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Observation of the elections to the Supreme Council of the Autonomous Republic of Adjara (Georgia) (3 November 2008)

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Explanatory Memorandum

Bureau of the Congress

Summary : :

The Congress observed the 3 November elections to the legislative assembly of the Autonomous Republic of Adjara. The four Congress teams covered more than 60 polling stations. Polling day was calm and several recommendations by the Congress following the 2001 and 2004 Adjara elections had been implemented. However, a further consolidation of the democratic processes is necessary because of inadequacies in a number of polling stations, including as regards the voter lists, the vote count and the transmission of results. The delegation also noted that some parties abstained altogether from participating in the elections and expressed doubts about whether the reduction of seats in the new Supreme Council from 30 to 18 can enhance regional democracy. Similar doubts were expressed about the fact that the Council does not have the right to elect directly the Head of Adjara Government.

R: Chamber of Regions / L: Chamber of Local Authorities

ILDG: Independent and Liberal Democrat Group of the Congress

EPP/CD: Group European People's Party – Christian Democrats of the Congress

SOC: Socialist Group of the Congress

NR: Member not belonging to a Political Group of the Congress

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EXECUTIVE SUMMARY

On 3 October 2008 the Congress was invited to observe the 3 November elections to the Supreme Council of Adjara. The Supreme Council is the legislative assembly of the Autonomous Republic of Adjara (Georgia). The Congress dispatched a delegation of six Members to Georgia, headed by Vice-President Günther Krug (Germany), Head of Delegation and Rapporteur.

Prior to election day the delegation held a number of meetings, in Tbilisi and Batumi, with representatives of the international community, central and regional authorities, domestic observer organisations, political parties and the Adjara Supreme Council.

On election day, the delegation was divided into four teams and covered more than 60 polling stations throughout the territory of Adjara.

Polling day was calm and several recommendations by the Congress following the 2001 and 2004 Adjara elections had been implemented. However, reported irregularities showed that a further consolidation of the democratic processes is necessary. There were reports of inadequacies in a number of polling stations, including as regards the voter lists, the vote count and the transmission of results.

The ballot papers for the majority and proportional elections were very similar and in future could be distinguished by different colours. Other matters to be considered are that surveillance cameras that

were installed in some polling stations but not in others. The ink marking of voters did not function well enough.

The delegation noted that some parties abstained altogether from participating in the elections. It also expressed doubts about whether the reduction of seats in the new Supreme Council from 30 to 18 can enhance regional democracy. Similar doubts were expressed about the fact that the Council does not have the right to elect directly the Head of Adjara Government.

1. Introduction

1. On 3 October 2008 the Congress was invited by the Georgian Minister of Foreign Affairs to observe the elections to the Supreme Council of Adjara on 3 November. The Supreme Council is the regional assembly for the autonomous republic of Adjara. The Bureau of the Congress decided to respond positively to the invitation and a team of six Congress Members, headed by Günther Krug, was sent to Georgia. The team members were Christopher Newbury (UK), Gintautas Geguzinskas (Lithuania), Sari Yllipulli (Finland), Jüri Landberg (Estonia) and Hana Richermocova (Czech Republic), accompanied by Fredrik Holm and Martine Schandene of the Congress Secretariat.

2. The Rapporteur wishes to thank the Georgian authorities, including the authorities of the Autonomous Republic of Adjara, the OSCE, the representative of the National Democratic Institute and all other partners for their extensive help in carrying out this observation. Particular gratitude is also expressed to the Special Representative of the Secretary General, Igor Gaon, and the Council of Europe Office in Tbilisi.

2. The context

2.1. General background information

3. Adjara is an autonomous republic within Georgia but can be considered as largely integrated into the Georgian state. The population is in excess of 400,000 inhabitants and the territory has enjoyed various degrees of autonomy since 1921. In 2004, following the “rose revolution”, tensions between Batumi and Tbilisi escalated into a crisis, which eventually was peacefully resolved and led to the departure of the long-time leader of Adjara, Aslan Abashidze. Following direct presidential rule by President Saakashvili, a Supreme Council was elected in June 2004. The Congress observed these elections.

4. The status of the Autonomous Republic is defined by the Georgian Law on Adjara and the region’s Constitution. The Supreme Council is the legislative body, which, following the November 2008 elections was reduced from 30 Members to 18. The Council of Ministers of Adjara is the government and its head, Mr Levan Varshalomidze since 2004, is nominated by the President of Georgia, with a confirmation by the Supreme Council of Adjara.

5. Adjara is divided into six administrative units: the City of Batumi and the districts of Keda, Kobuleti, Khelvachauri, Shuakhevi and Khulo. The legislative autonomy of the region is limited. The Georgian President may dissolve the Supreme Council; the Adjara authorities are also overruled in case of conflict with the the Georgian Constitution.

6. Georgia held extraordinary presidential elections in January 2008 and parliamentary elections on 21 May. The elections to the Supreme Council of Adjara were scheduled for 4 October 2008 but were postponed until 4 November, as were by-elections to Parliament of Georgia (Vake and Didube districts).

7. Elections to the Supreme Council of Adjara have previously been observed by the Congress in 2001 and 2004.

8. The Congress was also invited to observe the re-run of the majoritarian-system election of a Supreme Council member in Khelvachauri on 14 December 2008 but did not deem it necessary to dispatch observers. It should be noted that the Congress did not receive invitations for the proportional-system re-run in Khelvachauri or Shuakhevi.

2.2. The legal framework

9. The Adjara elections were conducted under two major legal instruments, the Election Code of Georgia and the law of the Republic of Adjara concerning elections of the Supreme Council.

2.3. The electoral system

10. By an amendment passed in July 2008 the number of seats of the Supreme Council of Adjara were reduced from 30 to 18 as from the November elections. The change was justified to the delegation with ‘practical reasons’ and has seemingly not met with great resistance in Adjara.

11. Two ballots and separate electoral systems were in place for the election of the 18 seats:

- 12 of the seats were elected with a proportional, party-list method (a threshold of 5% applied), and
- 6 seats based on a majoritarian, first-past-the-post system (one representative per district).

12. In the latter contest, any candidate who received more votes than the others, but not less than one-third of the vote, was announced outright winner.

13. The Adjara voters’ list comprised approximately 292 000 voters, according to the Supreme Election Commission.

2.4. The electoral administration

14. A three-tier administration organised the elections to the Supreme Council of Adjara: the Supreme Election Commission led the operation (comprising 12 Members and a Secretary), the intermediary tier consisted of six district election commissions (DECs; based on the six administrative units of Adjara) and, at the level of polling stations, there were 334 precinct election commission (PECs).

15. The Georgian authorities also continued to employ the Inter-Agency Task Force for Free and Fair Elections, which was set up for the January 2008 Presidential elections. The delegation met with a representative of the Task Force. It coordinated the activities of appropriate governmental bodies and cooperated with local and international observers. It is not certain whether this implied some overlap with the work of the Adjara Supreme Election Commission.

3. The electoral campaign

16. Six parties/blocs contested the seats of the Supreme Council:

- 1) The (United) National Movement
- 2) The Christian-Democratic Party
- 3) The Industrialist Party
- 4) The Georgian Troupe

5) On Our Own

6) Georgia's United Communist Party

17. It should be noted that parties of a significant size, the Conservative Party and the Republican Party, decided not to take part in the elections. Two other parties were registered and withdrew at a relatively late stage, the Georgian Politics Party and the National Democratic Party. No explicit reasons were given.

18. The delegation met with representatives of most involved parties (see attached programme). It heard that there still were perceived shortcomings in the electoral preparations but that the preparations still were improved in comparison to the previous Adjara elections. The delegation did also hear that there had been little time to prepare, of appeals neglected by the authorities and media bias in favour of the ruling party. However, compared to the 2004 elections most parties explained that there were improvements. In 2004 a heavy personal involvement by the President of Georgia and the Speaker of Parliament was noted. Now this was not the case and, as an example, the National Movement did not place advertisements on main Georgian tv channels.

19. One member of the Industrialist party lodged a complaint with the Supreme Election Commission requesting the annulment of the election results due to not being provided with free air time. The Supreme Election Commission considered the substance of the complaint as groundless.

20. The authorities also commissioned media follow-up reporting by a private company, PrimeTime. It concluded that the parties generally received even-handed coverage.¹

4. Polling day

4.1. Overall impressions

21. On polling day, the delegation was divided into four teams that principally covered the following districts: Batumi, Kobuleti, Khelvachauri and Khulo. The four teams, dispatched from Batumi, covered more than 60 polling stations and stayed in contact with other observer organisations during polling day.

22. The polling stations were open from 8h00 to 20h00. There were only a few reports of late openings of polling stations. The polling was generally calm and orderly throughout Adjara. The local precinct election commissions were mostly active and efficient in the processing of voters. A large number of domestic observers were also active in the elections. There were few signs of political pressure (posters, agitators etc.) and equally few reports of inadequate polling station premises. Overcrowding was a problem only very occasionally.

23. For vote count, Your Rapporteur stayed in a polling station in Batumi. In spite of the low number of ballots cast (126), the vote count proved difficult and took some four hours. The results were discussed with officials from the District Election Committee prior to being announced. Your Rapporteur also witnessed first-hand how difficult it was for the polling station officials to transmit the results according to the agreed procedure. The results were to be sent through by fax to the Supreme Election Commission in order to be posted on its website www.sec.ge. However, it was very difficult to get a free phone line to the SEC, and to operate the fax machine. This polling station represented only one specific case, but the delegation had very similar reports from elsewhere in Adjara.

24. The results were only available on the SEC website the following morning, in spite of assurances that the information immediately would be posted on the website during the election night. This webposting was due to take place to avoid problems encountered in previous elections with altered vote count protocols.

25. The International Society for Free Elections and Democracy (ISFED), reported “grave violations” in some of the precincts of the Khelvachauri district, including ballot stuffing.² Both GYLA (Georgian Young Lawyers’ Association) and ISFED reported intimidation of domestic observers, or cases where they would not be let into polling stations.

26. They also reported cases of voting without an identity card, only with a copy of an identity card or with what conceivably was a fake identity card.

4.2. Specific issues

4.2.1. Camera surveillance in polling stations

27. At 74 polling stations in Batumi and 15 stations in Kobuleti video surveillance cameras were installed by the authorities, often comprising two cameras per polling station. All movements in the stations on polling day were recorded on a hard drive, in order to discourage fraudulent behaviour. The cameras were generally positioned so as not to infringe on the secrecy of the vote and the polling booths mostly had a cloth cover over the top.

28. However, a related issue concerned the vote envelopes. Having marked the choice on the ballot papers in the booth, the voter had to pick up an envelope to seal in the ballot, before placing the ballots in the ballot box. These envelopes were often kept in a pile next to the ballot box and voters folded and placed their ballots in the envelope, which in itself could be seen as an issue in relation to the secrecy of the vote, aggravated by the fact that this was done under the surveillance cameras.

29. According to the Congress delegation the use of surveillance cameras could be discontinued. It is a control practice that yet has to substantiate its cost. To the delegation the disadvantages appear more evident than the advantages. As regards its disadvantages, it may infringe the secrecy of the vote or create significant unease with voters and polling station staff alike. According to information obtained by the Congress delegation, surveillance camera footage was used regarding only one out of 128 complaints following the 3 November elections.

30. Another important issue is that the cameras were installed only in a selection of polling stations. The cost issue is significant but a consistent policy needs to be applied to a matter like this.

31. The delegation concurs with the 2004 Joint Opinion of the Venice Commission and the OSCE on the Election Code of Georgia:

“[...] As noted earlier, both the OSCE/ODIHR and the Venice Commission do not recommend use of video cameras in polling stations due to possible intimidation of voters, even if video cameras are not directed at polling booths.”³

4.2.2. The ink marking of voters

32. Each polling station was equipped with invisible ink and battery-operated ultraviolet light ink detectors. This exercise did not seem to fulfil its purpose from several points of view. First of all the delegation was very easily able to remove the traces after inking at a number of polling stations, and the quality of the ink also varied. Second, the ink testing when entering a polling station was carried out in an inconsistent and incomplete manner. In the future, the ink marking will have to be carried out with rigour or should be abandoned.

4.2.3. Follow-up to administrative violations

33. It is regrettable that the reasons and criteria for the annulment of the election results in Khelvachauri and Suakhevi have not been explained by the Supreme Election Commission. The subsequent follow-up of administrative violations is equally important. At least one person who was forbidden to take up any post in the election administration chaired a polling station.

34. The delegation also heard of other cases of apparent impunity following administrative violations. The joint OSCE and Venice Commission Opinion on the Georgian election law of October 2008 states that *“Sanctions should apply to all violations of election-related law, be they committed by campaign participants, authorities at all levels, or voters.”* The delegation recommends that there be more transparency regarding this matter.

5. Election results

5.1. Majoritarian election of 6 Members of the Supreme Council

35. Five seats were won by the representatives of the National Movement of President Saakashvili. The sixth seat, for the Khelvachauri district, was subject to a re-run on 14 December 2008 and was won by a representative of the Christian Democratic Party.

5.2. Proportional election of 12 Members of the Supreme Council

36. The ruling National Movement obtained 75,98% of the votes and 10 out of 12 mandates.

37. The Christian-Democratic Party obtained 16,46% and 2 mandates.

38. The four other parties that participated in the elections obtained an aggregated vote proportion of only 7,56% and no mandates (no individual party/group passed the applied 5% threshold).

39. The delegation is pleased that the electoral administration has clarified that a party that passes the 5% threshold in the proportional election system will gain a Supreme Council mandate in the future. Otherwise a party would have to receive some 8% of the votes to secure a seat in the Supreme Council.

40. The overall voter turnout in the Adjara elections was 44.9% according to the Supreme Election Commission (data based on 3 November). This figure was higher than anticipated for these elections.

41. In terms of comparison, President Saakashvili's Victorious Adjara/National Movement held 28 out of 30 seats in the Supreme Council, after the previous 2004 elections. The opposition Republican Party held two seats.

5.3. Administrative measures following irregularities

42. Following irregularities, the Supreme Election Commission annulled the results in the Khelvachauri district and ordered a re-run of the proportional elections on 16 November and the majoritarian elections on 14 December 2008. The results were also annulled in 7 polling stations in the Suakhevi district.

43. According to data published on the SEC website, 107 complaints were lodged with the Precinct Election Commissions, 18 with the District Election Commissions and 3 with the Supreme Election Commission.

6. Conclusions

44. The electoral campaign for the elections was modest. There were few signs of the campaign in the public space, including in Adjara's capital city of Batumi.

45. Polling day generally proceeded in a calm and orderly fashion. Several recommendations by the Congress following the 2001 and 2004 Adjara elections had been implemented (for instance, non-interference by the central authorities, legislation on election commissions and enhanced secrecy of the vote).

46. However, significant irregularities were registered in these elections. There were reported inconsistencies with voter identification, the voters' lists, instances of irregular use of mobile box voting and intimidation of domestic observers. The vote count procedures and the transmission of results often proved cumbersome. The ballot papers for the majority and proportional elections were very similar and in future could be distinguished by different colours.

47. As a sign of the encountered problems, the election results were annulled in the Khelvachauri and Shuakhevi districts. Overall, It is imperative that future elections are administered in line with international standards for democratic elections. The Adjara authorities and election officials need more training and equipment.

48. The authorities did already offer training to involved officials. They also employed some other measures to prevent problems on polling day, which, however, did not function satisfactorily, notably the voter inking and the surveillance cameras installed in polling stations. The ink marking exercise, including the ink control when entering polling stations, was carried out in a lighthearted manner (as was, at times, voter identification). The surveillance cameras, which were selectively installed in polling stations in Batumi and Kobuleti, could be perceived negatively. It is difficult to prove their dissuasive and other value, and there should, at least, be a consistent policy regarding them. The fact that they were installed in some polling stations but not in others is in principle unacceptable. The delegation wishes to echo the conclusions of the Venice Commission and the OSCE, that simply do not recommend the use of video surveillance in polling stations.

49. Overall, the delegation expresses scepticism about how the reduction of seats from 30 to 18 in the Supreme Council can serve the cause of enhanced regional democracy, which must remain a goal. It is difficult to see how a total of 18 legislators can undertake in-depth committee- and other work in the areas of the Council's competence. It is also regrettable that the regional autonomy of Adjara remains limited and effectively can be overridden by the Tbilisi branches of power. The Supreme Council should also have the right to elect directly the Head of Adjara Government.

50. Finally, the delegation found the voter turnout of 44,9% reasonable given the forecasts, the modest campaign and the fact that not all political parties took part in the elections. The enthusiasm and a higher level of participation in the regional elections than foreseen are considerable resources that the Adjara authorities need to manage well in the future.

Appendix I

Observation mission of the Congress of Local and Regional Authorities of the Council of Europe

Elections of the Supreme Council of the Autonomous Republic of Adjara (Georgia)

31 October to 4-5 November 2008

PROGRAMME

Friday, 31 October 2008

Late arrival of the Congress delegation

All members will be met at the airport and provided with transport to Hotel Ambassador.

Saturday, 1 November

10:30-11:15 Meeting with the Special Representative of the Secretary General of the Council of Europe, Mr Igor Gaon.

11:00 –12:00 Meeting with representatives of the OSCE and of the National Democratic Institute (NDI)

Venue: *"Ambassador" 4 floor, dining room*

13:00 Lunch with **Mr Mamuka ABULADZE**, Head of the delegation of Georgia to the Congress and other members of the delegation

15:00 Departure to Batumi by car (approx. 6 hours drive)

Sunday, 2 November

Hotel "Intourist Palace" meeting room

10:00 – 11:00 Meeting with political parties and candidates :

Ø Samnidze Teimurazi - "United Communist party"

Ø Ratiani Besiki - Political union "Qartuli Dasi"

Ø Jashi Irakli - Political Union "Industry will save Georgia"

Ø Tsetskhladze Zura - Political union - "By ourselves"

Ø Gogitishvili Zaza - "United National Movement"

Ø Makharadze Malkhaz - Political union of citizens "Georgian policy"

11:00 – 12:00 Meeting with the Chairmen of the NGOs (domestic observers):

Ø International Society for Fair Elections and Democracy (ISFED)

Ø Georgian Young Lawyers' Association (GYLA)

13:00 – 14:00 Meeting with **Mr Archil MIKELADZE**, Head of Adjara Supreme Electoral Commission

14:00 – 15:00 Meeting with :

Ø **Mr Mikheil MAKAHARDZE**, Speaker of the Supreme Council of the Autonomous Republic of Adjara;

Ø **Mr Petre ZAMBAKHIDZE**, Congress Member and Member of Supreme Council of Autonomous Republic of Adjara (Chairman of the Committee of Constitutional Juridical and Procedural Issues)

16:00 – 17:00 Meeting with **Mr Levan VARSHALOMIDZE**, Head of the Government of Autonomous Republic of Adjara

***Venue:** Government of the Autonomous Republic of Adjara,*

10, Gamsakhurdia Str., Batumi, 6010, Georgia

17:00 – 18:00 Second meeting with domestic observer organisations:

Ø General-civil movement “Multiethnic Georgia”;

Ø “Truth and Justice”

Ø “International organization for protecting prisoners’ right”

18:00 – 19:00 Meeting with **Mr Zurab KACHKACHISHVILI**, Chairman of task force for free and fair elections (Inter-ministerial election task force)

19:00 – 19:45 Meeting with interpreters and drivers

Monday, 3 November

06h00 -

ELECTION DAY

DEPLOYMENT OF THE TEAMS WITH DRIVERS AND INTERPRETERS

Tuesday, 4 November

06:45 Departure from Batumi to Tbilisi

De-briefing and preparation of press release in the mini-bus en route to Tbilisi.

13:30 – 14:30 Press Conference

***Venue:** Council of Europe Office, I. Chavchavadze ave. 2nd Lane, 3a Building*

Departure for the airport in the afternoon and night.

Appendix II

Press release - 777(2008)

The elections to the Supreme Council of Adjara show sporadic progress

Tbilisi, 04.11.2008 – “Polling day was calm and several recommendations by the Congress following the 2001 and 2004 Adjara elections have now been followed. However, reported irregularities show that a further consolidation of the democratic processes is necessary.” Günther Krug (Germany), Vice-President of the Congress of Local and Regional Authorities of the Council of Europe and Head of the Congress’ observer delegation, said in a statement following the elections on 3 November.

The delegation appreciated the fact that polling day was orderly and conducted in a positive atmosphere. At the same time, the Congress delegation concluded that certain election procedures will need reassessment. There were reports of inadequacies regarding the voter lists, and the vote count and transmission of results often proved difficult. This issue needs to be assessed in greater detail when more complete information is available.

The ballot papers for the majority and proportional elections were very similar and in future could be distinguished by different colours. Other matters to be considered are that surveillance cameras were installed in some polling stations but not in others and that the ink marking of voters did not function well enough.

The delegation noted that some parties abstained altogether from participating in the elections. It also expressed doubts about whether the reduction of seats in the new Supreme Council from 30 to 18 can enhance regional democracy, which should remain a goal. Similar doubts were expressed about the fact that the Council does not have the right to elect directly the Head of Adjara Government.

The delegation arrived in Georgia on Friday 31 October and held a large number of meetings in Tbilisi and Batumi with representatives of the international community, the Supreme Council of Adjara, government bodies, NGOs and political parties.

On 3 November, the delegation was in the following areas of Adjara to observe the voting and ballot counting: Batumi, Kobuleti, Khelvachauri and Khulo.

Members of the delegation:

Günther Krug, Vice-President, Member of the House of Representatives of Berlin (Germany, SOC, R)
– **Head of the delegation and Rapporteur**

Christopher Newbury, Councillor, Wiltshire County Council (United Kingdom, EPP/CD, L)

Gintautas Geguzinskas, Mayor of Pasvalys District (Lithuania, EPP/CD, R)

Sari Ylipulli, Member of Rovaniemi City Council (Finland, NR, R)

Jüri Landberg, Mayor of Rägavere Municipality (Estonia, ILDG, R)

Hana Richtermocova, Deputy Mayor, City of Horice (Czech Republic NR, L)

Congress Secretariat:

Fredrik Holm, Head of the Co-ordination and Management Division of the Congress, Co-ordination of election observation

Martine Schandené, Congress Secretariat

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¹ www.primetime.ge. The results are available at <http://cec.gov.ge/?que=eng/press-center/media-monitoring>

² www.isfed.ge

³ CDL(2008)119 – Draft Joint Opinion on the Election Code of Georgia (as revised until July 2008). Available at www.venice.coe.int