

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA will submit responses on interesting questions for media in terms of pre-election period and the polling day

The document has been prepared on the basis of the Organic Law of Georgia “Election Code of Georgia,” “Law of Georgia on Broadcasting”, Resolution # 9 of August 15, 2012 of the Georgian National Communications’ Commission and the Resolution #42 of August 19, 2013 of the Central Election Commission.

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In case of introducing amendments to the relevant legislation, answers to the frequently asked questions will be updated.

GYLA's Media Legal Defense Center is eager to provide legal aid on election issues to media representatives.

1. Which normative acts apply to media representatives in election period?

While broadcasting election issues media representatives should pay particular attention to observance of the "Election Code of Georgia," "the Law of Georgia on Broadcasting", "the Law of Georgia on Electronic Communications", "the Law on Freedom of Speech and Expression" and legal acts adopted by the Central Election Commission (CEC) and the Georgian National Communications' Commission (GNCC)

1. From which period are the broadcasting license holders obliged to protect Election Code of Georgia?

No later than 50 days before the polling day, broadcasting license holders, public broadcaster and Ajara TV of Public broadcaster and radio are obliged to observe the conditions envisaged by the Election Code of Georgia. As per Resolution #216, 2013 of the Central Election Commission of Georgia, the obligations emerge since September 7, 2013.

2. What are the obligations envisaged by the Election Code in terms of license holders?

Election Code of Georgia envisages following obligatory conditions for broadcasting license holders:

- a) in case of allocation of airtime for pre-election agitation and political advertising, publicly announce and weekly submit to Georgian National Communications Commission the following information: from and until which date and to what frequency the airtime is allocated, duration and schedule of the allocated airtime in the course of one day, airtime fee, service provided;
- b) paid airtime allocated by a TV or radio broadcaster during one day, shall not exceed 15% of its total daily broadcasting time and no election subject shall be granted more than one-third of this time. Paid airtime fee shall be equal for all election subjects

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(both for qualified and unqualified subjects).

c) when broadcasting a political advertising, the screen corner shall display an inscription "paid political advertising" or "free political advertising";

d) No later than on the 50th day before polling until the polling day, owners of broadcasting license shall not place the political advertisement in other period save for specially allocated intervals.

3. Are there any additional requirements for the press?

From the moment of announcement of elections until the sum up of election results, newspapers, funded by central or local budgets, shall meet the following conditions:

a) in case of allocation of newspaper space for pre-election agitation and political advertising, publish the following information on a weekly basis in the same newspaper: from which date, to what frequency and until when the newspaper space is allocated, the size of the space allocated in one newspaper; in case of provision of newspaper space free of charge - a share of the free space out of the total space; space fee, service provided;

b) no election subject shall be granted more than one-third of the newspaper space in one newspaper publication or over a period of one week;

c) the space fee shall be equal for all election subjects;

d) when publishing an agitation article or political advertising, above the article heading and in the corner of the advertisement, an inscription "paid political advertising" or "free political advertising" shall be made;

e) during the period stated herein, not to publish a political advertising in violation of the provisions of the present paragraph.

f) No later than on the 50th day before polling until the polling day, refrain from publishing political advertisements in violation of the established requirements.

4. Are there any established fees for the newspapers?

All newspapers, except for the ones finances from the local or the central budget shall have a right to allocate a pre-election advertising to any election subject under any

conditions.

5. What should the newspaper or broadcasting license holder do if electoral subject does not use the resource allocated to it?

If an electoral subject has not utilized its airtime or the space in the newspaper, license holder, public broadcaster, Ajara TV and radio of public broadcaster are entitled to separate the airtime and space equally among the rest electoral subjects.

7. What principles should be observed by a broadcaster in pre-election campaign?

The broadcaster should keep impartiality and fairness principle while broadcasting public-political programs and election process in pre-election campaign as provided by the Law on Broadcasting of Georgia, Code of Conduct for Broadcasters and the law.

8. What are the applied rules for broadcasting pre-election debates?

General broadcaster which makes decision to broadcast pre-election campaign in its airtime, should broadcast the electoral debates without discrimination and with participation of all qualified electoral subjects in the period of pre-election campaign within its service zone..

9. Who are qualified subjects?

A qualified election subject is the one the affiliated party of which meets the following requirements:

- a) independently participated in the last parliamentary elections and received not less than 4% of votes;
- b) independently participated in the last elections of local self-government bodies conducted under proportional system and received not less than 3% of votes throughout the country;
- c) was the first member in the list of the election bloc, which in the last parliamentary elections received not less than 4% of the votes;
- d) was a first member in the list of the election bloc, which in the last elections of local self-government, conducted under proportional system, received not less than 3% of votes within the country.

10. What is the time limit allocated by general broadcaster to election advertising?

A general broadcaster, as well as a broadcaster transmitting the election advertising shall be obliged to allocate to each qualified election subject the time lasting for 90 seconds in every 3 hours free of charge and without discrimination. Further addition of an unused time to the other time assigned thereto is impermissible.

11. What is the time limit allocated by public broadcaster to election advertising?

The Public Broadcaster, as well as a community broadcaster, which allocates time for the election advertising, shall be obliged to allocate to each qualified election subject the time lasting for 60 seconds per hour free of charge and without discrimination. Further addition of an unused time to the other time assigned thereto is impermissible.

12. Who shall be considered qualified election subject for presidential elections?

For the purposes of the present Article, qualified election subject for presidential elections shall be considered a candidate nominated by political unions, funded from the Georgian state budget, based on the outcome of the last parliamentary or local self - government elections.

13. It the broadcaster authorized to recognize as a qualified election subject the political party?

A broadcaster is authorized to recognize as a qualified election subject the political party, which according to the public opinion poll, conducted within the whole territory of Georgia in compliance with the terms set forth by Article 51, has gained not less than 4 % of votes in not less than 5 public opinion polls held during the election year, or in an opinion poll held no later than a month before the elections. Discriminative use of sociological surveys by the broadcaster is impermissible.

14. Local broadcaster's obligation to acknowledge a political party as a qualified subject

A local broadcaster shall acknowledge a political party/bloc as a qualified election subject which:

- a) independently participated in the last parliamentary elections and received not less than 4% of votes;
- b) independently participated in the last elections of local self- government bodies conducted under proportional system and received not less than 3% of votes throughout the country;
- c) was a first member in the list of the election bloc, which in the last parliamentary elections received not less than 4% of the votes;
- d) was a first member in the list of the election bloc, which in the last elections of local self-government, conducted under proportional system, received not less than 3% of votes within the country.
- e) political party/bloc candidate(s) of which has won in the last parliamentary elections held in the majoritarian election district falling within the local broadcaster's coverage zone, passed the second round of elections or received not less than 25% of votes;
- f) political party/bloc which received not less than 25% of votes in elections of the representative body of local self- government - Sakrebulo.

16. Shall a local broadcaster be authorized to recognize a person as a qualified election subject?

A local broadcaster shall be authorized to recognize as a qualified election subject:

- a) a political party, which obtained not less than 10% votes in the last parliamentary or local self - government elections, held in the majoritarian election district;
- b) a political party, which enjoys support of not less than 25% of votes according to the public opinion poll conducted in the respective majoritarian election district, pursuant to the terms set forth by this Law, as revealed by not less than 2 successive surveys conducted during the election year;
- c) a majoritarian candidate nominated by the initiative group of voters, which enjoys support of not less than 25% of votes according to the public opinion poll conducted in the respective majoritarian election district, pursuant to the terms set forth by this Law, as revealed by not less than 2 successive surveys conducted during the election year.

17. Does the Election Code establish special obligations in terms of public

broadcaster, Adjara TV and radio of Public Broadcaster?

The Public Broadcaster, Adjara TV and Radio of the Public Broadcaster (legal entity of public law) are obliged to allocate an airtime for pre-election advertising of all other parties and election blocs, other than qualified election subjects, which shall be equally distributed among these subjects.

18. How shall the airtime be utilized if political parties used free airtime before engaging in the bloc?

If parties, united in the election bloc, used free airtime before engaging in the bloc, free advertising time utilized by them shall be deducted from the free airtime period (except for free airtime period of party being the first in the list of the bloc) to be allocated for the bloc, as an election subject, following its creation.

19. How shall the free airtime be applied in the course of by-election?

Obligation to allocate free airtime shall solely be applied to the local broadcaster in the course of by - elections.

20. Which subjects determine the participation of media in election process?

Georgian National Communications Commission shall determine the participation of media and the rule of its application in the electoral process, as well as ensure monitoring by the broadcaster of observance of norms established by this Law and shall give appropriate response to the violations of these norms.

21. Is GNCC authorized to establish sanctions for violations of the provision of the Georgian Election Commission?

Protocols on administrative violations, as outlined in Articles 82 and 83 of the Election Code of Georgia, shall be drawn up by Georgian National Communications Commission.

22. When is the Commission entitled to draft the report of administrative offence?

According to Election Code of Georgia, the Commission is authorized to draft the report of administrative offence if media representative fails to keep the rules for publication of the public opinion poll results as well as, if media outlet has violated requirements set in terms of pre-election agitation, placement of political/electoral advertisement and transfer or publication of information.

23. What are the sanctions envisaged for public broadcaster for violation of the rules for promulgation of the results of the public opinion poll?

The promulgation of the results of the public opinion poll, conducted in relation to the elections, within the term defined by law without the required information, or violation of other rules related to its promulgation, shall be fined in the amount of 1500 GEL.

23. What are applied rules in terms of publications of the public opinion poll results?

Publication of public opinion poll results, except for the possible number of voters in the elections and the number of voters participating in the elections on the polling day, shall be prohibited within 48 hours before the polling day and until 20:00 of that day.

From the day of calling of elections until the publication of the election final results by the CEC and during one month thereafter, while publishing the results of the opinion poll concerning elections, the following shall be indicated: the person ordering the poll (name in accordance with the public or electoral registration and a legal address in case the legal entity or state body has ordered the conduct of the poll; last name, first name and address as provided for in the personal identification card of the citizen of Georgia, where a physical person has ordered the conduct of the polls), whether the poll is paid or free of charge, the organization conducting the poll (name according to the public or electoral registration and a legal address), date of the poll, methods used, exact formulation of the questions used in the poll, possible margin of errors.

24. What are envisaged sanctions for violation of requirement of law related to pre-election agitation, placement of political/election advertising?

Violation of requirement of law related to pre-election agitation, placement of political/election advertising and transmission of information or its publication shall

entail an imposition of a fine upon the means of electronic media in the amount of 1500 GEL and the printed media - in the amount of 500 GEL. In case of repeated conduct of the same action in the course of one year from the imposition of administrative fine, means of electronic media shall be subject to a fine of 5000 GEL and the printed media - in the amount of 1500 GEL.

25. What is pre-election campaign?

Pre-election campaign - a set of measures carried out by the election subject/candidate aimed at running in and winning elections;

26. What is pre-election agitation?

Pre-election agitation- appeal to the citizens in favor or against an election subject/candidate, as well as any public action facilitating or impeding his/her election, and/or containing pre -election campaign signs, including the participation in organization/conduct of pre - electoral events, preservation or dissemination of election materials, work on the list of supporters, presence in the representations of political parties;

27. When does pre-election agitation start?

Pre-election campaign (agitation) starts from the moment of setting the election date. Candidates of an election subject enjoy equal rights starting from this day in accordance with Election Code of Georgia.

28. What are the rights of election subjects in pre-election campaign?

As of the day of calling of elections, candidates are entitled to produce pre- election appeals, statements, inscriptions, leaflets, photo materials, etc. It is prohibited to prevent their dissemination and seizure, as well as to seize vehicles and other means equipped with special devices used for agitation purposes, or prevent their application for pre- election agitation purposes.

29. What can be the content of election program?

Election subjects and their supporters have a right to present a program of further activity. The election program shall not contain propaganda of war and violence, overthrowing the existing state and social order or replacing it through violence, violating the territorial integrity of Georgia, calling to foster national hatred and enmity, religious and ethnic confrontation.

30. Where agitation materials may be displayed?

Printed agitation materials may be displayed on buildings and premises and other places, with the consent of their owners or possessors.

31. Where is displaying of agitation materials prohibited?

Posting of election posters on religious buildings, interior and exterior of buildings of state authority, bodies of local self-government, courts, the Prosecutor's Office, military compounds and police, as well as on traffic signs shall be prohibited.

32. Is displaying of agitation materials ensured by the government?

Local self-government bodies are obliged to allocate spots and/or install stands for posting and displaying election posters. The stand must be of such a size that all election subjects are provided with equal conditions for the display of election posters.

33. Is damaging of agitation materials punishable?

Removal, tearing down, covering up or damaging of election posters shall be inadmissible and punishable by Law, unless they are posted in prohibited places. Protocols on administrative violations shall be drawn up by the relevant local self-government bodies.

34. How shall we get information about the installed stands?

Information on places and/or installed stands designated for posting and displaying of election posters shall be published by the local self-government bodies no later than 10 days before calling of elections.

35. What are the necessary criteria for agitation materials?

Printed campaign materials shall indicate names, addresses of the organizations ordering and producing them, as well as information on the edition quantity, number and the date of issue. Dissemination of printed agitation materials without indicating the above information is prohibited. An election subject is obliged to indicate the number on printed agitation material only after obtaining this number.

36. Is removal of agitation materials obligatory?

Within 15 days of the official publication of the final results of the elections, the relevant election subject is under a duty to ensure removal of agitation materials; otherwise he/she shall be held responsible according to the legislation of Georgia.

37. Is media representative entitled to attend sessions of the election commission and be at the polling place?

Representatives of press and mass media accredited in relevant election commission are entitled to attend sessions of the commissions and be in the polling places.

38. Shall representative of the press carry a badge at the polling place?

Everyone authorized to stay at the polling place, including representatives of the press and media, shall carry a badge (certificate) indicating his/her identity and title.

39. Shall media representative be removed from the polling place according to legislation?

In case of breach of order and obstruction of the work of the election commission by the individuals, authorized to remain at the polling place (representatives of media amongst them), the election commission shall make a decision on the removal of the person, violating the order, from the administrative building, as well as from the session.

40. Who makes decision on eviction from the polling place?

Election Commission makes decision on eviction of the violator from the administrative building and from the session during the session period and it is noted in the minutes of the session.

41. How shall accreditation of media representatives be conducted?

Accreditation of representatives of press and other media operating on the territory of several election districts shall be conducted by the CEC secretary or by the secretaries of the appropriate DEC, while accreditation of media representatives operating on the territory of one election district shall be conducted by the secretary of the appropriate DEC.

42. What are the necessary terms for filing application in order to get accreditation?

Applications on accreditation of representatives of the press and other media shall be submitted to the relevant election commission, no later than 3 days before the polling day.

43. What are the terms for making decision on accreditation of media representatives?

Within 1 day after filing an application, secretary of the appropriate election commission shall decide on the accreditation of representatives of the press and other media and shall issue to the accredited representatives appropriate certificates within 1 day. In case of decline of application for accreditation, the secretary shall issue an appropriate ordinance (proper justification for the decline of the application shall duly be stated in the ordinance) within the same timeframe.

44. Shall the denial on accreditation of the journalist be appealed?

The right to file a complaint to the court regarding an ordinance of the CEC/DEC secretary on accreditation of representatives of press and other media, shall be granted to: a representative of press and other media, whose application for accreditation is not upheld by the election commission, a party/election bloc with electoral registration, a representative of a voters' initiative group in the relevant

election commission, or an organization holding an observer's status.

45. How many representatives of media organizations shall be entitled to be at the polling place simultaneously?

On the polling day, the same organization of the press and other mass media shall be entitled to have no more than 3 representatives at a time at the election precinct.

46. What is pre-election advertisement?

Electoral advertisement is the type of advertisement intending promotion/ hindering of the elections of the President of Georgia, the Parliament, local council, representative body of local self-governance, Gamgebeli and Mayor. The advertisement shall illustrate electoral subject and/or its number containing signs of pre-election campaign.

47. When shall a general broadcaster broadcast pre-election debates?

A general broadcaster intending to broadcast the pre-election campaign shall transmit pre election debates in the course of pre-election campaign within its coverage zone.

48. Are there any additional rules for broadcasting pre-election debates?

A general broadcaster intending to broadcast the pre-election campaign shall transmit pre -election debates in a non-discriminatory manner and with the participation of all qualified election subjects in the course of pre-election campaign within its coverage zone.

49. Is it obligatory to hold political discussions in public broadcaster?

Within the period between the elections, public broadcaster should place in its airtime on the weekly bases programs envisaging political discussions on key events in the country and ensure, without discrimination, participation of all political forces (fractions) in the Parliament, as well as the political unions who receive funding from the state budget.

50. Shall license holder be responsible for the content of electoral advertisement?

The license holder shall not be responsible for the content of social and electoral advertisement. The customer (the person placing the advertisement), according to the legislation in force, is responsible for the content of social and electoral advertisement;

51. What should be the intervals of social advertisement during election campaign?

The Public Service Broadcaster and Community Broadcaster shall allocate free of charge and without discrimination at least 60 seconds per 1 hour for submitted social advertisement and during election campaigns in their service area, by way of social advertisement, inform the public about the candidates and parties participating in election and the procedural issues for voters during an election campaign. Information must be accurate and include data, envisaged by legislation.

52. What shall be the time allocated for electoral advertisement?

A general terrestrial broadcasting license holder, as well as other broadcasting license holder that broadcast electoral advertisements, shall, during an election campaign conducted within its service area, broadcast the electoral advertisement presented by the electoral subject. Such election advertisement shall be broadcast free of charge and without any discrimination no more than 90 seconds per 3 hours. The Public Service Broadcaster and community broadcasting license holders broadcasting electoral advertisements, shall during election campaigns conducted within their service areas, broadcast the electoral advertisement presented by the electoral subject. Such election advertisements shall be broadcast free of charge and without any discrimination no more than 60 seconds per 1 hour.

53. Shall electoral subject be a sponsor of the program?

An administrative authority, members of an administrative authority or its employees, any political party, leader or official of a political party, coalition, and electoral subject shall not sponsor programs. Programs shall not be sponsored by legal entities or natural persons, whose core activity is the production or sale of products or provision

of services, the advertisement of which is prohibited by the Georgian Law on Advertisement.

54. Is sponsorship of electoral campaign related programs prohibited?

It is prohibited to sponsor the following programs:

- a) News programs (save for sport review and weather forecast if they are broadcast as separate programs);
- b) Reports on social and political issues;
- c) Programs on customer's rights, programs directed linked to elections on election campaign.

Sponsors of advertisement providers are prohibited to make influence on the context and duration of the funded program or to interfere in editorial independence of the broadcaster.

55. The rule of interviewing persons authorized to be present at the polling place:

The persons authorized to be present at the polling place can be interviewed only outside of the polling place. The commission members can be interviewed only without obstruction to the fulfillment of the duties designated to them during the polling process.

56. What shall not be recorded at the polling place?

Photo and video recording of polling booths at the polling place is inadmissible. It is inadmissible to record in the polling place information or material that is not designated as public by the Election Legislation of Georgia, including the list of voters designated for the election commission (table version).

57. The rule of photo-video recording at the polling place

At the polling place, video recording should be carried out from the special place allocated by the head of the commission from which election process is visible. The minimal distance for any person for implementing photo-video recording should be 3 meters from the target.

Individual authorized to be present at the polling place can record without restriction

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the period of polling process when individuals with high public interest (high political authorities, heads of election subjects and political unions, religious leaders) participate. Afterwards, however, the devices should be taken away from the polling building.

Representative of one and the same press and mass media is entitled to carry out photo-video recording of the polling process for no more than 10 minutes at one polling place. If he/she is willing to carry out photo-video recording more than 10 minutes, than she/he is obliged to occupy the specially allocated place.

Individuals authorized to be in the polling place are entitled to carry out video recording during the whole day, so that the recorder is placed on the specially allocated place by the head of the commission. The place should be selected in a manner that to record election box. .

If the individual authorized to be at the polling place is moving with a camera or leaves the polling place, he is deprived of the right to carry out photo-video recording any longer.