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ახალგაზრდა
იურისტთა
ასოციაცია

გ ა ნ ც ხ ა დ ე ბ ა

**საიას შეფასება
საზღვარგარეთ საარჩევნო
უბნების გახსნასთან
დაკავშირებით**

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**GYLA's assessment regarding the
opening of election precincts abroad**

The Georgian Young Lawyers' Association (GYLA) continues its observation of the pre-

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election process and raises concerns regarding the opening of polling stations abroad. According to the Election Code, the deadline for establishing precincts outside the country's borders expired on September 26.¹ At the session held on the same day, the CEC opened 60 polling stations in 53 cities located in 42 countries.² Additionally, during the October 11 session, considering the number of voters, the Central Election Commission issued an ordinance to open 7 additional polling stations³ at existing locations. In total, 67 polling stations have been opened abroad.⁴

Currently, polling stations have been opened in 53 cities in 42 countries.⁵ In total, 67 polling stations have been opened abroad.⁶

According to the Election Code, the Central Election Commission (CEC) establishes polling stations abroad for a minimum of 50 and a maximum of 3,000 voters in each location. This is done based on data provided by the Ministry of Foreign Affairs and must be completed no later than 30 days prior to election day.⁷ When providing information, the Ministry of Foreign Affairs relies on the data of eligible voters registered with the consular office. However, under current legislation, the Central Election Commission (CEC) is not restricted from independently requesting the Ministry of Foreign Affairs to open additional temporary consular institutions if needed, allowing the CEC to establish more election precincts. This issue is particularly significant in countries with large immigrant populations. It is essential for the country to maintain an active and close connection with its citizens. Electoral participation plays an important role in this process, as it gives citizens the opportunity to actively participate in the formation of the country's political life. According to the international experience, polling stations outside the borders of the country are opened mostly in diplomatic institutions,⁸ although there is a practice where polling stations can be opened outside these institutions. Such precincts are conventionally called "neighborhood precincts".⁹ In order to simplify the voting process, these types of precincts are often established in places where there are many voters. Especially when they are far from the country's official diplomatic missions.¹⁰

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The Central Election Commission (CEC) plays a crucial role in the process of establishing polling stations abroad. As an independent state body, the CEC is responsible for administering of election in Georgia. This includes ensuring that elections are held in a free and fair environment, while also protecting the voting rights of all citizens, both within and outside the country.

According to the existing practice in Georgia, election precincts abroad are opened on the territory of consular or diplomatic missions.¹¹ The decision on the opening of consular institutions is made by the Minister of Foreign Affairs.¹² However, if the Central Election Commission (CEC) is aware that there is a significant number of Georgian citizens on the consular register in a location abroad lacking consular or diplomatic representation, it has the discretion, as the guardian of electoral rights for all citizens, to proactively request the Ministry of Foreign Affairs to open a polling station there a reasonable time before the elections.

The CEC has been repeatedly informed about the necessity of opening polling stations abroad by citizens, as well as by the President of Georgia and other stakeholders involved in the electoral process.¹³ Georgian citizens residing in various cities abroad, particularly those whose residences were distant from the country's diplomatic missions, self-organized and collected evidence confirming their presence on the consular register.¹⁴ According to this data, the number of emigrants on the consular register in each of these cities exceeded 50. The citizens submitted the information they gathered in May, August, and September 2024 to the CEC to facilitate the opening of polling stations. In response to their appeals, on September 5, the chairman of the CEC stated that the election administration could not fulfill this request, as there was no legal obligation for the CEC to process and respond to such information.

In this context, on September 7, the organization "Fair Elections" filed a lawsuit with the Tbilisi City Court. The lawsuit was based on letters received from the chairman of the CEC concerning Georgian citizens living abroad who are registered on the consular list. The court suspended the proceedings, clarifying that the CEC had until September 26, 2024, to decide on the opening of precincts. It determined that the letters from the CEC chairman could not be regarded as an official decision regarding the establishment of election precincts in other countries. The court further emphasized that while the CEC is legally required to create election precincts abroad, the specific

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locations for these precincts fall within its discretionary authority.

On September 26, all extraterritorial polling stations were opened in existing diplomatic and consular institutions.¹⁵ As a result, the state did not address the concerns raised by some Georgian citizens living abroad.

Given that the Ministry of Foreign Affairs did not demonstrate the necessary political will to open temporary consular institutions for the establishment of election precincts abroad, the CEC was obligated to take proactive measures. It should have aligned itself with the wishes of Georgian citizens and, in the interest of voters, reached out to the Ministry to request the opening of these precincts. Such a step by the CEC would have facilitated the realization of the voting rights of citizens living abroad, further serving the commission's primary goal of safeguarding the electoral rights of all citizens.

GYLA believes that the existing legal framework allows the opening of additional polling stations abroad based on the initiative of the CEC. The CEC, as the state authority responsible for safeguarding citizens' electoral rights, was obligated to ensure that Georgian citizens, including those residing outside the country's borders, have the opportunity to participate in elections. To achieve this objective, the commission should have engaged in proactive collaboration with relevant state agencies, particularly the Ministry of Foreign Affairs, to facilitate the effective realization of Georgian citizens' active electoral rights.

1 Part 7 of Article 23 of the Election Code of Georgia; Decree of the CEC No. 79/2024.

2 Ordinance №191/2024 of the Central Election Commission of Georgia dated September 26, 2024, Annex, available

at: <https://cesko.ge/ge/kanonmdebloba/tseskos-samartlebrivi-aqtebi/gankargulebebi/singleview/11034215-gankarguleba-1912024-26092024>.

3 New York - United States; Berlin - Germany; Barcelona - Spain; Rome - Italy; Athens - Greece; Thessaloniki - Greece; Paris - France.

4 Ordinance №191/2024 of the Central Election Commission of Georgia dated September 26, 2024, Annex, available at: <https://cesko.ge/ge/kanonmdebloba/tseskos-samartlebrivi-aqtebi/gankargulebebi/singleview/11034215-gankarguleba-1912024>

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26092024.; See also: CEC (Central Election Commission) session of October 11, 2024, available at: <https://www.youtube.com/watch?v=NhOq60drGzc>.

5 Decree No. 191/2024 of the Central Election Commission of Georgia dated September 26, 2024, Annex, available at: <https://cesko.ge/ge/kanonmdebloba/tsekos-samartlebrivi-aqtebi/gankargulebebi/singleview/11034215-gankarguleba-1912024-26092024>.

6 Ibid.

7 Part 7 of Article 23 of the Election Code of Georgia.

8 Wellman, Allen, and Nyblade, The Extraterritorial Voting Rights and Restrictions Dataset (1950–2020).

9 Ibid.

10 Ibid.

11 "Giorgi Kalandarishvili - the organization of election precincts abroad was seen as manipulative, which led to the

formation of many myths and misinformation", information portal "First Channel", September 24, 2024, available

at: https://1tv.ge/news/giorgi-kalandarishvili-sazghvargaret-saarchevno-ubnebis-organizeba-manipulaciurad-warmochinda-ramac-araerti-mitis-tu-dezinformaciis-formirebagamoivvia/?fbclid=IwY2xjawFx7_BleHRuA2FlbQIxMAABHa_dHQoJTDTZ4uFHf_4SrjRFPmFd4nDa54ZD8mirsbw_aem_7fuFno5dIMJjqrZEmWaDaQ, updated: 10.08.2024.

12 Resolution N206 of the Government of Georgia on the approval of the regulations of the Ministry of Foreign Affairs of Georgia, adopted on November 16, 2005, paragraph 6 of Article 8.

13 The President met with the Chairman of the CEC and NGOs regarding the opening of additional election precincts abroad, "Euronews" official website, March 29, 2024, available at:

<https://euronews.com/2024/03/29/presidenti-tsekos-tavmidomeres-damamatsvobeb-shekhvda-sazgvargaret-damatebiti-saarchevno-ubnebis-gakhsnis-tchaze/>

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, updated: 08.10.2024.

14 The decision of the Tbilisi City Court of September 30, 2024.

15 Decree No. 191/2024 of the Central Election Commission of Georgia dated September 26, 2024, Annex, available

at: <https://cesko.ge/ge/kanonmdebloba/tseskos-samartlebrivi-aqtebi/gankargulebebi/singleview/11034215-gankarguleba-1912024-26092024>,
updated: 8.10.2024.