



# Assessment of Pre-Election Environment

## Short Overview

The Parliamentary Elections in 2012 resulted in the first transfer of power through elections in Georgia. This marked a significant progress in development of the country. Overall, the pre-election environment in 2013 merits a positive evaluation as it has been considerably calmer and there have been fewer violations compared with the pre-election environment in 2012.

In the beginning of 2013, an Inter-Faction Group was established in the Parliament, which managed to table certain amendments to the election laws. Mainly, these amendments pertained to political party finances, use of administrative resources and formation of voters' lists. The amendments did not cover the issues concerning mass media and press in a pre-election period, the electoral system, election-related disputes, polling day procedures as well as rules for establishment of election commissions.

The massive use of administrative resources for electoral purposes was one of the main problems in the 2012 elections. Such facts also have been occurring during the pre-election period in 2013, however, the number of them has been considerably lower. There have been reports about several instances of civil servants' participation in campaigning for both ruling and opposition parties' candidates. This can be assessed as a novel trend.

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



There has been practically no case of detention of opposition parties' activists during the pre-election period. Activists of the "United National Movement" have been summoned for interrogation in several regions and cases have been brought against heads of several local municipalities.

According to ISFED, overall up to 60 cases of violations have been reported during the pre-election period in 2013, while this number stood at around 300 in 2012.

Compared with 2012, the media environment has been significantly more pluralistic during the pre-election period in 2013. Citizens had access to media outlets pursuing diverse editorial policies. The Public Broadcaster remained as a problem which failed to provide sufficient information to viewers due to its crisis.

The Inter-Agency Task Force working on the election-related matters was transferred from the administration by the National Security Council to the Ministry of Justice. The renewed Task Force tabled up to 30 recommendations and clarifications. Overall, its work needs to be assessed as positive. Several weeks prior to the election, the "United National Movement" left the Task Force due to periodic unconstructive attitudes shown by the Task Force's chairperson.

The State Audit Office was not active in the 2013 pre-election period. This creates questions regarding its effectiveness.

In general, political parties campaigned freely. In the beginning of the campaigning, the candidate of the "United National Movement" encountered certain problems when organized groups of citizens tried to obstruct public meetings as part of the campaign.

The Central Election Commission has become relatively more independent. The chairperson of the Commission was selected by consensus of all parties which had a significant effect on the work of the Commission.

## **Legal Framework**

In terms of the legislative reform, it was a positive development that the Parliament of Georgia took into account a significant portion of recommendations made by the GYLA, the ISFED and the TI Georgia. However, although the highest legislative body was planning to adopt high standard election laws, many essential laws eventually

were not adopted. Consequently, improvement of the electoral process is held back by problems in the issues such as: the electoral system, establishment of election administrations, clear distinction of state and party resources, regulations on vote buying, the issues related to institutional independence of the State Audit Office, the election-related disputes, the precincts created in special cases (Special Precincts) and media regulations.

### **Inter-Agency Task Force for Free and Fair Elections**

The rules for functioning of the Task Force is very important in the pre-election period so that political parties and observer organizations have the opportunity to bring the Task Force's attention to issues important for them and provide information about alleged violations to the members of the Task Force. Based on this information, the Task Force makes recommendations and their implementation is important for holding free elections in the country.

The Task Force, administered by the Ministry of Justice, did make several important recommendations. Particularly, it specified rules for civil servants' participation in campaigning and clarified certain other regulations. However, unfortunately, instead of constructively discussing the problems brought up by the "United National Movement," sessions of the Task Force used to turn into political debates.

Although the Task Force's report, published on 30 September 2013, included multiple recommendations made by the ISFED, the GYLA and the TI Georgia, it was a negative development when the Task Force did not react to several significant facts reported by the ISFED, including vote buying, use of administrative resources, duress and intimidation.

Additionally, we think that, although the Georgian legislation does not ban ministers and deputy ministers from participating in pre-election campaigning, for achieving higher trust and objectivity, the Task Force should have restricted participation of its own members in campaigning.

### **Registration of Election Subjects**

A set of problems have been revealed with regard to registration of election subjects,

namely: the issue of admissibility of individuals with double citizenships to run in presidential elections; the problem of the CEC to coordinate with the government agencies; etc. The decisions made by the CEC and the court related to the registration of Salome Zourabichvili, Zurab Tsitsuashvili and others as candidates were based on incorrect interpretation of the Constitution. This was a significant problem of the pre-election period.

## **Election Administration**

The amendments made to the Election Code did not change rules for establishing election administrations. For the Presidential Elections in 2013, the election commissions, except for members elected based on their occupation, were established composing of members appointed by only two political parties – the coalition “Georgian Dream” and the “United National Movement.” This has become a subject to criticism for many times. Similar to the practice during the 2013 by-elections, there were cases of electing those individuals, based on their occupation, as precinct commission members who had been representing various parties in election administrations in the recent past. We think that the said fact, to some degree, jeopardizes the trust towards the election administration.

## **Voters' List**

The total number of voters for the Presidential Elections in 2013 is 3 537 851. Out of 97 000 deregistered voters, approximately 9 000 citizens were able to re-register. The number of registered voters abroad is 48 460 while hundreds of thousands of Georgian citizens reside abroad. 1 747 convicted and charged individuals have the right to vote. Among them, only 197 expressed the wish to vote in the presidential elections.

We think that a considerable work needs to be undertaken for improving the voters' list. Also, the government and the CEC must consider alternative means of voting in the interest of the voters residing abroad.

The matter related to the right to vote of the deregistered voters of the election on 27 October 2013 has been regulated by the law. The rules for re-registration of these individuals have been laid down and the process has been simplified. This is a positive

development.

## Use of Administrative Resources for Election Purposes

Compared with the Parliamentary Elections in 2012, there was considerably lower number of instances of use of administrative resources for election purposes during the pre-election period in 2013. This demonstrated the pre-election period as more calm and competitive.

### *a. Legal Resources*

There were several reported cases of probable use of state legal resources for election purposes in the pre-election period. Specifically, these include the CEC's groundless refusal to register Salome Zourabichvili, Zurab Tsitsuashvili and other individuals holding dual citizenships as presidential candidates as well as the Georgian President's decision to clear thousands of citizens' criminal records. Similarly, the fact that the Ministry of Education allowed exceptions in the university admissions in September can also be considered as probable use of this type of resource.

### *b. Coercive Resources*

Since 1 July 2013, there has been no report about facts of massive use of coercive resources for election purposes i.e. in general, the state was not using the powers at its disposal against political opponents, their supporters and voters in order to conduct a politically motivated detention of individuals, to duress, to intimidate, to assault, to threaten, etc.

### *c. Institutional Resources*

Since 1 July 2013, with respect to the state institutional resources, there have been several facts of illegal participation of civil servants in campaigning.

### *d. Financial Resources*

During the pre-election period, there has been almost no instance of use of this type of administrative resource. Some cases have been reported in Adjara, Mestia, Tkibuli, Samtredia, Gori, Kareli, Kaspi, Akhalkalaki, Adigeni and Dusheti municipalities when funding of certain programs of the local budgets has been increased since 4 July (announcement of the election date). This was a violation of the law because increasing funds for the budget in this manner is forbidden in a pre-election period.

Later, an amendment was made to the law restricting the fund increases to budgetary programs for the period of 2 months prior to elections, instead of the whole pre-election period. However, this cannot legalize the acts of illegal budget increases that had already occurred.

## **Vote Buying**

The organizations observed that, in the pre-election period, there have been several facts containing the elements of vote buying.

The facts that “the Fund for Rural and Agricultural Development” was financed by the charity “Fund Cartu” associated with the name of the Prime Minister and that the PM’s family gave the Agency Info 9 to a management company for free can be interpreted as vote buying. A fact of possible vote buying was reported on Shuamtoba holiday, when the PM gave a valuable gift to a newly wedded couple.

The ISFED included the said facts in its reports and made corresponding recommendations in order to prevent the facts from becoming the practice of the pre-election period. These matters were also submitted to the Task Force for Free and Fair Elections which had no reaction to them. Nothing was done also by the State Audit Office.

It is important that the Task Force discusses this matter and makes corresponding recommendations so that such precedents do not become a trend where political figures give material benefits to others for free, using this for election purposes.

## **Local Municipalities**

Despite the recommendations made by the Task Force to local municipalities, changes in staffing of local municipalities continued extensively. Including, heads of municipalities and local councils (Sakrebulo) have been discharged through impeachment procedures. In the course of the pre-election period of 1 July – 20 October, heads of municipalities were replaced in 19 municipalities, heads of local councils – in 3 municipalities. In the same period, 2 mayors were replaced – in Kutaisi and Rustavi.

Mainly, the heads of municipalities in the said municipalities changed for the second time since 1 October.

In multiple municipalities, there have been reports of majoritarian MPs interfering with the work of the local municipalities. In other cases, the changes in staffing were occurring in parallel with civil protest rallies.

It is to be emphasized that changes in staffing during a pre-election period is perceived as politically motivated discharging of civil servants and as an attempt to influence the elections' outcome.

## Media Environment

Candidates received by and large fair treatment and balanced coverage from major media outlets. At least for the time being, the Georgian media seems to have overcome the extreme political polarization it showed in previous years. However, much of the reporting focused on covering candidates' campaign statements. Candidates faced few critical questions and the media, put little focus on scrutinizing their platforms, promises and proposed policies. The media acted as a skilled observer of the campaigns but, with a few exceptions, failed to provide analysis.

Up until the 2012 elections, most major private TV stations were closely linked to political parties and received extensive direct or indirect financial support from political actors, both the ruling United National Movement and the Georgian Dream. In the pre-election period 2013, such close links between private broadcasters and parties were no longer apparent.

There were no reports about harassment or intimidation of journalists or of undue government interference that would have limited the media's ability to cover the campaigns.

Television remains the primary source of news and information for nine out of ten Georgians. Voters were able to access media outlets providing different views and narratives without restrictions, allowing citizens to form their own opinions of candidates.

The Georgian Public Broadcaster (GPB) hosted two presidential debates but was not able to provide extensive and insightful coverage of the candidates and to fulfill its

public service mandate due to a financial and leadership crisis that appears to be at least partly caused by partisan infighting. Two GPB Trustees left the Supervisory Board in September, which no longer has a quorum needed to resolve the public broadcaster's budget crisis or appoint a new Director General. The authorities failed to investigate allegations by Board Members that they had faced illegal outside pressure.

Cable companies complied with must-carry/must-offer rules that were introduced in 2012, requiring cable and satellite operators to include practically all TV channels airing current affairs content in their packages. Households in urban areas have access to a larger portfolio of TV stations airing news and political talk shows than the year before. For example, Maestro TV and Tabula TV broadcast terrestrially, utilizing frequencies that were previously held by broadcasters that are no longer operational.

## Party Financing

Political party financing was one of the most problematic issues in 2012. State Audit Office often established various sanctions and limitations, mainly for the opposition parties and their supporters.

In 2013, there has been no concerns towards the State Audit Office in this regard due to a simple reason that in this period the political parties were fined only several times and even then only by small amounts. Such “passiveness” of the State Audit Office, of course creates doubts that the State Audit Office is trying to improve its poor reputation gained from last year. This doubt is grounded even more by the fact that, as stated by the State Audit officials, it had launched investigation to examine a big amount of undeclared expenses of the party Democratic Movement – United Georgia. Regardless, there is no progress in this case.