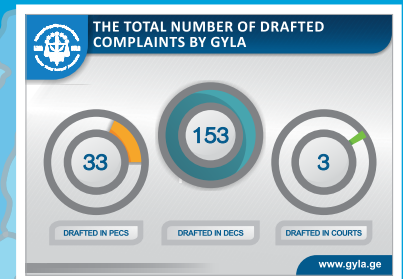
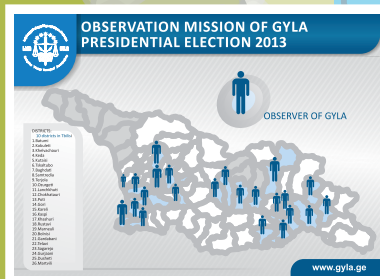


Monitoring Mission for 2013 Presidential Elections

Monitoring Report for Pre-election Environment, Election Day and the Post-election period





Georgian Young Lawyers' Association

MONITORING MISSION FOR 2013 PRESIDENTIAL ELECTIONS

MONITORING REPORT FOR PRE-ELECTION ENVIRONMENT, ELECTION DAY AND THE POST-ELECTION PERIOD

(July 4 - November 12, 2013)

December 20, 2013



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1. INTRODUCTION

Being one of the leading NGO in Georgia the GYLA aims at promoting effective, accountable and transparent governance. To that end, since its establishment (1994) the GYLA has been actively engaged in monitoring for election process of legislative, executive and local self-government bodies.

The goal of the organization is protection of national election legislation and internationally recognized democratic standards by representatives of election administration, election subjects and public officials. During the election period, the GYLA works on identification of violations of election legislation; however, its activities also include filing applications to election administration and court to promote establishment of progressive interpretation of election legislation, application of relevant legal restrictions against violators and prevention of further violations.

Monitoring for presidential elections of October 27, 2013 was conducted within the framework of strategic direction of the GYLA – *promoting effective, accountable and transparent governance*.

This Report covers the period of July 4 to November 12, 2013 and it focuses on the procedures of the review of complaints and summarizing the results of the Pre-Election, Election Day and Post Election period.¹

2. SUMMARY

On July 4 2013, the President of Georgia declared the date of the presidential elections – October 27, 2013. The Governments ensured that ensuring democratic environment of the 2013 presidential elections was its priority.

The pre-election campaign officially started on July 4. Since that the GYLA and its seven regional offices had been conducting monitoring for election processes in Tbilisi and regions.

Unlike the 2012 parliamentary elections, the pre-election campaign of the 2013 presidential elections passed in peaceful environment. The presidential candidates were able to conduct campaign oriented towards previous elections.

¹ GYLA launched its observation of the pre-election processes on July 4, 2013 and it provided an assessment of the pre-election environment before the elections in its interim Report of October 24; <http://gyla.ge/uploads/-20137.pdf>

More than 50 individuals expressed their willingness to participate in the presidential elections. Voters' initiative groups were more active and nominated several candidates. A number of problematic issues were identified related to registration of presidency candidates, namely: the need to specify requirements for the candidates of presidency and preconditions for holding the post; the position of candidates with dual citizenship to become a presidential candidate; the lack of consistent practice of implementation of standards on candidates and holding the post. The Central Election Commission (CEC) rejected to register candidates with dual citizenship.

On March 7 2013, Inter-fraction Group was established to review and upgrade election legislation. The Group was asked to agree upon and submit legislative initiatives on 7 issues to the Parliament by the end of May; however, the Group agreed upon only 3 basic issues – the list of voters, financing of political unions and restriction of administrative resources.

As amendments to the Election Code of Georgia (ECG) dated July 27, 2013 provide, in order to prevent and response to the violations of election legislation of Georgia by public servants, interagency commission was set up under the Ministry of Justice of Georgia (MoJ). The Commission worked to improve election environment and prevent violations during the pre-election period. Despite the amendments to the ECG in 2013, the rule of composition of the election administrations did not change. The election commissions for the 2013 presidential elections are composed of members elected based on professional merits and representatives of only two political parties “Georgian Party” and “United National Movement” (UNM).

On August 12 2013, the Chairman of the CEC Zurab Kharatashvili resigned and registered as a presidential candidate. CSOs, including the GYLA nominated Tamar Jzvania for the position of the Chairman of the CEC. The CEC approved her upon nomination by the President.

The issue of deregistered voters (the voters with revoked registration from the particular address) is solved on the legislative level for the 2013 presidential elections. The rule of re-registration of deregistered voters was established and the procedures were simplified.

Compared to the 2012 parliamentary elections, some aspects of media coverage improved during the pre-election period. Unlike the pre-election period of the 2012 parliamentary elections, only one case of hindering professional activities of journalist with crime characteristics was identified. However, the political influence over TV stations still represents a problematic issue.

During the pre-election period, the monitors of GYLA identified a few cases of illegal change of personnel in elective bodies of local self-government.

The pre-election meetings were conducted peacefully in the majority of cases; however, there were some obstacles against the political union UNM.

During the pre-election period, the GYLA monitors identified 9 incidents of political pressure; 5 incidents of illegal participation in pre-election agitation; 5 incidents of voters' buying, 1 fact of hindering media;² 5 facts of hindering pre-election campaign; several massive³ and individual dismissals from office. The Interagency Commission for Free and Fair Elections (ICFFE) was permanently informed concerning the mentioned facts; the ICFFE issues recommendations thereon.

As opposed to 2012 Parliamentary Elections, the State Audit Office was not particularly active before the 2013 Presidential Elections. These circumstances led to certain questions with regards to effective work of this agency.

During Pre-Election period GYLA submitted 4 applications to the election administration⁴ during the pre-election period. Only one application was satisfied.⁵ The GYLA submitted an application to Batumi City Court concerning the fact of increase of republic budget of the Autonomous Republic of Adjara during the pre-election period.⁶ After the CEC rejected the application of persons on registration for presidential candidate based on dual citizenship the GYLA represented the interests of Salome Zurabishvili and Zurab Tsitsuashvili before Tbilisi City Court and Court of Appeals. During the pre-election period, the GYLA submitted 9 applications⁷ to ICFFE. The latter adopted important

² ISFED report mentions one more case of creating obstacles: "Irma Kitriashvili, a journalist of Shida Kartli Information Centre and long-term monitor of "Fair Elections" was under permanent pressure from the side of members of Sakrebulo". Second Interim Monitoring Report for Pre-Election Period, July 20 – August 4, 2013.

³ Abolition of 13 positions in Tbilisi Sakrebulo and reorganization in the Kutaisi Mayer's Office – 89 persons dismissed.

⁴ Two applications were related to alleged voters' buying cases and 2 – illegal participation in agitation.

⁵ Ozurgeti District Election Commission (DEC) drew up a violations' protocol and submitted the case to the court review.

⁶ GYLA submitted the case with the International Society for Fair Elections and Democracy (ISFED). For the moment of publication of this report GYLA submitted the decision of the Kutaisi Court of Appeals to the Supreme Court of Georgia.

⁷ See further Monthly Report of the IFG (19.08.2013-30.09.2013) (see attached document)

recommendations based on the submitted applications. On one case an investigation has been launched.⁸ The GYLA submitted 4 applications on alleged the buying of voters to the State Audit Office of Georgia (SAO). By the time of publishing this report, no feedback was received concerning the applications.

On the Polling Day, GYLA observers submitted **33** complaints to the Precinct Election and Upper Election Commissions and made **50** notes to the log-book. Most of the complaints referred to violations of technical nature, which may not have affected the election results at the precinct.

After the Polling Day, total of **153** complaints have been submitted to the DEC's and 3 claims to the court. Out of **153** claims submitted to the DEC's, **72** claims have been fully and **38** claims partially upheld. Out of 3 claims submitted to the courts, **1** administrative claim has been fully and 1 partially upheld, while **1** claim was not upheld.

3. THE SCALE AND METHODOLOGY OF THE MONITORING MISSION

The monitoring of the pre-election period of the 2013 presidential elections was conducted by a central and 7 regional offices of the GYLA in seven regions – Adjara, Guria, Imereti, Shida Kartli, Kvemo Kartli, Kakheti, Mtskheta-Mtianeti and Tbilisi. In total 17 monitors were employed.

The GYLA monitors used different tools for data collection, including request of public information from the government agencies and monitoring of information disseminated by the mass media.⁹ Citizens and members of political parties often presented the information on violations to the GYLA. The GYLA monitors checked information directly with the applicant and provided legal assistance, if needed.

During the pre-election period, the GYLA conducted monitoring of formation of precinct election commissions in 73 election districts.¹⁰

⁸ Illegal dismissals of village Rtsmunebulis in Aspindza Municipality.

⁹ Central and regional press, national and regional broadcasting, internet publications.

¹⁰ The research issue of the GYLA monitoring was: monitoring of database of sanctioned persons that was created by the CEC; participation of persons who were sanctioned during the 2012 parliamentary elections in the work of PECs throughout the 2013 elections; Review of background of commission members appointed based on his/her professional qualification. For the purposes of study GYLA also monitored whether those members of election administration who were elected on professional

On the polling day, through the observers sent to the precincts and distributed among the mobile groups, GYLE was observing 36 election districts and precincts opened abroad.¹¹ On the polling day, GYLA carried out observation through more than **400 observers**. Among them, GYLA was represented by **275** precinct, **72** district, **3** CEC and **61** mobile group observers.

In Tbilisi GYLA was represented by **107** observers. 87 observers were distributed among the Districts of Tbilisi, which were assisted by the mobile teams comprised of observers. **188** observers of GYLA observed at the polling stations in **various regions of Georgia**. GYLA was represented by **2** observers in the election precincts abroad.

GYLA conducted its main observation at the polling stations set up as an exception, in precincts operating in districts populated by minorities, and problematic precincts as identified during previous elections.

On the Polling Day **4 briefings were held by GYLA at the Media Center** established by local observation organizations. Representatives of the Press and other mass media have been informed about violations reported by the observers of the Association by the set time and violations reported through the hotline. Moreover, hotline was operating in GYLA throughout the whole day, which enabled citizens to report on election violations. In case of necessity, mobile teams responded to the reported information by visiting the sites.

During the Post-elections period observers of GYLA were constantly present at **36** DEC and CEC.

4. POLITICAL CONTEXT

The 2012 parliamentary elections was a milestone for democratic development of the country. After the elections a new political union composed of 6 independent political parties is ruling. 2013 elections were the first overall elections to be held while a new political union is ruling. Conducting better quality fair and transparent elections was the part of the action plan of the new government.

merits for 2013 Presidential Elections served as party-nominated members of administrations during 2012 Parliamentary and by elections.

¹¹ GYLE carried out observation of October 27, 2013 Presidential Elections in the following election districts: Mtatsminda, Vake, Saburtalo, Krtsanisi, Isani, Samgori, Chughureti, Didube, Nadzaladevi, Gldani, Kutaisi, Tskaltubo, Baghdati, Samtredia, Terjola, Batumi, Khelvachauri, Kobuleti, Keda, Poti, Martvili, Ozurgeti, Lanchkhuti, Chokhatauri, Gori, Khashuri, Kareli, Kaspi, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Gurjaani, Sagarejo, Dusheti; as well as, Great Britain (London) and Germany (Berlin).

The 2010 amendments to the Constitution of Georgia, to be effective after taking the oath by a new president, introduce new regulations that completely change role and functions of a president. While the role of president is weakened, the importance of parliament is increased. Prime-Minister shall hold greater power and he/she will play a leading role in the Georgian politics. He/she shall form government without participation of president and be accountable to parliament.

5. LEGAL FRAMEWORK

On March 7 2013, Inter-fraction Group (IFG) was established to review and upgrade election legislation. The Group was asked to agree upon and submit legislative initiatives on 7 issues to the Parliament by the end of May; however, the Group agreed upon only 3 basic issues – the list of voters, financing of political unions and restriction of administrative resources. Review of election system and staffing of election administration was postponed.

It should be evaluated positively that the sessions of the IFG were open, and interested sides has possibility to participate and submit their proposals/views on specific issues; however discussion of and agreeing on identified items was protracted. The IFG meetings began two months later or by the time, it was supposed to deliver agreed opinion on all seven items; accordingly, due to the lack of time the IFG was unable to review all of the items.

The GYLA actively participated in the work of the IFG and submitted recommendations and drafts of articles on four important items. It was positive that part of recommendations submitted by NGOs was taken into consideration. Unfortunately, some recommendations were ignored or were not discussed despite the fact that those recommendations had been submitted in time.

The GYLA recommendations addressed the following issues: the list of voters, pre-election campaign, use of administrative and budgetary resources; amendments to the Law of Georgia on “Political Unions of Citizens”, and media regulations. The GYLA also actively participated in public hearings of the draft laws and presented its opinions in line with prescribed procedures.

Unlike the IFG meetings, the GYLA representatives were not given possibility to present opposing opinions during the parliamentary hearings. The GYLA representatives were heavily criticized if they touched upon the issues that were not directly mentioned in the draft laws.

However, it was a positive development that the draft law developed and submitted by the IFG was mainly based on the recommendations presented by the GYLA and partner organizations, f.e. identification of a responsible body for formation of the list of voters, introduction of provision of incompatibility of the status of the candidate for presidency with his/her official capacity; prohibition of agitation during the events financed by the budgetary resources; re-introduction of right of legal persons to finance political parties; reduction of fines for violation of rules on financing political parties; introduction of requirement that SAO may request information on financial condition of a physical person only through court; adjustment the time-frames for administrative violations proceedings, proceedings on attachment and appeal procedure.

Another positive development was introduction of the rule of re-registration of deregistered voters and simplification of the procedures.

Even though the stated intention to adopt high-quality election legislation, by the end of July the Parliament declared, it was not planned to introduce major amendments to the election legislation.¹² Accordingly, there are a number of issues to be addressed to ensure election environment, namely: election system; manning of election administrations, clear delineation between party and state resources, regulations on voters' buying; as well as, issues of institutional independence of SAO, dispute related to elections, ad-hoc districts (special districts).

Special attention should be focused on amendments to article 49.3 of the ECG dated July 27 2013 restricting use of budgetary resources for election purposes. This provision was especially critical during the pre-election period. Having adopted the amendments the Parliament tried to create legal basis for increase of budgets of local self-governments and Autonomous Republic of Adjara; such an increase was prohibited by the legislation before.

6. THE INTERAGENCY COMMISSION FOR FREE AND FAIR ELECTIONS (ICFFE)

As amendments to the ECG dated July 27, 2013 provide, in order to prevent and response to the violations of election legislation by public servants, interagency commission – the ICFFE was set up under the Ministry of Justice of Georgia (MoJ).¹³

¹² Statement of the Chairman of the Parliament dated 09.07.2013. available at: <http://www.netgazeti.ge/GE/105/News/21420/>

¹³ Before amendments, the commission was operating under the Security Council of Georgia.

The ICFFE is entitled to review information on violation of election legislation disseminated by mass media, communicated by political parties (election subjects) or monitoring organization. In case the violation is confirmed, the commission is authorized to submit a recommendation to any public servant, administrative body, and the CEC requesting to carry out appropriate measures within a reasonable time

New composition of the ICFFE and its Charter was approved by the order of the Minister of Justice dated August 8 2013. The ICFFE is chaired by the Minister of Justice and its members – deputy ministers represent 9 ministries.

The ICFFE met weekly; representatives of local and international organizations, observers/monitors, representatives of different political parties/election subjects and other interested subjects participated in the meetings. 24 hours hot line was employed to ensure efficient flow of information.

It was a positive development that the ICFFE signed Memorandum on Use of Administrative Resources developed by the NGOs, including the GYLA.

Sometimes the situation was tense on the ICFFE meetings. The speeches delivered by a representative of the UNM usually triggered violent discussions that were seriously criticized by the Chairman of the ICFFE and audience attending the meetings¹⁴. Several weeks earlier before the elections, “United National Movement” quit its participation at the sessions; however, it continued to notify the commission in writing on reported violations.

The ICFFE urged all public offices and public servants to observe highest standards of fairness and transparency. Taking into account the tendencies identified during the pre-election period the ICFFE repeatedly submitted recommendations to central and local authorities, political unions, ministries and other public offices. Even though the recommendations were relevant and timely, it appeared impossible to prevent all violations.

It should be evaluated positively that, as a result of the ICFFE efforts, internal documents of ministries and local self governments were elaborated that interpreted the rights and obligations of public servants during pre-election period. The ICFFE interpreted the notions of “agitation” and “participation in agitation” and established the rules for behavior of employees of the Ministry of Internal Affairs (MIA) acting in their official capacity during the pre-election period. The ICFFE requested the candidates for election subject to submit information on planned meetings

¹⁴ By representatives of different political unions.

to ensure their security with MIA support. During the reporting period, the ICFE adopted 16 recommendations.¹⁵

During the reporting period, the GYLA submitted 9 applications to the ICFE on violation of election legislation by public officials and requested to respond to facts such as: Alleged use of administrative resources by public servants; illegal actions against local self-government officials; Interference in the HR policy of local self-governments; Alleged restrictions of local media activities; Alleged vote-buying, etc.

Having reviewed the GYLA applications the ICFE adopted different recommendations; the case of illegal dismissal in Aspindza municipality was submitted to the Prosecutors' Office that initiated investigation. However, the fact of pressure over acting Gamgebeli of Kareli was not responded as the ICFE considered that the submitted information was groundless.¹⁶

The GYLA submitted a crucial application concerning deregistered voters. The GYLA considered that publication of the voters' list with personal data represented violation of law and requested publication of the list without personal data in line with the ECG. It is noteworthy that the ICFE did not consider the publication of the list with personal data to be a violation of law. The ICFE considered that such "interference" of the government body was a statutory obligation and had a legitimate purpose.¹⁷

The overall activity of the ICFE should be evaluated positively. It was devoted to improve pre-election environment and prevent violations. Development and approval of rules on participation of public servants in pre-election campaign was of a great significance. Hereby it is important to focus the attention on the existing tendency. Though the legislation does not provide any limitations, we consider that the ICFE members should refrain from participation in pre-election campaign in favour/against of any election subject, in order to increase trust in them; it is also recommended the ICFE meetings are conducted in more constructive manner to enable presenting opposing opinions on violations that may cause conflicting opinions among the ICFE members.

¹⁵ The GYLA and other monitoring organizations revealed and submitted relevant information to the ICFE concerning illegal dismissal of management level officials in local self-governments.

¹⁶ Detailed information on implemented response is available in the ICFE monthly report (19.08.2013-30.09.2013) <http://www.justice.gov.ge/Multimedia%2FFiles%2Fangarishi%2FIATF%20report%2019%20Aug-30%20Sept.%20GEO.pdf>

¹⁷ <http://www.justice.gov.ge/Multimedia%2FFiles%2Fangarishi%2FIATF%20report%2019%20Aug-30%20Sept.%20GEO.pdf>

7. ELECTION ADMINISTRATION

As a result of amendments made to the Election Code in 2013, the rule for composition of the election administration did not change. Accordingly, pursuant to the legislation in force, by 2013 Presidential Elections, election commissions, except for the commission members elected on professional grounds, were composed only by the members appointed by two political powers – Coalition “Georgian Dream” and “United National Movement (UNM)”. The rule of composition of the election administration and its distribution of power several times became the subject of critical discussions.¹⁸ During the pre-election period, only the rule of the election of the PEC Secretary has been changed. This rule provided for the election of a member appointed only by opposition political unions as a PEC Secretary.¹⁹ Currently, the PEC Secretary can be elected based on the general rule, meaning that each member of the Commission may become a Secretary.

During the pre-election period, the GYLA conducted monitoring of formation of precinct election commissions in 73 election districts. The research issue of the GYLA monitoring was: monitoring of database of sanctioned persons that was created by the CEC; participation of persons who were sanctioned during the 2012 parliamentary elections in the work of PECs throughout the 2013 elections; Review of background of commission members appointed based on his/her professional qualification.²⁰

The monitoring of composition of PECs revealed the following tendencies:

- **the data base of the CEC on sanctioned persons is not comprehensive;**²¹
- **In some cases persons found guilty for violations of election legislation were re-elected/re-appointed;**²²

¹⁸ <http://www.tabula.ge/ge/story/74801-xuti-politikuri-partia-sadamkvirveblo-organizaciebs-mimartavs>

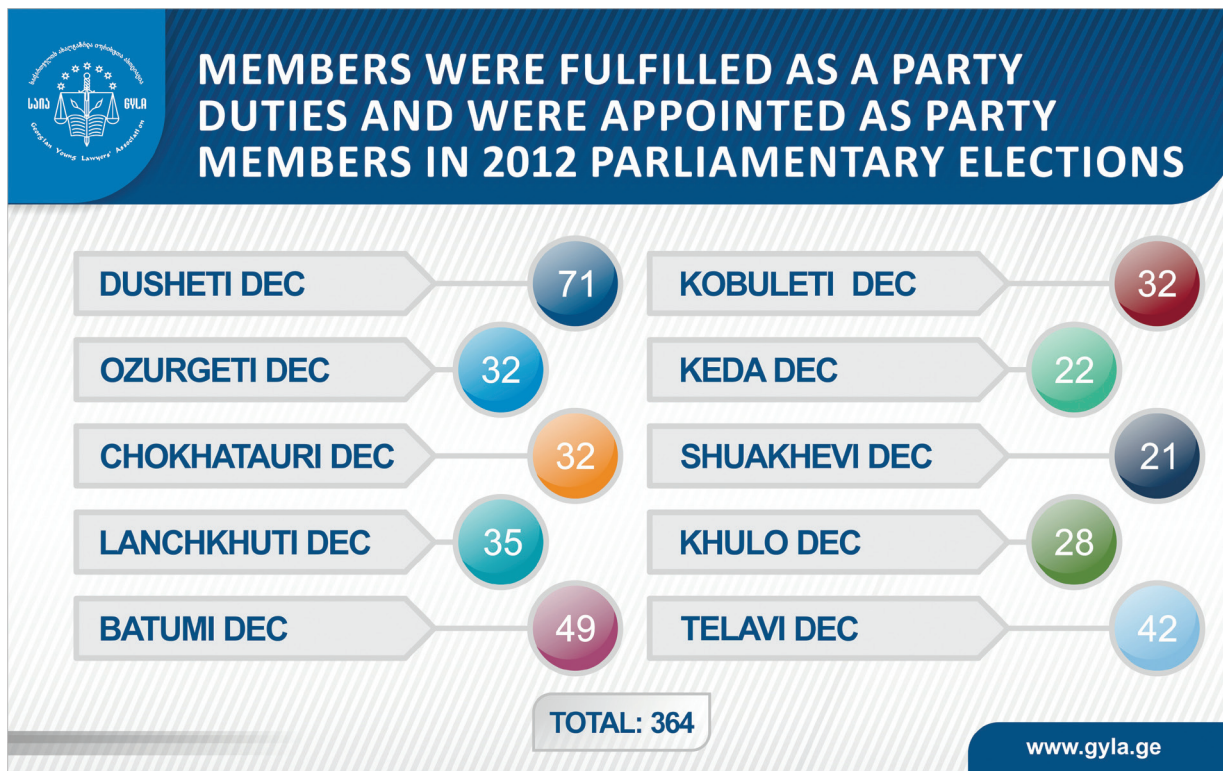
¹⁹ Paragraph 15 of Article 25.

²⁰ 7 districts were chosen to carry out this monitoring – Kutaisi, Batumi, Dusheti, Telavi, Gori, Rustavi and Ozurgeti.

²¹ The information collected by the CEC does not correspond to the relevant data available at DEC's and accordingly, does not include objective information on persons who have violated election law. Having reviewed the data available at DEC's the GYLA monitors identified **39** sanctioned members of the commission who were not included in the list of the CEC. *Inter alia*, administrative sanction - fine – 30, disciplinary responsibility – termination of authority 1, reprimand – 8.

²² **51** Disciplinary sanctioned persons were appointed in election administrations for the 2013 presidential elections 9 in Kobuleti,

- Positions allocated for professionals in the PECs are sometimes occupied by persons who have recently represented different political parties in election administrations.



2 in Shuakhevi, 2 in Batumi, 12 in Khulo, 2 in Saburtalo, 1 in Nadzaladevi, 1 in Gldani, 2 in Lagodekhi, 2 in Marneuli, 2 – Dmanisi, 2 Dusheti, 1 in Kaspi, 1 in Gori, 3 in Lentekhi, 3 in Mestia, 4 in Kutaisi, 1 in Abasha, 1 in Senaki, 1 in Tsalenjikha DEC.

Although the election legislation does not prohibit re-election/re-appointment in the election administrations of those who had been fined for disciplinary offences, neither election to the election commissions by professional affiliation of those, who were entrusted by the political unions during other elections, this may still have some impact on their impartial and objective work, which may negatively affect the activities of the election administration and generally on the level of trust towards it. Before the staff of the precincts were composed, GYLA sent a letter to 73 DEC's requesting them to refrain from electing/appointing to the PECs of those individuals, who have been fined or where deprived of their authority as a commission member due to their violation of the election legislation;²³ Moreover, GYLA sent recommendations to the district commissions not to re-elect to the election administration those individuals, upon whom a disciplinary fine was imposed during the 2012 Parliamentary Elections. GYLA maintains that in composing the staff of the PECs, priority shall be given to personnel with credible reputation and high professional qualities.

It is important that the DEC's largely took into consideration the recommendations of GYLA. However, there have been incidents when individuals, previously fined for disciplinary offences, were still elected in precinct election commissions during 2013 Presidential Elections.²⁴

On August 2013, Zurab Kharatishvili, the CEC Chairperson resigned, which became a hindering fact for administering the election process.²⁵ Considering that after the resignation, Zurab Kharatishvili engaged in political activities and registered as a presidential candidate for 2013 Presidential Elections, early expiration of his term, on the one hand, was problematic in terms of administration of elections, and, on the other hand, raised certain questions pertaining to his decision in terms of conflict of interest.²⁶ On August 23, 2013, non-governmental organizations working on election issues, including GYLA, nominated the candidacy of Tamar Jvania on the position of the CEC Chairperson. Positively shall be assessed the fact that the President of Georgia took into view civil society opinion and presented for election to the CEC the candidate nominated by us. On September 10, 2013 the President of Geor-

²³ In accordance with subparagraphs "a" and "b" of Article 24 of the Election Code of Georgia, a) a person dismissed from his/her position at the election administration of Georgia by the election commission or a court for the breach of the election legislation of Georgia; b) an individual, whose violation of the election legislation has been confirmed by the court.

²⁴ See, footnote N6.

²⁵ National-Democratic Institute (NDI) Pre-election Delegation Report, Tbilisi, Georgia, September 6, 2013, p.6.

²⁶ National-Democratic Institute (NDI) Pre-election Delegation Report, Tbilisi, Georgia, September 6, 2013, p.6.

gia presented to the CEC the following candidates for the position of the CEC Chairperson: Tamar Jvania, Manuchar Gamkrelidze, and Konstrantin Amirejibi.²⁷ We also welcome the fact that similar to the President of Georgia, members appointed by the ruling coalition in the CEC supported the candidacy of Tamar Jvania. Tamar Jvania was elected a CEC Chairperson on September 11, 2013.

The CEC conducted an important information campaign aimed at raising awareness of voters. Under the CEC aegis, the Center for Electoral Systems Development, Reforms and Trainings (CESDRT) created an educational film on voting procedures. The CEC constantly conducted meetings with all stakeholders, NGO sector, media and political party representatives, international missions and the representatives of diplomatic corps. The CEC also actively worked with ethnic minority representatives.

On September 5, 2013 the CEC concluded a Memorandum on the usage of Administrative Resources with seven local non-governmental organizations and ICFE on the restriction of usage of administrative resources. The Memorandum aimed at interpretation of existing article on administrative resources in the Election Code.

During the pre-election period, GYLA Center for the Legal Protection of Media (CLPM) held a meeting with the CEC members, representatives of international organizations and non-governmental organizations and discussed the regulations concerning the restriction of photo-video shooting at the polling place on the polling day. GYLA requested the annulment of the relevant CEC Ordinance. As a result of the advocacy campaign conducted by GYLA and its partner organizations, including media organizations, on October 16, 2013 the decision was changed and significant restrictions imposed on media were lifted.

Despite effective measures taken by the CEC, certain problems occurred with respect to the issue of registration by the CEC of persons holding dual citizenship. On the one hand, the CEC failed to register persons holding dual citizenship and election subjects nominating them, and on the other hand, the CEC failed to act in a consistent manner regarding the issue of registration of all presidential candidates holding dual citizenship. GYLA believes that the CEC and court decisions on registration of persons as candidates with the dual citizenship constitute a wrong interpretation of the Constitution. This must consider as significant pre - election error.

During the reporting period, GYLA submitted 4 applications to the election administration. The applications referred to the alleged vote buying and illegal participation in the pre-election agitation. 3 applications were submit-

²⁷ http://www.rustavi2.com/news/news_textg.php?id_news=49709&pg=1&im=main

ted to the CEC and 1 application was submitted to Ozurgeti N60 election district. Out of 4 applications, only 1 application was complied with.

8. LISTS OF VOTERS

On July 6, 2013, the Central Election Commission (CEC) published a total number of voters for the Presidential Elections of October 27, 2013.²⁸ As the CEC informs, the number of voters amounts to 3,537,719 (three million, five hundred thirty-seven thousand, seven hundred nineteen) voters. Including 48, 458 (forty-eight thousand four hundred and fifty-eight) voters were registered abroad.

The number of voters in total is 76,132 (seventy-six thousand, one hundred thirty- two) voters less than the total number of voters for the Parliamentary Elections of October 1, 2012.²⁹

On July, 2013 changes and amendments were made to the election legislation pertaining to the lists of voters. According to these changes and amendments, the issue of right to suffrage of a voter being withdrawn from registration has been regulated by law. Re-registration procedures of voters withdrawn from registration have been determined and the above process was simplified. Voters withdrawn from registration³⁰, who registered at the Public Service Development Agency (PSDA) of the Ministry of Justice of Georgia (MoJ) including October 10, 2013, were entitled to participate in the Presidential Elections of October 27, 2013. Such voters were released from fees charged for the issuance of an electronic Identification (ID) Card. The CEC remained to be the body responsible for the composition of the general list of voters for 2013 Presidential Elections.

Over the years, GYLA opposed to the temporary regulation of this matter through the adoption of an ordinance prior to the elections and deemed that more systematic and comprehensive method was to be applied for resolving the above problem.³¹ First of all, the organization supported a large-scale information campaign pursued by the State in

²⁸ http://cesko.ge/files/TEA/edited_raolenobebi_maisis_mdgomareobit.pdf

²⁹ Total number of voters for 2012 Parliamentary Elections amounted to 3,613,851 voters.

³⁰ Based on the CEC information, the number of such voters exceeds 97,000, approximately half of which participated in the 2012 Parliamentary Elections.

³¹ It is to be underscored that for 2012 Parliamentary Elections the State regulated the issue of voters withdrawn from registration in various periods of time in the Election Code. Pursuant to the amendments made to the Code, a voter withdrawn

order for the voter withdrawn from registration could have more information on the verification of their data in the lists and re-registration in accordance with the actual place of residence. Accordingly, GYLA positively assesses the determination of procedures for re-registration of voters withdrawn from registration by the legislative body and welcomes the measures taken to simplify this process.

It should be highlighted that the MoJ launched a number of activities aimed at raising awareness of citizens.³² In addition, the CEC made a decision, according to which a public version of the lists of voters withdrawn from registration as provided by the MoJ, were posted in the respective Precinct Election Commissions (PECs) in accordance with their last place of registration. Based on the awareness campaign, total of 9,100 individuals were registered.³³ However, the method of publicizing the information about voters withdrawn from registration, incurred some controversies.³⁴ The Interagency Commission actually had a limited time to re-register those voters.³⁵

9. REGISTRATION OF ELECTION SUBJECTS

For participation in the Presidential Elections, total of 54 presidential candidates referred to the CEC. 23 of them registered as presidential candidates, and 31 persons were rejected to register.

During the reporting period, a number of problematic matters have been revealed with respect to the registration of election subjects:

from registration could cast a vote in accordance with his/her last place of registration for the 2012 Parliamentary Elections. Furthermore, as in 2010, for 2013 Presidential Elections the CEC tried to regulate the said matter through adopting an ordinance, nevertheless, the ordinance did not pass due to the lack of votes.

³² LEPL Public Service Development Agency of the Ministry of Justice of Georgia placed a respective commercial in the media; published the list of persons withdrawn from registration at the LEPL official web-side; set up a call center, which contacts and delivers information to more than 18 000 people withdrawn from registration, whose telephone numbers do not exist in the system.

³³ <http://www.justice.gov.ge/Multimedia%2FFiles%2Fangarishi%2FANNEX%20%20-%20Deregistered%20persons%20GEO%20and%20ENG.pdf>

³⁴ Report of the Activities of an Interagency Task Force for Free and Fair Elections, 19.08.2013-30.09.2013
<http://www.justice.gov.ge/Multimedia%2FFiles%2Fangarishi%2FIATF%20report%2019%20Aug-30%20Sept.%20GEO.pdf>

³⁵ International Election Observation Mission, Georgia, Presidential Elections, October 27, 2013.

a) Necessity to verify existing requirements for the presidential candidate and holding of a position

It is essential to note that at the time of registration, requirements established by the legislation are not precise as regards the presidential candidate. Legislation in force, in particular, the Constitution of Georgia and the Organic Law of Georgia “Election Code of Georgia”, at the time of registration of party/initiative group, does not envisage the submission by the person nominated as the presidential candidate of documentation verifying legal facts, such as the personal identification document or the document identifying candidate’s citizenship or the certificate on dual citizenship. The only document the person is to present is the copy of his/her birth certificate.

b) Participation of persons holding dual citizenship as candidates in the Presidential Elections

In the course of the pre-election period, the most challenging issue was the participation of Georgian citizens holding dual citizenship as candidates in the Presidential Elections. Dual citizenship became the ground for rejecting the election registration to the presidential candidates, initiative groups and representatives nominating them.

c) Problem of consistency in applying existing standards for candidates and holding of a position

During the registration of election subjects, the CEC failed to ensure consistent application of election legislation with respect to all candidates holding dual citizenship and hereby demonstrate uniform approach in this regards. Due to this problem, certain deficiencies occurred while registering persons nominated as presidential candidates.³⁶

It is to be underscored that on September 13, 2013, based on GYLA’s application, ICFE applied to the CEC with the recommendation and asked to study any issue related to each presidential candidate and at maximum extant demonstrate professional consideration in the decision-making process.³⁷

Under the Ordinance of the CEC Chairperson, dated September 3, 2013, Salome Zurabishvili was rejected to be registered as the presidential candidate for the elections. On September 3, 2013, on the same day, the initiative group of voters were registered for the elections, which nominated a person holding dual citizenship Zurab Tsitsuashvili as a presidential candidate. On September 11, the CEC Chairperson, on the grounds of dual citizenship, rejected Zurab

³⁶ <http://gyla.ge/uploads/-20137.pdf>

³⁷ <http://www.justice.gov.ge/Page/index?code=b59e4e5a-6fd9-41f5-9756-9ff14e84cc9a>

Tsitsuashvili to register for the elections. On the next day, September 12, election registration was annulled for the initiative group and a representative nominating Zurab Tsitsuashvili.³⁸

On both cases the CEC ordinances were based on sub-paragraphs “a.b” of Article 3 of the Election Code, which determines who is entitled to passive electoral suffrage. According to this Article, persons shall not enjoy passive electoral suffrage if this right is restricted under the Constitution of Georgia and Law. The CEC Chairperson held that paragraph 1¹ of Article 29 of the Constitution of Georgia, which prohibits the person having dual citizenship to hold a position of the President of Georgia, Head of the Parliament and the Prime-Minister, is the very constitutional norm that restricts the passive electoral suffrage to persons (in this particular case those holding dual citizenship).

GYLA deemed both Ordinances of the CEC Chairperson unsubstantiated for the following grounds:

Paragraph 1¹ of Article 29 of the Constitution of Georgia does not whatsoever regulate the issue of realization of the right of passive electoral suffrage of the citizen, including the person having dual citizenship. Paragraph 1¹ of Article 29 prohibits the person with dual citizenship to hold three highest state positions. This restriction is not broad enough to deprive the person holding dual citizenship of the right to come as a candidate for the position of the President, Prime-Minister and the Head of the Parliament. In case the legislator had such an intention, it would have implied explicitly in paragraph 1¹ of Article 29 that the persons with dual citizenship are not only prohibited to hold the position of the President, Prime-Minister and the Head of the Parliament, but also to run for such positions. Paragraph 1¹ of Article 29 of the Constitution of Georgia does not regulate legal relations concerning the registration of the citizen as the presidential candidate. This constitutional provision, considering its literal contents, does not apply electoral process. Restriction as envisaged by paragraph 1¹ of Article 29 shall start operation from the moment, when the person holding dual citizenship wins the Presidential Elections. In such a case, the person elected on the position of the President at the time of taking an oath, shall give up the citizenship of another country. Constitutional provision that restricts the right of passive electoral suffrage in the Presidential Elections may be found not in paragraph 1¹ of Article 29 of the Constitution, but in paragraph 2 of Article 70 of the Constitution. The latter gives a detailed definition of those requirements that the presidential candidate shall meet. Paragraph 2 of Article 70 of the Constitution neither envisages the issue of not holding dual citizenship, nor the condition for the registration of a presidential candidate.

³⁸ The CEC became interested with the citizenship of Zurab Tsitsuashvili only after one week, on September 10 and requested him to present a copy of the document certifying the citizenship of the other country.

GYLA acted as a legal representative of Salome Zurabishvili and Zurab Tsitsuashvili at Tbilisi City Court and Appellate Court. Salome Zurabishvili and Zurab Tsitsuashvili were rejected to be registered as a presidential candidates. Declining registration requests of persons holding dual citizenship is restrictive and contradicts international practices.³⁹

10. PRE - ELECTION CAMPAIGN FINANCING

Regulatory rules for party financing were changed several months ahead of elections. The amended legislation was based on comments of OSCE/ODIHR, also recommendations of local NGOs, including GYLA. Notwithstanding, the pre-election period was characterized by a low degree of oversight of the party financing, which was due to less active involvement of the State Audit Office of Georgia. These circumstances created certain questions with regard to the efficiency of work of this Agency.

As opposed to 2012 Parliamentary elections, when party financing was one of the most problematic issues and the State Audit Office was imposing various sanctions and restrictions largely on opposition parties and its supporters, often without substantiated argument, this time a completely different approach has been applied. During the pre-election period, there have been several cases of imposing fines, in small amounts, on parties.

Such a “passive” approach of the State Audit Office has obviously generated some doubts about its alleged efforts to improve the bad reputation it acquired last year by abandoning its overly active approach.⁴⁰ These suspicions were further reinforced by the decision of the State Audit Office to respond to reported campaign financial violations only after the Election Day in order to prevent influencing the electoral processes, which on its part, demonstrates a weak control on the part of the Audit Office.

During the pre-election period, GYLA submitted to the State Audit Agency 4 applications on facts of alleged bribing of voter in their work place. By the time of publishing this report, organization had not been informed on the reactions to the received applications.

³⁹ International Election Observation Mission, Georgia, Presidential Elections, October 27, 2013. p.

⁴⁰ <http://gyla.ge/geo/news?info=1785>

11. MONITORING OF PRE-ELECTION CAMPAIGN

11.1. Use of administrative resources for election purposes

Use of administrative resources during the pre-election campaign was revealed; however the number of such facts is small compared to that during the 2012 parliamentary elections. The major violations were participation of public servants in pre-election agitation and increase of local budgets immediately before the elections. The GYLA submitted relevant applications concerning the aforementioned violations to the ICFFE, as well as SAO requesting examination and adequate reaction.

It was a positive development the candidate for presidency nominated by the ruling party George Margvelashvili resigned from the position of the Minister of Education and Science long before the statutory requirements.

In Pre-election period, the President initiative on large-scale pardon to convicted individuals, in a view of GYLA should be considered as use of administrative resources. It is obvious that the act of pardon is human and it is authority of the President guaranteed by the Constitution. However taking into consideration that the President was an initiator and an active supporter of strict implementation of criminal law, two months before the elections, and his act of pardon for 2000 individuals that affected broad range of society was aimed at raising level of satisfaction among electorate and accordingly represented pre-election campaign. In view of that, the act of pardon by the President should be considered as use of administrative resources. Copenhagen document explicitly obliges the state to ensure separation of state and political party activities and to refrain from application of administrative resources for political party purposes. The GYLA made a public statement on wide-scale pardoning.⁴¹

During the pre-election period in several towns of the country “Wine Festival 2013” was organized in several towns: Gori, Kutaisi and Ambrolauri. The festival aimed at popularization of wines with special tastes. Similar initiatives that were aimed at raising the satisfaction of electorate during the pre-election period may be considered to be the part of pre-election campaign.

On July 27 2013 article 49.3 that prohibited implementation of such projects not being previously envisaged in the state/local budget, as well as increase of those budgetary programs stipulated by the budget prior to the elections, was amended. The amendments narrowed the scope of application of the article, as well as the timeframe was iden-

⁴¹ <http://gyla.ge/geo/news?info=1691>

tified – the provision became applicable during 60 days before elections. The limitations are no longer applicable to increase of those budgetary programs stipulated by the budget prior to the elections, initiation of unplanned transfers or boosting of planned transfers in the local budget. It is noteworthy that amendment to article 49.3 was not discussed and agreed by the IFG, even though its primary goal was to upgrade the election legislation. This initiative was presented during the second committee hearing on amendments of election legislation in the Legal Committee. **It is critical to mention that local budgets of Adjara Autonomous Republic, Mestia, Tkibuli, Samtredia, Gori, Kareli, Kaspi, Akhalkalaki, Adigeni and Dusheti had been increased before the amendments were actually adopted or in other words while such an increase was violation of law. Accordingly increase of budgets before July 27 (the date when amendments were adopted) should be considered as violations of election legislation.**

For example, On 24 July 2013 the Law on Republic Budget of Autonomous Republic of Adjara was amended increasing budgetary income by 14,722,700 (fourteen million seven hundred twenty-two thousand seven hundred) GEL. 13,554,400 (thirteen million five hundred fifty-four thousand four hundred) GEL were allocated for infrastructure and social projects. As increase of the budgetary income constituted violation the GYLA and ISFED applied to the Batumi City Court requesting suspension of use of newly allocated money.⁴² Even though the election legislation provides immediate review of such cases, the Court decided to proceed with normal review time frames.⁴³ The defendant – the Government and Supreme Council of Autonomous Republic of Adjara rejected the claim stating that the ECG applicable before August 8, 2013 provided limitations for local and state budget and no restrictions were applicable to the budget of autonomous republic. Neither Batumi City Court, nor Kutaisi City Court upheld the claim of GYLA and Fair Elections. The Court ruled that funds had been allocated before the official announcement of the Election Day, and they were formally incorporated in the budget only afterwards. GYLA appealed the above judgment before the Supreme Court of Georgia.

⁴² <http://gyla.ge/geo/news?info=1666>

⁴³ <http://gyla.ge/geo/news?info=1679>

11.2. Alleged buying of voters

During the pre-election period the GYLA ascertained 5 facts with signs of voters' buying. These facts violated both ECG and article 25² of the Organic Law of Georgia on Political Unions of Citizens. The latter prohibits the party to transfer/disseminate directly or indirectly property or services to nationals of Georgia via candidate, a representative or other person, unless otherwise provided by this Law. In addition there were alleged violations of Criminal Code of Georgia – signs of voters' buying crime.

The GYLA submitted these facts to the ICFFE under the MoJ, the SAO and CEC and requested adequate investigation within the competency.

The SAO did not react on applications. On 23 September 2013 the ICFFE reviewed the application and urged all political parties to observe election legislation and its recommendations.

Election Administration only in one case draft an administrative offence protocol and submitted the case to the court.⁴⁴

During pre-election period following facts were identified by GYLA monitors:

- On September 1 2013, ***Car race in Telavi organized by Young activists of "Georgian Dream for Democratic Georgia"*** - The winners were awarded in total 150 L petrol and the first prize winner received Beeline android mobile with "golden" number.⁴⁵
- ***A present of the Prime-Minister of Georgia Bidzina Ivanishvili to just married couple***⁴⁶-The GYLA considered that there might be signs of voters' buying and there was a need to study and review the case.
- ***Promise of Nestan Kirtadze to Georgian businessmen*** - On August 2 2013 the candidate nominated for presidency Nestan Kirtadze Nestan Kirtadze⁴⁷ acting in her capacity of candidate for presidency and the President of International European Institute gave specific promises to attending businessmen in Gori. She

⁴⁴ Charity event in Ozurgeti.

⁴⁵ Intennet portal INFO9 and `Kakheti`s Khma`` disseminated this information. GYLA monitor also attended the car race.

⁴⁶ http://tv25.ge/?page=news&news_id=7547 last seen in 17/08/2013

⁴⁷ http://www.cec.gov.ge/index.php?lang_id=GEO&sec_id=231&info_id=12257 , <http://qartli.ge/web/13707>

promised to organize trip to Brussels and meetings with EU high officials; she also promised to promote their cooperation with European business partners during that visit.⁴⁸

- **Charity Event in Guria-** On August 4 2013 charity organization “Women of Georgia for peace and Life” presented chair-wheels to disabled persons during the charity event in Ozurgeti.⁴⁹ The event was held near the regional office of Georgian Dream⁵⁰ and the head of the local office David Darchia participated in it.
- **Activities of the Rural and Agricultural Development Fund-** Under the auspices of the Ministry of Agriculture of Georgia, “Assistance Project for springtime work of small landowner Farmers” was being implemented. The project was launched on February 1, 2013 and was completed on August 1 of this year. Within the project, the Fund provided assistance to 707 918 beneficiaries. This included various types of assistance packages. The total value of the project amounts to 195 mln. GEL. “A low-interest agriculture loan project” was launched with the purpose of issuing low interest rate agricultural loans. Both projects are funded by the Rural and Agricultural Development Fund (RADF). Itself the RADF is funded by the charity organization “Cartu Fund”. It is well known for the society that the founder of the latter organization is the Prime-Minister of Georgia Bidzina Ivanishvili, who is providing assistance to the agricultural sector through this Fund. We welcome the assistance provided to the agricultural sector. However, in the pre-election period, this factor significantly undermines the competitiveness of the election environment.

⁴⁸ GYLA applied to the CEC and SAO for review of the case. The SAO did not respond to the GYLA request; the CEC reviewed the case and did not consider there was a need to submit the case to the court.

⁴⁹ The GYLA submitted applications on the mentioned fact to the ICFFE, SAO and CEC. The CEC transferred the case to the Ozurgeti District Court that established violation of administrative legislation and fined the charity organization for illegal participation in political agitation. The GYLA was not informed on the response of the SAO.

⁵⁰ <http://guria.tv/2013/08/5006> 19/08/2013

11.3. Violation of the pre-election agitation rules

Almost no violations of pre-election agitation rules have been reported during the reporting period. However, there have been incidents of participation in the agitation of public servants and other individuals not authorized to participate in the agitation under the Election Law. However, **up to 5** facts have been identified when **public service officials and other persons unauthorized by the legislation** to have participated in the agitation process in favor of both authorities⁵¹, and opposition candidates,⁵² which can be considered as a new trend.

Ozurgeti Office of GYLA appealed the Chokhatauri District Election Commission on the incidents of illegal participation law-enforcement officials in the agitation⁵³. The Commission could not verify the fact of participation of public officials in the agitation.⁵⁴ Moreover, incidents of collective attendance of public school teachers in agitation meetings have been reported, which generate suspicion that the fallacious practice of using teachers for election purposes, which had been the case over the recent years, still prevails.⁵⁵

Information on such facts has been permanently provided to the ICFFE operating under the MoJ, which issued recommendations and clarified certain incidents. The Commission called on the Central Government and local self-government bodies to issue detailed and clear instructions to public servants employed in their respective structures on what was allowed and prohibited during the pre-election campaign, on the Election Day, before summarizing/publication of the results of elections and about the sanctions applied on violations of the requirements of the Law.

⁵¹ Meeting of the presidential candidate of the Coalition “Georgian Dream” – Giorgi Margvelashvili with Gori District population, August 14, 2013. Meeting of the presidential candidate of the Coalition “Georgian Dream” – Giorgi Margvelashvili at the city of Aspinda, September 12, 2013.

⁵² Meeting of the candidate of the “United National Movement” – Davit Bakradze at Rustavi, October 2, 2013.

⁵³ Head officials of the law-enforcement agencies attended the September 13, 2013 pre-election meeting of the presidential candidate of the Coalition “Georgian Dream – Democratic Georgia” – Giorgi Margvelashvili in Lanchkhuti and Chokhatauri Municipalities.

⁵⁴ Chokhatauri N62 DEC response to the GYLA Ozurgeti Office. 21.09.2013, N69.

⁵⁵ September 12, 2013, Meeting of Giorgi Margvelashvili was attended by the teachers of Aspinda Public School N1, along with the public servants. October 18, 2013, Meeting of the presidential candidate of the Coalition “Georgian Dream” – Giorgi Margvelashvili with Gori District population.

The Interagency Commission called on the officials of the law-enforcement agencies to refrain from participation in the pre-election meetings, and if they were obligated to attend such meetings due to their professional requirements, to wear police uniforms and to keep a 5 meter distance from the meeting participants. Moreover, the Commission clarified the concept of agitation and discussed all possible actions that are perceived as a pre-election agitation.⁵⁶

Despite the above recommendations, some incidents were reported when prevention of participation of non-authorized persons in the pre-election agitation failed.

11.4. Facts of pressure and intimidation

In general pre-election period was conducted in a peace and calm atmosphere, however there have been several alleged incidents of pressure and intimidation during the pre-election period, which undermined the election environment and caused problems in terms of conducting the pre-election campaign in an environment free of pressure. Most of the violations have been reported in local self-government bodies, accompanied by dismissals from work of public officials against their will. Such incidents are particularly interesting, since, based on the information of GYLA there have been alleged participation of high officials of law-enforcement agencies and local authorities in these violations.

There have been reports on the alleged pressure and threats against members/supporters of the political entity “United National Movement”. Within the reporting period, GYLA monitors identified 9 incidents of pressure and threat. these included 5 incidents of alleged pressure exerted based on political affiliation in local self-government bodies, 1 incident of alleged pressure on business, 1 incident of physical abuse and 2 incidents of other types of pressure.

GYLA has been constantly informing the Interagency Commission for Free and Fair Elections under the Ministry of Justice of Georgia on the above facts, which studied these incidents within the frames of its competence and issued recommendations. Moreover, it launched investigation on several cases.

The incidents of pressure and intimidation outlined below:

⁵⁶ <http://justice.gov.ge/page/index/?id=82>

- *Fact of physical retaliation based on political affiliation in Tbilisi;*⁵⁷
- *Searching conducted in the residential house of Kharagauli Municipality majoritarian member from the “United National Movement;”*⁵⁸
- *Case of Roman Iakobidze;*⁵⁹
- *Case of Giorgi Papiashvili;*⁶⁰
- *Facts of Pressure and Intimidation in Kareli Local Self – Government Body;*⁶¹
- *Fact of Pressure and Intimidation in local self-government body of Akhmeta;*⁶²

⁵⁷ Nadzaladevi District activist, Kakha Kalashov was verbally and physically offended, since after returning from the meeting, Kalashov posted the Georgian Flag and a meeting mandate at his office.

⁵⁸ Searching conducted at the residence place of Nino Pkhaladze on October 20, 2013, approximately at 6 o'clock.

⁵⁹ A probationer Roman Iakobidze, residing in the village of Kikibo in Adigeni District who was detained he confirmed that a short gun (so called “Abrezi”) he put in the hay storage location in front of the house of the coordinator of the political coalition “Georgian Dream” Otar Beridze. He was claiming pressure exerted on him by police officers Levan Abuladze and Shmagi Iakobadze aimed at forcing him to place a gun in Otar Beridze’s property.

⁶⁰ According to Alexandre Valiauri statement, officials of the Gori district division of the Ministry of Internal Affairs were forcing Giorgi Papiashvili into “cooperation” and constantly made him provide information on the activities of political parties. After Giorgi Papiashvili declined the requests of the law-enforcement structures, on June 23, 2013 he was severely beaten, resulting in the deterioration of Papiashvili’s health conditions.

⁶¹ <http://qartli.ge/web/14530><http://qartli.ge/web/14530> On August 29, 2013, based on the order of the chairperson of Sakrebulo of Kareli municipality, acting Gamgebeli of Kareli, Emiko Peikrishvili was dismissed from his position. On August 30 Zaza Guliashvili was appointed on the position of acting Gamgebeli of Kareli Sakrebulo. According to Peikrishvili, Zaza Guliashvili by that time an acting Deputy Head of Kareli Police Department, was requested him to leave the position.

⁶² Based on the explanation of the head of Sakrebulo Zakaria Kinkladze, this process against him directly involved the majoritarian Member of Parliament of Akhmeta District, who had been trying to influence the work of the self-government body from his very appointment to this post. On September 3, 2013, at the extraordinary session of Sakrebulo, the Head of Sakrebulo Z. Kinkladze was removed from his position and D. Imerlishvili was elected as a new chair at the same session.

- **Facts of pressure and intimidation in the self-government body of Bolnisi.**⁶³
- **Fact of Pressure in local self-government body of Kaspi;**⁶⁴
- **Case of Rtsmunebuli [local municipality representative] of the territorial body of Aspindza municipality**⁶⁵

11.5. Facts of Dismissal from work

During the pre-election period, monitors of GYLA reported staff changes in local self-government representative bodies, which had largely alleged political nature. As a result of observation, incidents of dismissals of public officials have been identified allegedly based on their political affiliation. This process directly contradicted to the recommendations of the Commission for Free and Fair Elections, which called on national and local self-government bodies to refrain from any personnel changes during the pre-election period.

The ICFE under the MoJ reviewed provided recommendation⁶⁶ to local self-government bodies urging them to refrain from staff changes during the pre-election period. Notwithstanding MoJ recommendation, similar facts were repeated.

Find below the incidents of violations identified by GYLA monitors during the pre-election period:

- A fact of dismissal from works through impichement **at Keda Municipality Sakrebulo.**⁶⁷

⁶³ Report of the ICFE (19.08.2013-30.09.2013), Chart N1, Case N12.

⁶⁴ On September 3, 2013, the Head of the Kaspi headquarters of the political union “Georgian Dream”, gave strict warnings and instructions with regard to the upcoming presidential elections to the staff of Municipality Gamgeoba by raising his voice and beating his hands on the table.

⁶⁵ Report of the ICFE (19.08.2013-30.09.2013), Chart N1, Case N6. Based on the statements of Rtsmunebulis [municipality representatives in villages] of the territorial body of Aspindza Municipality, there was pressured by Levan Tsabadze – Gamgebeli of Apindza municipality and his Deputy, Alexanre Pavliashvili to leave their positions.

⁶⁶ Report of the ICFE (19.08.2013-30.09.2013), Chart N1, Case N10.

⁶⁷ At the October 18 meeting of Keda Municipality Sakrebulo, deputy head of Sakrebulo, Jemal Sharadze was reselected from office.

- Reorganization *in Kutaisi Mayor’s Office*⁶⁸
- Tskaltubo – *Case of Levan Lekviladze, Head of the Office of Sakrebulo*⁶⁹
- Reorganization *in Tbilisi City Sakrebulo*⁷⁰

11.6. Interference in the Pre-Election Agitation

In the reporting period, pre-election meetings have been largely held in a peaceful environment. However, facts of interference in the agitation process have been reported, most of them directed against the political party “United National Movement”. Interference in the agitation was demonstrated in obstructing /attempting to obstruct the meetings, also in damaging/eliminating the agitation material.

During the pre-election period, GYLA identified 5 incidents of obstructing pre-election meetings and 3 facts of hindering the distribution of pre-election material.

At the outset of the pre-election campaign, there have been reported facts of attempts on the part of the citizens released from prison under the status of a political prisoner and their supporters to physically assault members of the “National Movement”. Although law-enforcement officials were present on the ground during those incidents, tried to regulated and manage the situation, but, as GYLA maintains, the liability measure imposed upon the individuals participating in the incidents, which implied the fine in the amount of 100 (one hundred) GEL, given the existing circumstances was not adequate in relation to the severity of the committed offence and failed to prevent further offences. GYLA has been constantly submitting information on the above facts to the Interagency Task Force for Free and Fair Elections (IATF) under the Ministry of Justice of Georgia. The Commission studied these incidents and is-

⁶⁸ 89 personnel were dismissed as a result of the reorganization conducted in the Mayor’s Office of the city of Kutaisi. Those dismissed public officials perceived their dismissals as alleged political decisions.

⁶⁹ Levan Mikeladze was dismissed from his position as head of the office of Sakrebulo of Tskaltubo municipality on June 28, 2013. Legal interests of Levan Mikeladze were represented by Kutaisi branch of GYLA. According to the Court judgment of Kutaisi City Court dated September 16, 2013, Levan Mikeladze was restored back to his position.

⁷⁰ On September 17 2013 extraordinary meeting were held in Tbilisi City hall where reorganization process in City Hall Office and new staffing. On October 7, 2013 22 persons dismissed from Tbilisi City Hall Office applied to GYLA. Based on the study of their cases GYLA deems that these people were illegally dismissed from the work.

sued relevant recommendations. It called on the political parties and election subjects participating in the elections to ensure party discipline and law-obedience, and to urge their members and activists to refrain from obstructing the pre-election activities organized by other political parties. Moreover, the Commission issued recommendations for the law-enforcement bodies and the courts to ensure that all requested and applied sanctions in cases of administrative offences related to electoral processes, to be proportional to the level of offence in order to further prevent such violations. Despite the recommendations of the Interagency Task Force, facts of obstruction have prevailed, which negatively affects the pre-election agitation process. Furthermore, the Commission called on political parties and local self-government bodies to issue clear instructions on categorically prohibiting their activists and representatives from damaging agitation material of a competing parties or parties that are unacceptable to them, or obstructing these parties from displaying these materials.

Pre-election meeting during the reporting period were conducted largely in a calm environment, however, there have been obstructing facts identified, which were directed against the political party “United National Movement”. Citizens released from jails under the status of political prisoners and their supporters tried to physically assault members of the “National Movement”. The ICFFE under the MoJ reviewed the cases and issued recommendations. It called on the political parties participating in the elections and election subjects to ensure party discipline and law-obedience, and to urge their members and activists to refrain from obstructing the pre-election events of other political parties. Moreover, the Commission issued a recommendation for law-enforcement bodies and courts, to ensure that the requested and applied sanctions in cases of administrative offences related to electoral process are proportional to the violation. Despite the recommendations issued by the Interagency Commission, incidence of impediment still prevailed, which negatively affect the process of pre-election agitation.

- ***Incident of obstruction of the pre-election meeting in Zugdidi-*** On July 20, 2013 an attempt was reported to obstruct the pre-election campaign event of the political entity “United National Movement”. The planned event was held against the background of the rally. Citizens gathered in advance verbally assaulted party leaders and delegates and threw stones and bottled to them.⁷¹
- ***Incident of obstruction of the pre-election meeting in Batumi-*** On July 21, 2013, the second round of the primaries for selecting the presidential candidate of the “United National Movement” was held in Batumi. A group of citizens were gathered in front of the Hotel “Sheraton”, who tried to physically assault members and

⁷¹ <http://www.youtube.com/watch?v=uVGrN6AGaE8>

delegates of the “United National Movement”.⁷² However, due to effective efforts of the police, rally participants failed to break through the police line, and representatives of the “United National Movement” were able to conduct their pre-election meeting in a secure environment.

- ***Fact of attempted obstruction of the pre-election agitation in Khoni***-On August 12, 2013 visit of the presidential candidate of the “United National Movement” David Bakradze was planned in the house of the Kelbakianis in the Village Ivandidi. Activists of the coalition “Georgia Dream” anticipated that the meeting would be held in the center of the town. But David Bakradze managed to get into the village Ivandidi using an alternative road and meet with the Kelbakianis.
- Incident ***of obstruction of the pre-election agitation in Ponitchala*** - On September 9, 2013 Presidential Candidate of the political party “United National Movement” Davit Bakradze held a pre-election meeting in Ponichala. Individuals holding the flags of the political coalition “Georgian Dream” and wearing agitation T-shirts of the same party, attempted to obstruct the meeting and to engage into dispute with the presidential candidate.⁷³
- **Attempts to obstruct the pre-election meeting in Tsageri** – on October 8, 2013, the presidential candidate of the “United National Movement” – Davit Bakradze held a meeting with the population of village Orbela of Tsageri district. There was an attempt to obstruct the pre-election agitation meeting by the member of Tsageri municipality Sakrebulo and the chairperson of the fraction “Georgian Dream”, Gogita Akhvlediani.

As for the impediment in distributing pre-election material, GYLA identified 2 facts in Ozurgeti and 1 in Batumi:

- On October 7, 2013 activist of the Ozurgeti district organization of the “**United National Movement**” party posted agitation posters in support of presidential candidate David Bakradze in specifically identified and authorized places. However, on October 8, they found most of them destroyed.⁷⁴

⁷² http://www.youtube.com/watch?v=DCa0_4F510Q

⁷³ http://www.youtube.com/watch?v=2lHWnufx_EA

⁷⁴ <http://gurianews.com/home/2010-11-25-16-57-25/13552-2013-10-09-16-18-24.html>

- On the last week of the presidential elections, agitation material for the presidential candidate Nino Burjanadze from the party “Democratic Movement – United Georgia” were fully destroyed in the village Likhauri of Ozurgeti municipality.
- On October 7, 2013, in the city of Batumi a fact of obstruction of the distribution of election material has been reported. An official of Batumi city hall and deputy chairperson of the regional organization of Ajara of the “Free Georgia” party Merab Ghoghoberidze tore down the agitation material for the presidential candidate of the “United National Movement Party “ David Bakradze, which was posted in a place specifically identified and authorized.⁷⁵

12. MEDIA ENVIRONMENT

Media environment has improved since the pre-election period of 2012 parliamentary elections, as opposed to the last year’s parliamentary elections pre-election period. Only one incident of hindering professional activities of a journalist has been reported during the pre-election period of 2013 Presidential Elections, which involved some indication of a criminal case.⁷⁶ Despite these improvements, problems persist in term of independence and freedom of media outlets from political pressure. Recent developments in the Public Broadcaster puts under doubt freedom of operations of the Broadcaster from political pressure. Recent events around the Public Broadcaster - grave violation of rights of certain journalists on the one hand, and inconsistent policy of authoritative bodies of the Public Broadcaster, on the other hand, - put under doubt freedom of the Public Broadcaster, as a public means of media founded by the state. Investigation is still not concluded on the legality of selling the shares of TV broadcaster “Rustavi 2”.⁷⁷

Members of the coalition “Media Advocacy”, including GYLA, called on the Prosecutor General to investigate criminal cases related to media in a timely manner. GYLA submitted information to the Interagency Task Force for Free and

⁷⁵ Administrative fine was imposed on Merab Ghoghoberidze for damaging the pre-election materials.

⁷⁶ By contrast, last year, within November-December 2012, prior to the Parliamentary Elections, with the assistance provided by GYLA CLPM an investigation was launched on 39 cases of illegal obstruction of professional activities of journalists. However, it should be noted, that investigation is still ongoing on 21 out of the above 39 cases.

⁷⁷ According to the statements of former owners of the company, in 2004 they were forced to sell their shares as a result of pressure exerted on them by the authorities in power at that time and they refuse to have sold their shares voluntarily.

Fair Elections about local media and also situation evolving around the Public Broadcaster. The Commission based on GYLA applications, submitted a recommendation to the local self-government bodies to support media.

It is important to prevent not only illegal obstruction of the professional operations of media, but also to investigate in a timely manner facts of crime committed in the past and respective individuals should be held accountable for the crimes committed.

- ***Studio “Maestro”***

On August 17, 2013 founder of Studio Maestro - Mamuka Ghlonti made public allegations that TV “Imedi” was recruiting majority of Studio Maestro employees. The founder of the channel assessed the fact of recruitment of Studio Maestro Journalist by TV “Imedi” as a political pressure aimed at hindering the full-scale broadcasting of the channel.

- ***Channel 9 TV Company and News Agency “Info 9”***

On August 19, 2013, Prime-Minister of Georgia made a public statement about the decision to close Channel 9 TV Company and Info 9 News Agency on September 1, 2013, if prior to this date no buyer of the channel would show up. Since August Channel 9 terminated broadcasting, while the News Agency - Info 9 was hand on to the management of the agency by the Prime-Minister free of charge.

- ***Public Broadcaster***

On September 6, 2013 General Director of the Public Broadcaster Giorgi Baratashvili was dismissed from his position. It should be noted that this is the second case of declaring distrust towards Giorgi Baratashvili.⁷⁸

It is interesting that information was posted on the web-site of the Public Broadcaster on the “Fact of attempts of pressure exerted on the chairman of the Board Emzar Gogvadze by Irakli Tsibadze – a security services staff assigned to the Public Broadcaster” during the discussion of the decision of passing the motion of no confidence against the General Director. The statement also maintained that suggestions made by **I. Tsibadze** included indications of threat.

⁷⁸ At first the Board of Trustees passed a motion of no confidence against Giorgi Baratashvili half year ago, on March 4, 2013 with the grave violation of the legislation and there was such an impression that the Board was acting under political grounds. On April 29, 2013, the court annulled the decision of the Board of Trustees concerning the motion of no confidence against Giorgi Baratashvili. GYLA provided legal representation before the court in this legal dispute.

In October two members of the Board of Trustees of the Public Broadcaster filed a letter of resignation on resigning from the board membership, which was associated by other board members with the pressure exerted on them. Several other active members also referred to pressure exerted on them. Situation evolving in the TV channel points to the alleged deep financial crisis that endangers proper functioning of the channel.

- ***Case of Eka Kvesitadze and Davit Paichadze***

On September 17, 2013, under the order of the Acting General Director of the Public Broadcaster, journalist Eka Kvesitadze was dismissed from her position. Closure of the program “Accents” was named as the reason for her dismissal.

Questions arise with regards to the case of Davit Paichadze. According to the new decision, the journalist will continue his work in Public Broadcaster radio. On September 17 the Acting General Director of Public Broadcaster, Tamaz Tkemaladze made a statement during the press-briefing that Eka Kvesitadze and Davit Paichadze would not be able to host the programs on the “first channel” in an impartial manner.

- ***Case of TV Company “Tabula” journalist***

On 24 August, 2013, according to the information of Tabula journalist, Giorgi Sikharulidze, he was verbally assaulted by the police operatives and the video footage owned by him was destroyed.

- ***Newspaper “Guria Moambe”***

On August 16, 2013, editor-in-chief of the Newspaper “Guria Moambe” disseminated a statement on unilateral denunciation by Ozurgeti municipality Sakrebulo [local self-government representative body] of Usufruct Agreement concluded with the Newspaper and on the facts of pressure carried out by Ozrugeti and Chokhatauri municipality officials.

- ***Newspaper “Aspindza Matsne”***

On August 8, 2013, Editor-in-chief of Aspindza municipality Newspaper “Aspindza Matsne” referred to GYLA Gori Regional Office for legal assistance. According to his statement, by the Ordinance of Aspindza municipality Sakrebulo, liquidation of “Aspindze Matsne” was launched.

- **Adjara Television**

On November 5, 2013 the Supreme Council of Ajara delivered a decision and violated the law related to the rule of election of the Ajara TV-Radio Supervisory Board of the Georgian Public Broadcaster. With this decision, the Supervisory Board of Ajara TV was composed based on the same party affiliation.

- ***Photo-video shooting at the polling place on the polling day***

On September 24, 2012, the CEC adopted an Ordinance listing a number of restrictions on photo-video shooting at the polling day on the polling place. Restrictions established by the Ordinance refrained media to fully cover the Election Day⁷⁹. GYLA has permanently lobbied annulment of the above CEC Ordinance. On September 20, 2013, GYLA CLPM conducted a meeting, where we discussed the compliance of the said Ordinance with the Georgian legislation and presented the survey of journalists conducted by the Centre⁸⁰. Parties - both media and CEC representatives expressed their views in the course of the discussions concerning the obstacles triggered by the Ordinance and ways of their elimination. Amendment to the said act was made on October 16 and significant restrictions on media have been lifted.

13. POLLING DAY

Violations/Complaints on the Polling Day

On the Election Day, GYLA observed at 35 Election Districts and precincts opened abroad through observers assigned to polling stations and observers distributed among the mobile teams in accordance with the decision delivered by the Board of GYLA.⁸¹

⁷⁹ Since the adoption of the Ordinance, GYLA carried out various activities with the request of its annulment. In particular, at the moment of its adoption, the Ordinance was appealed in the court; however, the court did not uphold the position of GYLA and other plaintiff non-governmental organizations and means of media on the compatibility of the Ordinance with the legislation of Georgia.

⁸⁰ Meeting was attended by the CEC Chairperson and CEC members, media representatives, non-governmental and governmental organizations.

⁸¹ GYLE carried out observation of October 27, 2013 Presidential Elections in the following election districts: Mtatsminda, Vake,



OBSERVATION MISSION OF GYLA PRESIDENTIAL ELECTION 2013



OBSERVER OF GYLA

DISTRICTS:

10 districts in Tbilisi

1. Batumi
2. Kobuleti
3. Khelvachauri
4. Keda
5. Kutaisi
6. Tskaltubo
7. Baghdati
8. Samtredia
9. Terjola
10. Ozurgeti
11. Lanchkhuti
12. Chokhatauri
13. Poti
14. Gori
15. Kareli
16. Kaspi
17. Khashuri
18. Rustavi
19. Marneuli
20. Bolnisi
21. Gardabani
22. Telavi
23. Sagarejo
24. Gurjaani
25. Dusheti
26. Martvili



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Saburtalo, Krtsanisi, Isani, Samgori, Chughureti, Didube, Nadzaladevi, Gldani, Kutaisi, Tskaltubo, Baghdati, Samtredia, Terjola, Batumi, Khelvachauri, Kobuleti, Keda, Poti, Martvili, Ozurgeti, Lanchkhuti, Chokhatauri, Gori, Khashuri, Kareli, Kaspi, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Gurjaani, Sagarejo, Dusheti; as well as, Great Britain (London) and Germany (Berlin).

Overall, according to GYLA's assessment, **voters were able to freely cast their choice**. On the Polling Day, the observation identified several positive trends:

- Law-enforcement has been distanced from the processes, number of special polling stations has been decreased⁸², and employees of law-enforcement bodies were given an opportunity to cast their ballot according to their residence (place of registration). All the above significantly and positively contributed on the conduct of the elections;
- Election administration, except for several specific cases, was driven to adequately respond to comments submitted by GYLA and to react to violations;
- In our assessment, most of the violations were pre-conditioned by the lack of awareness, rather than deliberate and intentional acts on the part of the PECs. Furthermore, violations identified by the GYLA observers have been largely procedural in nature and they could not have affected the outcome of the elections;

The polling process was conducted in a peaceful environment. Majority of polling stations in which GYLA conducted observation of the opening procedures, were ready to receive first voters. Majority of the above precincts were equipped with relevant election material. Observers of GYLA encountered problems related to access to several precincts, mostly special polling stations. Problems have also been identified with regards to the procedures of casting lots and filling-in the control sheet. On the Polling day, observers of GYLA filed **33** complaints before Precinct Election and Upper District Election Commissions, and made **50** comments in the logbook.

During casting of votes the following procedural violations have been identified by the observers of GYLA:

Claims and comments presented by the GYLA observers referred to the following violations:

- 8 facts of violation of exercising observation rights. Including problems related to access of GYLA observers and hindering to make comments to the logbook;

⁸² As opposed to 2012 Parliamentary Elections, the number of special precincts has been considerably decreased during 2013 Presidential Elections. Instead of 71 precincts during 2012 Parliamentary Elections, only 34 special precincts were set up in the course of the Presidential Elections.

- Violation of procedures of casting of lots;⁸³
- Problems related to filling in the control sheets;
- Incidents of participation in elections with invalid documents;
- Problems pertaining to electoral documentation;
- Issues pertaining to the voters lists;
- Casting of votes on behalf of another person;
- Problems related to casting a vote through the mobile ballot box;
- Issues related to filing a complaint;
- Delayed opening of a polling station;
- Conduct of agitation at the polling station;
- Problems related to inking procedures;
- Physical clash between observers;
- There have been cases identified, when local observer organizations were represented at election precincts by more than one observer, which constituted a violation of the Law.

⁸³ 2 members of the PEC N28 of Saburtalo Election District N3 have exchanged duties during the whole day. The said breach was appealed first before the District and then before the Court. The court held that since the polling lasted from 8:00 to 20:00, exchanging duties between the commissions members from 7:20 to 19:20 cannot be regarded as the reasonable period. According to the Courts, transfer of functions of once commission member to the other established as a result of casting of lots by the Commission Chairperson is permissible only if the transfer of function takes place in the course of reasonable period of time.



VIOLATIONS OBSERVED BY GYLA



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14. POST ELECTION PERIOD

Complaint filed before the DEC's

GYLA conducted monitoring of the post-election period in 36 election districts with 72 district observers and 3 CEC observers. In the post election period objects of the observation have been activities of the election administration, review of complaints in the commissions and the process of summarizing of the election results.

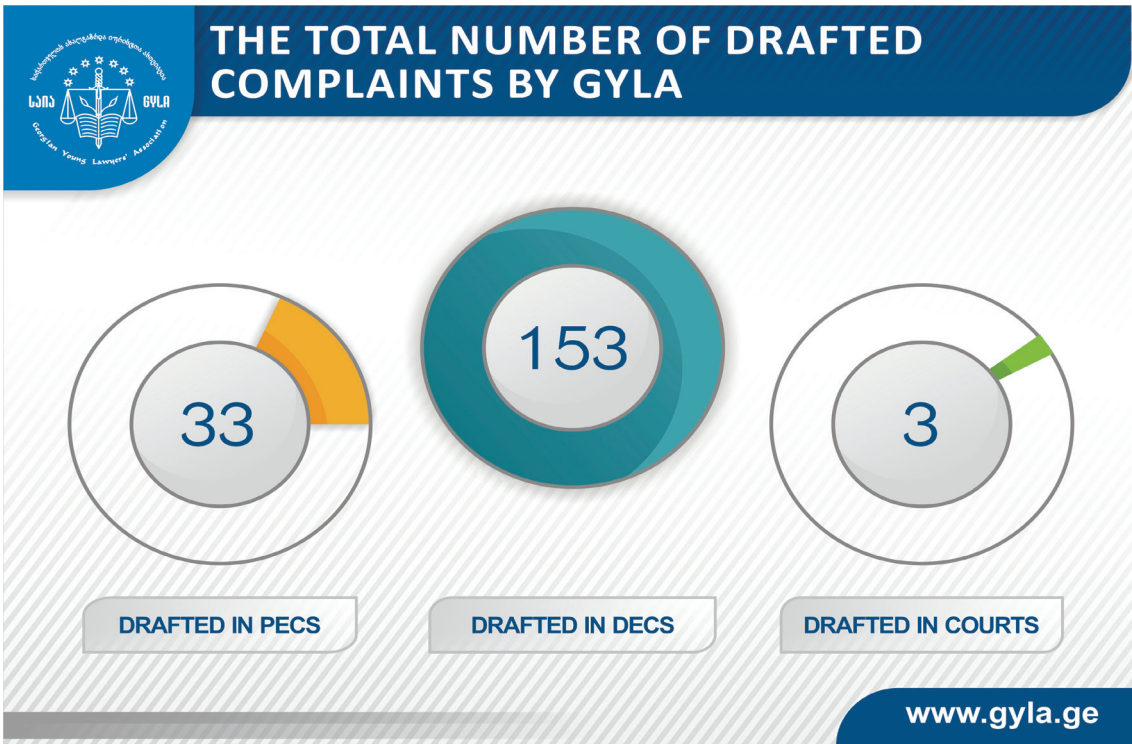
After the Polling Day, 153 claims have been filed in district election commissions and **3** claims have been filed in the courts. Out of **153** claims filed before the DEC's, **72** claims were fully and **38** – partially upheld. Out of **3** claims filed in the courts, 1 administrative claim was fully upheld, 1- partially and 1 was not upheld.

The following types of claims, identified by the observers of GYLA, have been filed to district election commission:

- **Violations related to casting of lots**, demonstrated in failure to conduct procedures of casting of lots and in arbitrary distribution of functions authorized by casting of lots – Precincts N3, N28 of Saburtalo District N3; precinct N98 of the electoral district N32; election precinct N23 of Baghdati election district N52; Election precinct N6 of lanchkhuti Election District N61; election precinct N4 of Khelvachauri election district N83.
- **Problems pertaining to drawing up of Summary Protocols**, reflected in the failure to endorse the summary protocols with the commission stamp, or failure of the commission members to sign the protocol, incidents of changing the data, failure to fill-in the mandatory information, filling in the summary protocols in an invalid manner, or violation of the legally-defined rule of drawing up of amendment protocols at the following places: Election precincts N27, N29, N30, N50, N64, N74, N75 in Vake election district N2; election precincts N29, N39, N50, N75, N77 of Saburtalo election district N3; election precincts N3, N17 of Krthsanisi election district N:4; election precincts N93, N107, N10, N54 of Samgori election district N6; election precincts N99, N113, N90, N80, N31, N19, N3, N20 of Gldani election district N:10; election precinct N11 of election district of Sagarejo N11; election precincts N36, N20, N47, N31, N49, N27, N24, N4 of Gurjaani election district N12; election precincts N4, N11, N10, N37 of Telavi election district N17; election precincts N1, N51, N63, N80, N57, N60, N97, N107 of election district of Gori N32; election precinct N1 in Baghdati election district N52; election precinct n29 in election district of Tskaltubo N58; election precincts N121, N75 in election district of Kutaisi N59; election precinct N31 in Martvili election district N65; election precincts N19, N17 in Chokhatauri election district N62; election precinct N1 in Keda electio district N80; election precincts N8, N10, N25, N26, N35, N38, N63, N60 in Kobuleti election district N81;

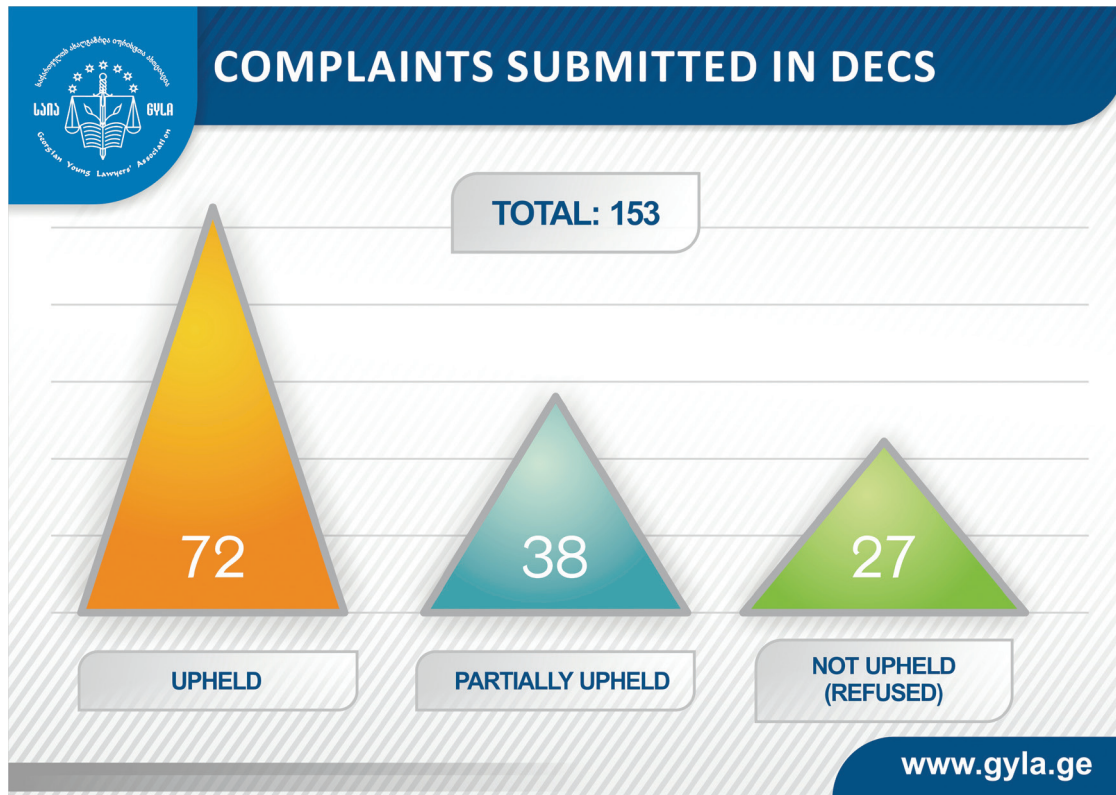
- **Violations pertaining to managing documentation in an invalid manner**, demonstrated by invalid management of control sheets, display protocols and voters lists in the following places: election precincts N76, N11 in Saburtalo election district N3; election precinct N45 in Isani election district N5; election precinct N28 in Gurjaani election district N12; election precinct N8 under election district N17 of Telavi; election precinct N24 under election district N49 of Terjola; election precinct N5 under election district N52 of Baghdati; election precinct N7 under election district N54 of Samtredia; election precinct N42 under election district N58 of Tskaltubo; election precincts N2, N33, N39 under election district N65 of Martvili; election precinct N24 under election district N60 of Ozurgeti; election precincts N46, N49 under election district N79 of Batumi; election precincts N8, N17, N31 under election district N80 of Keda; election precincts N22, N53 under election district N81 of Kobuleti; election precinct N4 under election district N83 of Khelvachauri;
- **Incidents of casting of votes with invalid documents**, demonstrated by casting a vote with a copy of Personal Identification Card and driver's license - election precinct N100 under election district N9 in nadzaladevi;
- **Problems related to the protection of the principle of confidentiality** - election precinct N50 under election district N22 of Marneuli; election precinct N31 under election district N21 of Gardabani; election precinct N27 under election district N83 of Khelvachauri;
- **Restriction of the rights of an observer** - election precinct N3 under election district N21 of Gardabani; election precincts N65, N82 under election district N79 of Batumi; election precinct N4 under election district N81 of Kobuleti; election precinct N4 under election district N83 of Khelvachauri;
- Violation of integrity of the ballot box seal - election precinct N13 under election district N83 of Khelvachauri;
- **Errors in the voters lists** - election precinct N31 under election district N62 of Chokhatauri;
- **Violation of the rule of submission of material to the district**, demonstrated in submitting the logbook and registration book in an unsealed form - election precincts N8, N11, N51, N20, N22, N36, N43, N64, N73, N88 under election district N59 of Kutaisi;
- **signatures in the voters lists made in advance** - election precinct N26 under election district N8 of Didube; election precinct N66 under election district N79 of Batumi;
- **violations related to bullet papers** - election precinct N82 under election district 79 of Batumi;
- **Failure to make cuts on the commission stamps** - election precincts N12, N39, N32, N45, N51, N69, N74, N4 under election district N6 of Samgori; election precincts N6, N9, N17, N22, N29, N35, N43, N48 under elec-

tion district N11 of Sagarejo; election precincts N3, N6, N23, N24 under Gurjaani election district N12; election precinct N11 under Telavi election district N17; election precincts N12, N46 under election district N28 of Dusheti; election precincts N14, N15, N5 under Kaspi election district N30; election precinct N99 under Gori election district N32; election precincts N39, N41, N45, N56 under Tskaltubo election district N58; election precinct N2 under Poti election district N70; election precinct N2 under Keda election district N80; election precinct N37 under Telavi election district N83;

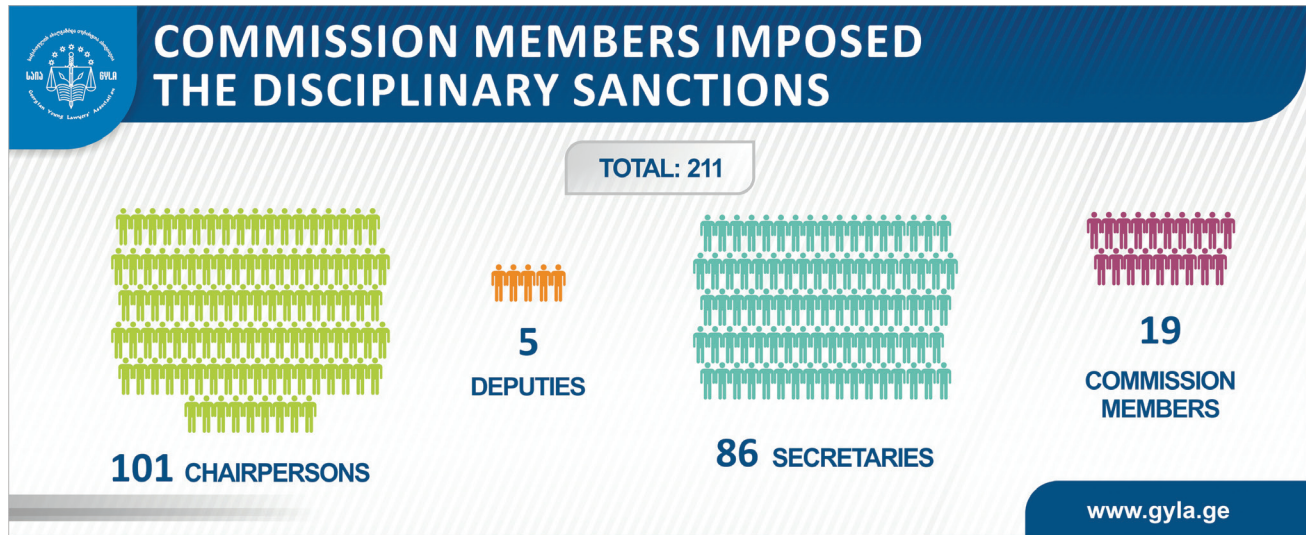


Requirements identified in the complaints

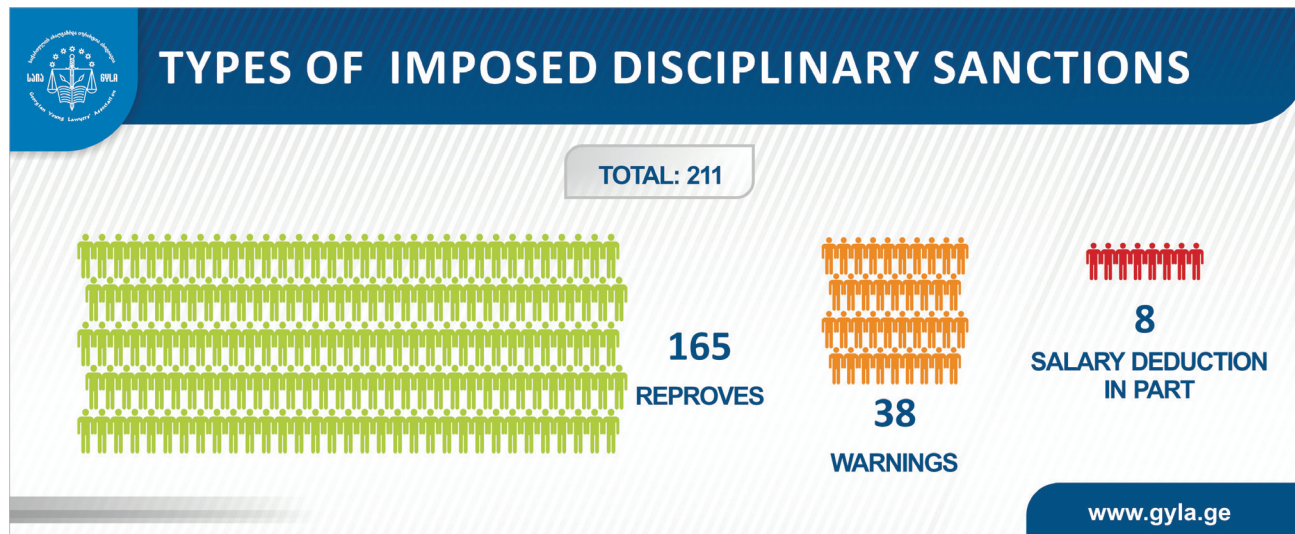
Complaints filed by GYLA, mostly requested imposition of disciplinary and administrative responsibilities against members of precinct election commissions. Observers of GYLA presented 153 claims with the above request. 72 of them have been upheld with regards to the above request, 38 partially upheld, 27 claims have not been upheld.



Disciplinary responsibility has been imposed against 211 members of precinct election commissions, including, 101 chairperson of the precinct election commission, 5 Deputies, 86 secretaries and commission members 19.



Total number of the complains against the commission members were 211. Out of them - 165 Reproves, 38 Warnings and 8 salary deduction in part.



Request of an administrative liability was included in 11 complaints and not any of them have not been upheld.

7 complaints included request to void certain summary protocol and not any of them have not been upheld.

7 claims included requests related to the polling results. 1 of them have been upheld, 5 of them have not been upheld, while 1 claims have not been reviewed.

In 3 instances, GYLA appealed before the court the declining ruling of the district election commission. From the filed complaints, 1 was fully and the other was partially upheld.

The following trends have been identified after the review of complaints in election commissions:

- **Apart from certain exceptions, district election commissions were driven to study the appeals filed by GYLA in detail, to investigate important facts related to the case and to substantially study/assess presented evidences;**
- **In reviewing the complaints, DEC's would call for questioning witnesses indicated in the complaint and conducted their questioning;**
- **As opposed to previous practice, except for isolated cases, decisions made by election commissions were substantiated. Decisions made by DEC's included extensive and substantiated arguments, which is undoubtedly a positive fact.**
- **GYLA identified cases, when district election administration proactively initiated studies of alleged facts of violations and imposed responsibilities to violators, because of which there were number of instances when GYLA no longer filed complaints.**

15. RESUME/CONCLUSION

2013 Presidential Elections were the first general elections, which was held under the new government. Holding of 2013 Presidential Elections in qualitatively better, transparent and fair environment constituted a plan announced by the new government.

Legislative Framework

Prior to 2013 Presidential Elections, the Parliament of Georgia made certain amendments to the election legislation. The fact that the inter-fractional group of the Parliament of Georgia took into consideration a part of the recommendations submitted by non-governmental organizations shall be positively assessed. Election draft laws elaborated by the group and initiated in the parliament were largely based on the recommendations submitted by GYLA and partner organizations. Nevertheless, despite the highest legislative body at the outset intended to elaborate the high standard election legislation, at the end, from the planned agenda many substantial amendments were not made to the election legislation. As a result, in terms of improvement of an election environment, following issues are yet to be regulated: election system, composition of election administrations, clear marking off state and party resources,

vote buying regulations; State Audit Office institutional independence, election disputes, precincts created for special occasions (special precincts), media regulations.

Inter Agency Commission for Free and Fair Elections

ICFFE under the MoJ was committed to improve the election environment and prevent breaches in the course of pre-election period, which shall be positively evaluated. In order to improve the election environment, the Commission elaborated important recommendations. Particular attention should be drawn to the Commission's activity concerning the verification of regulations on the engagement of public servants in the pre-election campaign and definition of certain rules. Nevertheless, some problems occurred in terms of conducting the meeting in a constructive manner.

State Audit Office

Pre-election period was characterized by a low degree of control exercised over the party financing, demonstrated by low-intensity of the work of the State Audit Office. The above circumstances generated certain questions pertaining to the efficiency of the work of this agency.

Election Administration

During the pre-election period, resignation of Zurab Kharatishvili, the Head of the CEC became an obstacle for administering the election process.⁸⁴ We deem that if Zurab Kharatishvili intended to resign, he should have taken this decision either prior to starting of the pre-election campaign or by the end of the elections. As regards the selection of a new Head of the CEC, we welcome the fact that the President of Georgia took into view the civil society opinion and presented for election to the CEC the candidate nominated by us – Tamar Jvania; and similar to the President of Georgia, members appointed by the ruling coalition in the CEC supported the candidacy of Tamar Jvania. A number of problematic issues have been revealed with respect to the election subject registration process, such as: neces-

⁸⁴ National-Democratic Institute (NDI) Pre-election Delegation Report, Tbilisi, Georgia, September 6, 2013, p.6.

sity to verify existing requirements for the presidential candidate and holding of a position; participation in the elections as a presidential candidate of persons having dual citizenship; coordination problem between the CEC and state agencies, etc. GYLA considers that the CEC and court decisions on registration as candidates of Mrs. Salome Zurabishvili and Mr. Zurab Tsitsuashvili constitutes a wrong interpretation of the Constitution, which shall be deemed as a significant pre-election error.

In the course of the reporting period, major critics was directed towards the rule for composition of the election administration. As a result of amendments made to the Election Code, the rule for composition of the election administration did not change. By 2013 Presidential Elections, election commissions, except for the commission members elected on professional grounds, were composed only by the members appointed by two political powers – Coalition “Georgian Dream” and “United National Movement (UNM)”, which several times became the subject of critical discussions.⁸⁵ As in 2013 by-elections, a number of facts still occurred when the persons, who in the nearest past represented different parties in the election administrations, were elected on professional grounds in the Precinct Election Commissions (PECs). In GYLA’s opinion, the latter poses certain threats to the trustfulness of the election administration.

Pre-Election Campaign

During the pre-election period, facts of utilization of administrative resources have occurred, however, such violations were much less compared to those of revealed by GYLA monitors before 2012 Parliamentary Elections. Basic signs of violation are illegal participation of public servants in the pre-election agitation and significant increase of pre-election local budgets. Moreover, very interesting fact occurred, when the President of Georgia announced large-scale pardon that allegedly implied signs of utilization of administrative resources for election purposes.

Positively should be assessed the fact that Giorgi Margvelashvili, a candidacy for President nominated by the Coalition “Bidzina Ivanishvili – Georgian Dream”, under his initiative, resigned from the position of the Minister of Education and Science of Georgia, while he was not obliged to do so in accordance with the legislation in force.

In the process of monitoring, the Georgian Young Lawyer’s Association identified several facts implying the signs of vote buying.

⁸⁵ <http://www.tabula.ge/ge/story/74801-xuti-politikuri-partia-sadamkvirveblo-organizaciebs-mimartavs>

During the reporting period, violation of pre-election agitation rules mainly did not take place. Nevertheless, there were some cases, when public servants and other unauthorized persons stipulated by the election, legislation participated in the agitation. Furthermore, during the pre-election period, several facts of alleged political pressure and threat were revealed, which damaged the pre-election environment and posed a threat to the conduct of a pre-election campaign in the pressure-free environment, especially in the Georgian regions. Essential part of violations took place in the local self-government bodies, which was accompanied by dismissal of public servants against their will. Above facts are primary significant in terms of identification of alleged participation of high ranking officials of the law enforcement bodies and local government in these alleged violations, pursuant to the information provided by GYLA monitors. Observation of these facts also disclosed the cases of dismissal of public servants allegedly on political grounds, both of individual and collective nature. The above processes particularly went against the recommendation of the ICFE, which called upon state and local self-government bodies to refrain from any kind of staff changes during the pre-election period.

As regards the pre-election meetings, they were basically held in a calm atmosphere; however, some obstructions still have been identified, which was primarily directed against the political party “United National Movement (UNM)” and in certain occasions carried violent character. It is to be underscored that compared to 2012 Parliamentary Elections pre-election period media conditions are at certain extent improved. In contrast to the pre-election period of the last year Parliamentary Elections, during the pre-election period of 2013 Presidential Elections only one fact was identified according to which the journalist was illegally obstructed to carry out his/her professional duties⁸⁶. Despite this improvement, problems still remain in terms of independence of the means of media and its exemption from political pressure.

Polling Day

Polling was conducted in a peaceful environment. Overall, according to GYLA’s assessment, voters were able to freely cast their choice. It should be noted that Law-enforcement have been distanced from the processes, number of spe-

⁸⁶ As a comparison, last year, before the Parliamentary Elections, with the support of the GYLA CLPM, in November-December, 2012 investigation was launched on 39 facts of illegal obstruction of journalists to carry out their professional duties. Nevertheless, investigation on 21 cases is now pending.

cial polling stations have been decreased⁸⁷, employees of law-enforcement bodies were given an opportunity to cast their ballot according to their residence (place of registration). All the above significantly and positively contributed on the conduct of the elections; Election administration, except for several specific cases, was driven to adequately respond to comments submitted by GYLA and to react to violations; In our assessment, most of the violations were pre-conditioned by the lack of awareness, rather than deliberated and intentional acts on the part of the Precinct Election Commissions. Furthermore, violations identified by the GYLA observers have been largely procedural in nature and they could not have affected the outcome of the elections.

Post-election Period

The process of counting of summary protocols and summarizing of votes in district and central election commissions were conducted in a transparent manner. Complaints filed during the post-election period referred to violations of technical nature, such as incomplete/incorrect filling-in the election documentation. Number of complaints has been filed by the PECs related to incomplete filling-in the summary protocols and control sheets. Complaints have been filed with regards to failure to meet certain procedures, such as, for example, failure to make a second cut to the precinct commission stamp, or submission to the district of an unsealed logbook and registration book, etc. Except for isolated cases, the DECs were driven to study in detail claims filed by GYLA, investigate circumstances significant to the case and conduct appropriate study/assessment of evidence. In reviewing the complaints, district election commissions would call for questioning witnesses indicated in the complaint and conducted their questioning; As opposed to previous practice, except for isolated cases, decisions made by election commissions were substantiated. Decisions made by the DECs included extensive and substantiated arguments, which is undoubtedly a positive fact. GYLA identified cases, when district election administration proactively initiated studies of alleged facts of violations and imposed responsibilities to violators, because of which there were number of instances when GYLA no longer filed complaints.

⁸⁷ As opposed to 2012 Parliamentary Elections, the number of special precincts has been considerably decreased during 2013 Presidential Elections. Instead of 71 precincts during 2012 Parliamentary Elections, only 34 special precincts were set up in the course of the Presidential Elections.

16. RECOMMENDATIONS

GYLA hopes that this information will help all persons involved in the election processes to reinforce their achievements and eliminate shortcomings identified during the October 27, 2013 Presidential elections. In our view, this will significantly contribute to a better election environment during the upcoming local self-government elections.

Therefore, in order to hold elections in quantitatively better, transparent and fair environment, we believe it is significant to regulate the following issues:

Legislative Framework

For substantial improvement of an election environment, we deem that the Parliament of Georgia shall regulate such issues, as election system, composition of election administrations, clear marking off state and party resources, vote buying regulations; State Audit Office institutional independence, election disputes, precincts created for special occasions (special precincts), media regulations. Hereby, we believe that for the purpose of changing the election legislation, the reform shall take place way before the elections. The Parliament of Georgia shall refrain from making any such changes in the course of pre-election period.

Registration of Election Subjects

In order to increase trust towards the registration of election subjects and create equal and fair environment for persons engaged in the process, the Parliament of Georgia shall make such legislative amendments that will verify existing requirements on the registration of presidential candidates and holding of a position, exclude any type of discrimination of the Georgian citizens in terms of enjoying the right to passive electoral suffrage.

Inter Agency Commission for Free and Fair Elections

To increase the trust towards and effectiveness of the activities of the ICFFE established under the auspices of the MoJ, it is vital that the Commission members in the future refrain from participation in the pre-election campaign for/against any subject, as well as ensure the conduct of Commission meeting at maximum extent in a constructive atmosphere, so that the Commission meetings do not turn into a floor for political debates.

State Audit Office

In order to ensure transparency of pre-election campaign financing of election subjects, it is essential that State Audit Agency worked in a consistent manner and effectively conduct its activities, ensure the study/processing of the information regarding reported violations in a timely manner and respond to these incidents within the existing law.

Election Administration

In order to raise trust towards the election administration, we consider it is essential to change the composition of the election administration to exclude any questions with respect to the work of the election administration. We believe that raising awareness of the society with regards to the election administration and ensuring better transparency of the election processes, structural election reform shall be carried out; mostly persons with electoral experience, highly qualified in the field and with impeccable past shall be elected/appointed in the election administration; persons appointed by the parties in the Commission in the nearest past shall not be elected on professional grounds, so that the questions pertaining to the objective nature of their work is not raised anymore;

Maintain of comprehensive database of persons breaching election legislation shall be ensured by the CEC and effective system shall be set up between election administrations in order to timely exchange information between them. Consequently, the CEC shall constantly update and improve its database.

Polling Day

In order to conduct the Polling Day effectively, we consider, that it is necessary to further continue training of PEC members, in particular, with regards to the rules of dealing with election documentation.; there is a need to organize special trainings on filling-in of summary protocols of election results; moreover, it is important to establish a special rule for filling-in the summary protocols; It is also important to review the fines to be applicable to election commission members by the existing law ,with the purpose of decreasing them.

State and Local Authorities

State and local self-government bodies shall be politically neutral and limit utilization of administrative resources for or against any candidate, as well as refrain from any staff changes in the course of pre-election period. For improving election environment it is essential to prevent violations during the pre-election period and timely and adequately respond to them; particularly on cases, where illegal actions of public servants are revealed.

It is important that the law enforcement bodies ensure conduct of pre-election meetings and events in a peaceful and secure atmosphere, as well as objective, timely, comprehensive and unbiased investigation of violent acts. This requires proper legal assessment of each breaches and imposition of adequate liability.

Media Environment

In terms of media independence and freeing them from political pressure, it is crucial that media is not illegally hindered to carry out its professional activities, criminal acts committed in the past are investigated timely and respective persons are held accountable.

Political Entities

Political parties and election subjects participating in elections shall particularly observe internal discipline to ensure that their supporters refrain from obstructing pre-election activities organized by other political parties.