



GYLA Evaluates By-Elections of the Parliament of Georgia

Georgian Young Lawyers' Association (GYLA) observed by-elections of the Parliament of Georgia in Martvili and Sagarejo held on 31 October 2015. On the day of voting about 20 observers of GYLA observed election process statically and through mobile groups. Based on experience it was decided to focus on those election precincts that were problematic during the previous elections, created on exceptional basis and inhabited with ethnic minorities.

On the voting day GYLA observers identified 19 violations, including: 4 cases of improper implementation of official duties by members of electoral commission, 2 cases of presence of unauthorized persons in the precinct, 3 cases related to improper equipment of precincts, 2 confrontations near precincts, 5 cases of filling in the control paper with deficiencies, 1 case of voting without marking and 2 cases of improper arrangement of the voting building. The observers also detected that 8 groups of unidentified people were present near election precincts.

Based on the identified violations GYLA submitted 17 complaints to DEC's concerning violations in 28 precincts. 7 out of these complaints concerning violations in 15 precincts were submitted to #11 DEC of Sagarejo, while 10 complaints concerning violations in 14 precincts were submitted to #65 DEC of Martvili. It is noteworthy that DEC's approved all complaints submitted by GYLA and used disciplinary liability measures (notice/warning) against chairpersons, secretaries and commission members of relevant precincts. A protocol on administrative violations was drawn and submitted to the court requesting imposing administrative fine. However it should be also noted that DEC's did not approve complaints submitted by GYLA concerning re-counting of votes in 5 precincts. Neither the courts approved the submitted administrative complaints on re-counting of votes in 3 precincts.

As for the overall evaluation of the 31 October elections it had some peculiarities that differentiated it from others. These elections reminded once again the gaps of election legislation and revealed the need of reform of the relevant regulatory framework concerning a wide range of issues before 2016 parliamentary elections. Therefore we would like to focus on those issues that were identified during the 31 October elections. Hereby we also present our vision and recommendations that may facilitate better election environment in 2016 parliamentary elections:

- First of all it should be noted that by-elections was accompanied by political boycott. The majority of the parliamentary and non-parliamentary opposition parties refused to participate in the elections that significantly decreased the level of democracy of the elections;
- Voters were not active enough; however central and local authorities were actively involved in the pre-election process, including during the Election Day. Even though the activities of public officials did not constitute violation of law, impression was that election was conducted in unequal conditions due to such involvement;

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- Likewise previous elections, persons with unidentified status were present near precincts who were registering voters in their own election lists. Even though the foregoing does not constitute a clear violation of law, however we consider that it constitutes indirect control of voters' will and negatively affects free election practices;
- 31 October elections once again revealed the gaps of legislation concerning special precincts. GYLA has urged the government to regulate this issue for years. After 2012 the number of special precincts decreased that was a positive development; however existing regulations concerning voting by military personnel are still problematic and cast doubts on the possibility to abuse and manipulate the votes of special categories of voters, namely military personnel;
- Since 2012 on October 31 the first case of physical confrontation took place during the elections. Even though these incidents did not influence the results of elections still they create tension and affect peaceful electoral process;
- In some cases GYLA observers detected passive and ineffective reaction of law-enforcement authorities. For example, in Ujarma precinct where there was a real threat to the security of persons present therein and high risk of escalating the situation, law-enforcement authorities reacted with delay;
- In Sagarejo district the behaviour of supporters of the opposition candidate were provocative in some cases that should be also scrutinized;
- In some cases the GYLA representatives observed low qualification and non-professional attitudes of members of precinct election commissions. In certain cases filling in summary protocols and counting the final balance of votes were still problematic.
- The issue related to conducting parliamentary elections based on existing majoritarian system that gives advantage to the ruling party and does not facilitate multi-party democracy is still essential.

Based on the aforementioned the state authorities have to use the remaining time efficiently and implement legislative amendments promoting free, equal and competitive environment for 2016 parliamentary elections.

More specifically, we consider that:

- The state authorities have to implement specific measures to change existing majoritarian system before the next elections;
- A number of restrictions facilitating equal environment during elections should be introduced. We consider that, first of all, the circle of political officials allowed to participate in the election process without restrictions should be narrowed;
- Secondly, so called "silence day" should be introduced prohibiting pre-election agitation publicly during the voting day and several hours earlier this day;
- Creation of special precincts should be strictly regulated. The Election Code of Georgia should provide criteria when it is allowed to allow or refuse creation of special precincts when the number of voters exceeds 50 in military units thus avoiding the prejudicial decisions on creation of such precincts. In addition, voters enlisted in such special precinct should not be allowed to participate in majoritarian and local elections beyond the districts of their permanent registration.

In addition to legislative amendments there is a need to undertake the following measures:

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- Law-enforcement authorities should investigate violent incidents committed during elections without delay, comprehensively, objectively and transparently to ensure that all persons responsible for such actions carry responsibility in line with law. At the same time it is important that law-enforcement authorities act in good faith, protect public order and safeguard conduct of elections in peaceful and safe environment;
- Persons participating in election process should refrain from any violence and provocative actions that may increase tension during voting day and cast risks of escalation;
- Continue trainings of members of election commissions with special emphasis on voting day and drawing election documentation.

Hereby GYLA expresses its readiness to contribute to upgrade of election legislation and to that end present to state authorities recommendations related to improvement of election environment.

[link1](#)

[link2](#)

[link3](#)