

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Publishes Preliminary Report on Pre-Election Monitoring

THE GEORGIAN YOUNG LAWYERS' ASSOCIATION

5 JANUARY 2008 SPECIAL PRESIDENTIAL ELECTIONS AND PLEBISCITE
OBSERVATION MISSION

PRELIMINARY REPORT OF THE PRE-ELECTION
MONITORING

3 January 2008

The present report is an initial version of the pre-election monitoring results. A final version will be published following the 5th of January together with monitoring results of the election day and election funds

EXECUTIVE SUMMARY

The 5 January 2008 out-of-turn presidential election was appointed and the pre-election period proceeded in very tight terms. Presidential election day was formally declared on 25 November but the pre-election period actually started earlier, 8 November, after former President Saakashvili made the statement. A significant part of the pre-election period took place during a state of emergency, against the background of virtual restriction of the media sources. TV Company Imedi, closed on 7 November, resumed its work only amid the pre-election period and again suspended broadcasting close to the end. In the meanwhile, the election law was amended twice (22 November and 7 December). These and other factors made an effective monitoring of the pre-election campaign more difficult. GYLA has been conducting the pre-election monitoring in Tbilisi and 7 regional centres (Telavi, Dusheti, Rustavi, Gori, Ozurgeti, Kutaisi and Batumi). The past period of the campaign showed a whole series of violations by political subjects, public officials and other persons, timely response to which should have become a precondition for fair and transparent pre-election period. Violations referred to in this report have constantly been notified by the GYLA representatives to both the Election Administration (by means of letters and complaints) and various State agencies and media sources.

A list of buildings and availability of places for pre-election campaign

As required by the law, the local self-governance bodies submitted to the Election Administration lists of premises where political subjects were able to arrange pre-election meetings. However, the monitoring revealed instances when: one of the political subjects, Mikheil Saakashvili (before his formal registration as a candidate), held a meeting in Tbilisi Sakrebulo (28 November), which was not included in the official list of available premises; in Telavi, the theatre administration refused one of the opposition candidates to hold a meeting; in Zestaponi, supporters of another opposition candidate were not allowed to meet their electorate in the Ferroalloy Plant Culture House.

Participation of the central and local public officials in the pre-election campaign

Participation in election campaigning in violation of law by public officials of different

levels was one of the main problems in the recent period. Campaign was conducted in violation of law by both public officials holding political posts (members of Parliament from both the governing and the opposition political parties, ministers, and city mayors) and other public officials such as governors (who, according to the legislation, are not persons holding a political post); the problem is aggravated by the fact that many provisions of the Election Code are ambiguous on this issue and forming a clear-cut legal opinion requires an analysis taking into consideration the legislation as a whole; GYLA addressed the CEC with a number of complaints, which, unfortunately, were rejected by the CEC (7 votes vs. 6 votes). There are several court litigation cases on-going against the certain CEC decisions (in the first and the appeals instance courts).

Transfer of material values or giving promises to voters (subornation")

In the pre-election period GYLA revealed direct instances of transfer of (or promises to transfer) material values to voters by two registered candidates – Mikheil Saakashvili and Arkadi Patarkatsishvili. GYLA, as an observing organization, deemed itself responsible to appeal to court and demand cancellation of both candidates' registration. On 22 December the court rejected GYLA's lawsuit. Furthermore, similar instances were identified by GYLA's regional offices in Batumi and Dusheti. These instances require immediate reaction from the part of the Election Administration and other appropriate State authorities.

Other events of using the "administrative resource" and influencing citizens

Although GYLA's monitoring is focused on express prohibitions contained in the Election Code, considering the large scale nature of the use of administrative resource – GYLA joins the concerns about initiating special social projects only within the pre-election context, which were expressed by the Transparency International Georgia in its interim reports. Monitoring identified several instances that need to be assessed by the Election Administration: – a by candidate Saakashvili to the effect to grant Georgian citizenship to a Moldovan-origin citizen of Russia on 3 December; – a of school pupils and teachers' participation in campaign meetings in the regions (Dusheti and Telavi); oral information received from the employees of various State agencies concerning the propagandist instructions from their direct supervisors (Batumi and Telavi).

Informational support to the pre-election campaign; the media

GYLA is monitoring media sources □ compliance with election legislation (except for time-keeping). Results of this monitoring will be reflected in the final report. No violations are observed concerning inclusion of an indication of □□□□A or □□□□A labels in political commercials. The media are formally complying with the obligation to send weekly information to the CEC. Of special attention is the Radio Hereti case, whose legal interests are defended by the GYLA Telavi Office in a dispute with the National Communications Commission.

Transparency of election funds

The current legislation, considering the campaign terms in this case, does not allow publicizing the activities of election funds before the Election Day and prevents the CEC from processing final reports submitted after the Election Day before the election results are summarized. GYLA □□ initiative to obligate the funds to submit their initial reports before the Election Day, was rejected at the CEC session (7 votes vs. 6). At the same time, three election funds (the National Movement, the Labour Party, and the New Rights) showed their □□□□ will A submitting initial information to the CEC on 24 December. The initial information together with the final reports will be processed and published in a special report on the monitoring of election funds.

The Georgian Young Lawyers □ Association hopes that facts referred to in the present preliminary report of pre-election campaign monitoring will be effectively and timely reacted upon by the Election Administration and appropriate State institutions. We further hope that these facts will not serve as a basis for assessing the entire election process negatively. GYLA is open to cooperation with the Election Administration, the Governmental Working Group for Free and Fair Elections created by the Acting President of Georgia, political subjects, other observing local and international organizations, and the media.

GYLA will publish the final report of the pre-election campaign monitoring after the Election Day - 5 January.

The Georgian Young Lawyers □ Association will observe the elections on the Election Day, 5 January, independently, in Tbilisi, Kutaisi, and Achara. GYLA observers, about 350 lawyers, will be present in the CEC and District and precinct

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election commissions. The Observing Mission will have mobile observer groups according to each election district. GYLA observers will take measures to respond to every possible violation by lodging complaints with the elections commissions and courts.

On the Election Day, the GYLA Observation Mission will provide information to the media sources through the Media Center, which was founded together with three other observing organizations.

[PLEASE SEE FULL VERSION OF THE PRELIMINARY REPORT](#)

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