



GYLA Evaluates By-Elections of the Parliament of Georgia

Georgian Young Lawyers' Association (GYLA) observed October 31, 2015 by-elections of the Parliament of Georgia in Martvili and Sagarejo. On the Voting Day nearly 20 observers of GYLA monitored elections statically and through mobile groups. Based on its previous experience, GYLA decided to focus on election precincts that have proven to be problematic in the past, the so-called special precincts and areas populated by ethnic minorities.

On the Voting Day GYLA's observers identified 19 violations, including: 4 instances of inadequate fulfillment of official duties by members of electoral commission; 2 instances of presence of unauthorized persons at polling precincts; 3 instances of equipment malfunction; 2 instances of confrontation outside precincts; 5 instances of inaccurate control sheets; 1 instance of voting without inking and 2 instances of improper set up of polling building. The observers also found 8 instances of presence of unidentified individuals at polling stations.

Georgian Young Lawyers' Association (GYLA) filed total of 17 complaints with district

electoral commissions (DECs) over irregularities detected in 28 electoral precincts during the monitoring. 7 out of the seventeen complaints were filed with Sagarejo no.11 DEC over violations in 15 electoral precincts; 10 complaints were filed in Martvili no.5 DEC over irregularities in 13 electoral precincts. Both DEC's ruled in favor of GYLA in all complaints submitted by the observers and ordered disciplinary liability measures (warning/reproof) against chairs, secretaries and members of PECs concerned. A protocol of administrative offence against the secretary of Sagarejo no.19 electoral precinct was drawn up for and filed in court. Notably, DEC's rejected GYLA's requests for re-counting of votes in 5 precincts. GYLA's complaints on re-counting of votes in 3 precincts were also rejected by court.

In general, certain distinctive characteristics set October 31 by-elections apart from other elections in Georgia as somewhat different. These elections also illustrated yet again the need to reform the election legislation ahead of the 2016 parliamentary elections in a number of ways. Therefore, by focusing on issues identified during the monitoring, we hereby present our vision and recommendations for improving election environment for the upcoming parliamentary election in 2016.

- First we must note that the by-elections were held amid a political boycott; most of the parliamentary and non-parliamentary opposition parties refused to partake in the elections, which had a negative impact on democracy of the elections;
- It was characterized by low voter turnout but with a high level of engagement from central and local government officials in pre-election processes and on the Election Day. Although involvement of these officials did not violate law, it gave an impression of unfair election environment;
- Similar to previous elections, unidentified individuals were observed outside polling stations, actively registering voters who had arrived at the polls and thus exercising indirect control over their free will. Although the said practice does not expressly violate the law, it does constitute an indirect control of voters' will and therefore, negatively affects practice of free elections;
- The elections once again reminded us of flawed legal norms that regulate the so-called special polling stations. Since 2012 the number of special precincts have decreased, which is a positive development; however, existing regulations about military personnel are still problematic and raise suspicions about possible abuse and manipulation of votes of special categories of voters (in this case, the military servicemen) by the ruling political force.

- For the first time since the 2012 elections, acts of physical confrontation were observed outside polling stations. Although the incidents did not influence final outcomes of the elections, they created a tension and disturbed peaceful administration of elections;
- GYLA's observers detected passive and ineffective reaction of law-enforcement authorities. For instance, at Ujarma electoral precincts, where there was a real threat to the security of persons present at the station and high risk of escalation, law-enforcement authorities reacted with delay;
- Supporters of an opposition candidates in Sagarejo behaved in a provocative manner; their actions need to be examined;
- In some instances, GYLA's observers found poorly qualified PEC members acting unprofessionally; in addition, some PEC members had difficulty filling out summary protocols and reconciling numbers.
- Current majoritarian system that gives advantage to the ruling party and discourages multi-party democracy remains to be a problem.

In light of the foregoing, the authorities should utilize remaining time to implement legislative changes required to promote free, equal and competitive election environment for the upcoming 2016 parliamentary elections.

In particular,

- ahead of the upcoming parliamentary elections, the authorities should take specific measures to scrap the majoritarian component of the existing electoral system;
- a number of restrictions facilitating equal environment during elections should be introduced. The list of political officials allowed to participate in the election process without restrictions should be narrowed down;
- pre-election silence should be introduced to prohibit pre-election agitation on and a few hours ahead of the Voting Day;
- norms that regulate the so-called special precincts should be tightened. The Election Code should provide strict criteria for setting up (or not setting up) a special precinct in military units where the number of voters exceeds 50, in order to avoid making of prejudicial decisions. In addition, similar to voters on the special list, military servicemen should be banned from participating in majoritarian and local elections in districts outside the territory of their permanent registration.