



Statement of NGOs about Appointment of PEC Secretaries for April 27, 2013 By-Elections

By its February 26, 2013 resolution N7/2013, the CEC adopted guidelines for PEC members in April 27, 2013 by-elections. The guidelines explained procedures for appointment of PEC secretaries, saying that secretaries are appointed from members of PECs that represent political parties (except for proxies of the United National Movement); that a candidate for the position of PEC chairperson must be nominated at least by two members of the PEC (except for proxies of the UNM); that a PEC secretary will be elected through an open vote from candidates that have been nominated by members of PEC appointed by political parties (except for the UNM proxies) by majority of votes of PEC members present.

Consequently, the only PEC members that were prohibited from holding positions of PEC secretaries for April 27, 2013, parliamentary by-elections were the UNM proxies. According to the UNM, all PEC secretaries appointed in 99 election precincts of Nadzaladevi were proxies of parties that are members of the election bloc Bidzina Ivanishvili – Georgian Dream. This is equally true for Samtredia and Baghdati election districts, with several exceptions.

Para.15, Article 25 of the organic law of Georgia the Election Code of Georgia stipulates that a PEC secretary must be appointed from party proxies, except for the party with best results in previous parliamentary elections. According to the February 26, 2013 resolution of the CEC, the UNM was the party with best results in previous parliamentary elections. Consequently, out of proxies from 7 different parties represented in election commissions, the UNM proxies were the only ones prohibited

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from holding positions of PEC secretaries.

As noted above, under the Election Code a PEC member appointed by a political party with best results in previous parliamentary elections may not be appointed as PEC secretaries. The CEC found that the UNM was the party with best results in previous parliamentary elections, and not the election bloc Bidzina Ivanishvili – Georgian Dream that consisted of 6 different parties. Consequently, the fact that the election bloc Georgian Dream had best results in the October 1, 2012 parliamentary elections was not taken into account. Turned out that parties that the election bloc consisted of were considered to be the ones without best results in previous parliamentary elections and correspondingly, position of PEC secretaries were distributed among them. We believe that the CEC's interpretation of guidelines for appointment of PEC chairpersons for the 2013 by-elections conflicts with the essence and the spirit of applicable law. As a result, managerial positions within PECs are now held by ruling party proxies. The correct interpretation of the law would not have allowed a single party or a political force to dominate PEC managerial positions. The threat could not be avoided by the legal norm in question, as the intent of the law for PEC secretaries to represent opposition could not be realized.

Hereby, we must also be noted that the foregoing procedure for appointment of PEC chairpersons was reflected in the Election Code as in the form of amendment on December 28, 2009 (The Election Code of Georgia, Article 22121 and 22 - 28.12.2009. N2525, as of August 2, 2001 2001). The amendment was made upon the recommendation of international organizations, as well as based on the agreement made between political parties in 2009 following negotiations. OSCE/ODIHR Final Report of monitoring Georgia's May 21, 2008 parliamentary elections notes that opposition parties were under-represented in the managerial positions at PEC level (GEORGIA, PARLIAMENTARY ELECTIONS, 21 May 2008 OSCE/ODIHR Election Observation Mission, Final Report). Consequently, OSCE/ODIR recommended avoiding domination of managerial positions at PEC level by any particular political party (GEORGIA, PARLIAMENTARY ELECTIONS, 21 May 2008 OSCE/ODIHR Election Observation Mission, Final Report). In 2009, in the process of elaboration of the new Election Code, political parties reached an agreement to have PEC secretaries appointed from opposition party proxies.

Discussions about the problem suggest that the issue involves individual norms and

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provisions of the Election Code on the one hand, and the necessity of systemic revision of the election laws on the other. The problem of staffing election administration clearly suggests the necessity of reforming the election administration in a way that would rule out domination by concrete political party and political force in the election administration and will improve confidence in election processes.

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