

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Opinions of NGOs on pending amendments to the Election Code related to verification of voters' list

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The Parliament of Georgia

is now considering proposed amendments to the Election Code of Georgia. Some of its provisions have been drafted by the Commission in charge of verifying voters' list (the Commission). The draft law proposes inclusion of the following voters in the unified voters' list:

1. Voters whose registration has been annulled by the Civil Registry, Ministry of Justice of Georgia;
2. Voters whose living at the place of their registration is not confirmed by information provided to the Commission by an individual registered at the same address.

The draft law grants these individuals with the right to participate elections held through both majoritarian and proportionate system. It is noteworthy that if an individual is removed from registration, registration portion of his/her ID card is deemed void but it is still valid to prove identity. According to one of the representatives of the Commission, number of people that fall under either of the categories is approximately 80 000. Delegating the right to vote according to a place of registration that has been deemed void means that invalid information will have a legal force, which is unacceptable. Further, it produces the risk that voters removed from registration will register shortly before the elections according to their home address and will simultaneously be included on the list for two electoral precincts, which will reduce chances of the Commission to identify such cases in a timely manner and ensure accuracy of lists.

It is noteworthy that under the Georgian legislation, realization of voting right depends on whether an individual concerned has been registered. Under the first clause in paragraph 3, Article 31 of the Election Code, "information about a voter shall be recorded in the unified voters' list according to his/her place of registration". The law stipulates that "registration or lack of thereof may not serve as the basis for restricting constitutional rights and freedom of citizens of Georgia or foreign nationals living in Georgia ... or as the basis for their realization, except when otherwise prescribed by the election legislation". The impugned norm of the draft law links invalid information – registration of individuals removed from registration - to inclusion of voters in the unified voters' list, which amounts to a legal nonsense.

Similar case occurred during 2010 municipal elections but with several significant differences, which further underlines problematic nature of the formulation offered by the draft law:

1. In 2010 the Civil Registry Agency had terminated registration of voters during the

election period (January-May)

2. In 2010 voters removed from registration had the right to participate in elections held through proportional system only
3. In 2010 voters were included on the voter lists based on their individual applications, on case by case basis as opposed to automatic inclusion.

Although the decision made in 2010 was far more substantiated than the draft law currently under consideration, it was sharply criticized by NGOs.

For substantiating the decision, authors of the draft law cite the necessity of realization of constitutional rights of voters removed from registration. However, we believe that this goal must be achieved by lawful means. Specifically, the state must conduct a large-scale campaign for raising awareness and call on the citizens removed from registration to register according to their home address, which is quite possible today since we have enough time remaining before the elections. We believe that adoption of the aforementioned norm envisaged by the draft law is unacceptable since it will damage accuracy of voters' list and conflicts with the spirit of the election legislation as a whole.