizations should respect a clear separation of partisan and non-partisan observation. The CEC should consider introducing a mechanism to prevent the misuse of citizen observation by contestants. 				
<ul style="list-style-type: none"> The CEC should ensure PEC members are instructed and follow through to prevent observers and party and candidate representatives from interfering in election day proceedings, as well as to adequately respond to violations. 				
<ul style="list-style-type: none"> Citizen observers and party representatives could benefit from further training on procedures on election dispute resolution and documenting election violations. The CEC could consider additional efforts to educate stakeholders on the complaint process and their rights. 				
<ul style="list-style-type: none"> Election commissions and courts should refrain from an overly formalistic interpretation of the law and give due consideration to the substance of all complaints, respecting the right to an effective remedy. Election commissions and courts should apply the law in a consistent manner to ensure legal certainty. 				
<ul style="list-style-type: none"> Instances of possible voter intimidation, pressure on public employees or vote buying should be promptly addressed by the relevant authorities. The CEC and other relevant authorities should conduct appropriate information campaigns on vote secrecy safeguards. 				
<ul style="list-style-type: none"> Decisions and legal opinions of the media regulator should be publicly available. Decisions on sanctions should be discussed during public sessions, providing the media outlet with the opportunity to present their views. The legal status of any official communication with broadcasters should be clearly defined. 	<p>These recommendations concern problems identified in practice. Their solution does not depend on legislative changes. Therefore, whether or not these recommendations are implemented can be evaluated only at the upcoming elections to be held in 2020 (the parliamentary elections) and in 20201 (self-government elections), through observation.</p>			