



Evaluation of the April 27 Parliamentary By-Elections

On April 27, 2013, parliamentary by-elections will be held in Nadzaladevi N9, Baghdati N52 and Samtredia N54 election districts, where voters will elect their majoritarian representatives in the Parliament of Georgia after three MPs that won their seats in the 2012 parliamentary elections left the parliament to join the executive branch.

The International Society for Fair Elections and Democracy (ISFED), Georgian Young Lawyers' Association (GYLA) and Transparency International – Georgia carried out monitoring of processes ahead of the April 27, 2013 parliamentary by-elections.

Election Environment

Unlike the 2012 parliamentary elections, pre-election environment prior to the 2013 parliamentary elections was rather peaceful. All three election districts provided a competitive election environment for candidates, allowing them to campaign freely, distribute agitation materials, and have meetings with voters. Voters were not restricted in their right to attend pre-election campaign meetings and express their support for individual candidates.

Unlike other municipalities, there were almost no reports of dismissals from work on political grounds. Threats, pressure or abuse of administrative resources was mostly reported by the United National Movement but frequently these allegations did not hold up when verified.

Protocols of administrative offences were drawn up by Samtredia DEC against Khoni police chief for violation of campaign and agitation rules, and a local newspaper for violating regulations that apply to the production of print agitation material.

Regrettably, the court did not find abuse of administrative resources in either of the

cases and offered a narrow interpretation of the right to use administrative resources in its rulings, which may encourage the ill-practice in the future.

During the pre-election period, activists of the UNM were summoned by investigating authorities, which they perceived as psychological pressure and interference in their partisan activities. In response, the Inter-Agency Task for Free and Fair Elections (IATF) recommended that the law enforcement authorities suspend the process of summoning campaign activists during the pre-election period. We welcome the fact that the authorities stopped bringing party activists in for questioning after the recommendation was issued. Based on another recommendation issued by the IATF, broadcasting of public service announcements about agricultural cards were suspended a week ahead of the elections.

Meetings facilitated by the IATF proved to be an acceptable format for political parties to debate and exchange information. Notably, similar to the previous parliamentary elections, developments leading up to the parliamentary by-elections were now discussed in frames of the IATF instead of the Central Elections Commission.

Media was rather pluralistic during the pre-election period; however, Imedi TV, Maestro TV and Channel 9, the three major national broadcasters, refused to allocate free airtime for political advertising, likely limiting the opportunity for individual candidates to introduce their election programs to voters. Although the broadcasters did not violate applicable law by refusing to provide airtime for free political advertising, the GNCC examined the issue and addressed all general broadcasters (including Studio Maestro LLC, Channel 9 LLC and Imedi TV LLC) with the following recommendation: "In view of the fact that together with local [broadcasters] they [general broadcasters] also cover Baghdati, Tbilisi and Samtredia, they must allocate airtime for free pre-election advertising in volumes prescribed by law". The problem was caused by the regulation that subjects local broadcasters only to the obligation of allocating airtime for free election advertising during by-elections. As the law offers a very narrow definition of a local broadcaster, there is a risk that the obligation to air free political advertising will not apply to any of the broadcasters during by-elections.

Election Administration

No major flaws were reported in the process of staffing precinct election commissions, except for Nadzaladevi N9 election district where violations were reported in the

process of appointment of PEC members and gaps were found in the minutes of PEC meeting. Therefore, authority of the DEC chairperson was suspended prematurely, warning was issued to the secretary of the DEC, and the DEC resolution for appointment of members of all three PECs was pronounced null and void (See the resolution of the CEC N86/2013, adopted at the April 16 meeting). Notably, members of PECs within Nadzaladevi Election District, appointed according to their occupations include 14 chairpersons and 15 deputy chairpersons formerly appointed by the opposition parties for the 2012 parliamentary elections. Therefore, the UNM was accusing the DEC chairperson of fraud, demanding that he be subject to criminal proceedings (As stated before by the Transparency International – Georgia <http://transparency.ge/post/general-announcement/ra-nishnit-archeven-saubno-saarchevno-komisiis-tsevrebs-nadzaladevshi>).

The CEC was mostly criticized for the procedures it adopted for appointment of PEC secretaries. In its February 26, 2013 resolution N7/2013, the CEC adopted guidelines for PEC members in April 27, 2013 by-elections. The guidelines explained procedures for appointment of PEC secretaries, saying that secretaries are appointed from members of PECs that represent political parties (except for proxies of the United National Movement) (See para.15, Article 35 of the Election Code: The secretary of the PEC shall be elected from members appointed by parties (except for the party-appointed member with best results in previous parliamentary elections). Consequently, only the candidates of the ruling coalition were able to hold positions of PEC chairpersons in Nadzaladevi, Baghdati and Samtredia election precincts.

Election monitoring NGOs criticized the decision (The NGOs believe that the foregoing guideline conflicts with the essence and the spirit of law, as the Election Code straightforwardly stipulates an obligation of appointing opposition party proxies as PEC secretaries. The statement is available at <http://isfed.ge/pdf/2013-04-15.pdf>). In response, the CEC made its own statements (See http://cec.gov.ge/index.php?lang_id=GEO&sec_id=13&info_id=11726 and http://cec.gov.ge/index.php?lang_id=GEO&sec_id=13&info_id=11755), telling the NGOs to “re-evaluate their role in the election processes in light of the dramatic changes in political field”. The NGOs in response have stated that the statement was rather unethical and incorrect.

April 27, 2013 parliamentary by-elections will be the first elections to be held following

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



the transfer of power, and therefore, it will be an important test for the new government. We believe that previous period has illustrated the necessity to improve certain provisions of the election law prior to the presidential elections, including norms that regulate the use of state resources and election advertising.

The NGOs will closely monitor the polling day by means of mobile teams as well as observers stationed at the district and precinct election commissions. For the Election Day monitoring ISFED will be utilizing 81 observers, GYLA – 55 observers, and Transparency International- Georgia – 6 mobile teams. Alleged election violations can be reported by texting to a toll-free SMS number 90039 from any mobile network operator. The toll-free number will be operated by the NNGOs throughout the day of by-elections.