

ცესკოს მიერ წილისყრის პროცედურის ცვლილებასთან დაკავშირებით საიამ სასამართლო მეგობრის მოსაზრება (AMICUS CURIAE) წარადგინა



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Regarding the changes to the lot-drawing procedure by the Central Election Commission (CEC), GYLA has

submitted an amicus curiae brief.

The Georgian Young Lawyers' Association (GYLA) presented an Amicus Curiae opinion on August 20, 2024, regarding the lawsuit filed by the political party "Lelo for Georgia" concerning the resolution №32/2024 adopted by the Central Election Commission of Georgia (CEC) on August 16, 2024 (hereinafter referred to as the disputed resolution). According to the disputed resolution, the drawing of lots to allocate the functions of commission members at all types of polling stations must be conducted no later than seven days before the voting day.

The CEC relied on subparagraph "c" of the first paragraph of Article 14 of the Organic Law of Georgia "Election Code of Georgia" (hereinafter referred to as the Election Code) in adopting the disputed resolution. This provision allows the CEC, in exceptional cases, to determine the election events and timelines by resolution if it becomes impossible to meet certain requirements or adhere to the timelines established by this law.

According to GYLA, the CEC misinterprets the legal basis for the change. It is clear that the legislative norm allows the CEC to change the timelines defined by law only as an exception when a specific election event cannot be conducted within the established timeframe. Therefore, the CEC does not have the authority under the Election Code to change the timelines by resolution when it is not impossible to conduct the drawing of lots procedures on the election day.

The credibility of this argument is further undermined by the fact that, in the case of non-electronic polling stations, the number of procedures to be carried out between the opening of the station and the start of voting has not increased. On the contrary, the time allocated for conducting the procedures has increased by 15 minutes, to one hour and 15 minutes. No time deficiency has been identified in the case of polling stations equipped with electronic technology either. Elections have already been held several times using these technologies, and no logistical difficulties have been observed regarding the conduct of the drawing of lots procedures.

Despite the fact that conducting the drawing of lots procedure in accordance with the law, was generally problematic during all elections, GYLA's observations show that it did not cause a delay in the opening of polling stations. The CEC did not substantiate

the existence of the disputed regulation with practical examples. Instead, the focus was on the alleged possible interference with the organized conduct of the election process.

GYLA considers it fundamentally important to conduct the drawing of lots procedure on election day because it is not solely related to logistical solutions. This procedure ensures, among other things, the principles of transparency, increases trust in the electoral processes, and safeguards against potential intimidation and pressure on individual commission members. In the context of existing doubts about the politicization of state institutions in Georgia, revealing the functions of commission members at least seven days in advance creates risks that, in the presence of corresponding political interest, the selected individuals might be subject to a high risk of intimidation and pressure. Even though the full composition of commission members is public, the pre-selection of specific individuals to perform certain functions places these selected individuals under such risks.

The proposed change significantly worsens the election observation process for local and international observer missions. Observing the voting process by impartial and reliable observer organizations is one of the prerequisites for conducting free, equal, and impartial elections. This process should include, among other things, observing the procedure of distributing functions among commission members at polling stations, as functional clarity among commission members ensures the smooth running, orderliness, and consistency of the process at the polling station.

In GYLA's assessment, the CEC misinterpreted the authority granted by the organic law and adopted the disputed resolution without proper justification for the need for the change and without a legitimate legal basis. Even if there is a need for uniform legislative regulation, the CEC should have achieved this goal without compromising superior benefits. As a result, the disputed change deteriorates electoral legislation, complicates the activities of observer organizations, and makes the process less transparent.