

#GYLA

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#Elections 2018



About GYLA's Observation Mission

Georgian Young Lawyers' Association (GYLA) launched the monitoring of the pre-election period of the presidential election 2018 on August 1. GYLA observes the pre-election period through its head office in Tbilisi and eight regional offices in Adjara, Guria, Samegrelo-Zemo Svaneti, Imereti, Racha-Lechkhumi, Shida and Kvemo Kartli, Samtskhe-Javakheti, Mtskheta-Mtianeti and Kakheti.

The aim of the monitoring is to contribute to fair and transparent electoral processes, to ensure the observance of the election legislation and internationally established democratic standards by members of election administration, election contestants and public officials, as well as to inform citizens of Georgia and international community about any violations and trends related to the pre-election process of the 2018 presidential election, to focus on legislative and practical gaps, to identify problems in the election legislation and advocate any relevant legislative amendments after the elections are over.

During the monitoring, special attention is paid to the establishment of objective, fair, independent and efficient investigation, fair trial and uniform practice, as well as provision of inclusive and competitive electoral environment for women, people with disabilities and ethnic minorities.

GYLA's monitors particularly focus on the issues such as staffing of the election administrations, identification/elimination of any facts of using administrative resources and bribing voters, provision of the environment promoting the free expression of voters' will, financing of political parties, exercising of rights and obligations by election contestants, inclusive electoral environment, working environment for the media etc.

In the event of identification of any violations, the organization submits any relevant information / statement to the election administration, the Interagency Commission for Free and Fair Elections, the State Audit Office and any other relevant agencies for the purpose of ensuring the response in the manner envisaged by the law.

The newsletter includes information on the facts and activities carried out by the agencies involved in the election process **from September 4 to September 23, 2018**. In particular, **2 facts of alleged violation of pre-election campaigning rules, 2 facts of using administrative resources, 2 facts of physical confrontation, 3 facts of interference with pre-election campaigning, 2 facts of interference with journalists' professional activities** have been revealed.

GYLA has requested information about some alleged violations / facts, the results of the analysis of which will be also introduced to the public later.

Cases of Alleged Use of Administrative Resources

During the reporting period, two alleged facts of the use of administrative resources were observed, when subordinate or otherwise dependent persons were involved in the pre-election campaign process using administrative resources, including participation in the organization of pre-election activities using technologies and other means of communication. With respect to the above mentioned facts, GYLA has addressed to district electoral commissions (DECs) with the aim of obtaining an appropriate legal response.



Alleged Use of Administrative Resources in Gori

On 18 September of the current year, according to the [information](#) disseminated through the media, Mikheil Goginashvili, a member of Gori City Municipal Assembly (Sakrebulo) and the Chairman of the fraction “Georgian Dream –Democratic Georgia”, in the group conversation of the closed group on the Facebook asked party activists and public officials to “like” the video of the opening of Salome Zurabishvili’s campaign headquarters, also he requested them to ask all members of the party and acquaintances to “like” the video. In addition, on 10 and 17 September 2018, Mikheil Goginashvili was carrying out pre-election [propaganda](#) via Facebook, and therefore, this might be the fact of him using administrative resources.



Excerpt from the Memorandum of the Use of Administrative Resources

The [Memorandum](#) defines Article 48 (1) (b) of the Election Code as follows:

“It is prohibited to use means of communication (including e-mails), information services (including official web-pages and / or social media administered from State Budget funds) and other types of equipment (including publishing of information containing pre-election campaigning (canvassing) signs on personal social networks using the above-mentioned means of communication or other equipment) designated for state authorities and local self-government bodies and the organizations which are funded from the State Budget of Georgia, except for political parties.”



Alleged use of administrative resources in Zugdidi

On September 21, 2018, during working hours, David Shamatava, Head of the Department of Youth and Gender Equality Affairs in Zugdidi Municipality sent a written notice to students saying that a meeting with an independent presidential candidate Salome Zurabishvili was planned to be held on September 22, at 2:00 pm at the Youth Palace and asked them to attend and bring their friends as well.

According to the Election Code:

Any person having the right to participate in pre-election campaign (canvassing) who has an official position in any state or local government agency, shall be prohibited from using directly subordinate or otherwise dependent persons in the course of pre- election campaigning in support or against any political party (bloc) or candidate for electoral subject, also from conducting canvassing during working hours and / or while carrying out official duties.

Cases of Alleged Violation of Pre-Election Campaigning Rules



Violation of Pre-Election Campaigning Rules in Kutaisi

Nugzar Khutsiberidze, Deputy Chief of Kutaisi City Hall Supervision Department, participated in the pre-election meeting of the presidential candidate of Georgia, Salome Zurabishvili on September 12 of this year. Moreover, Nugzar Khutsiberidze allegedly was carrying out the pre-election propaganda via Facebook during working hours on September 13 and 14 of the current year. Namely, he repeatedly published publicly the [information](#) in support of the presidential candidate Salome Zurabishvili in the above mentioned social network.



According to the Election Code of Georgia:

Public officials of state government and local self-government bodies shall not be entitled to carry out pre-election campaigning and propaganda during working hours and / or when performing their official duties.

GYLA addressed to Kutaisi District Electoral Commission with the aim of obtaining an appropriate legal response with regard to the abovementioned fact.





Pre-Election Propaganda Provided by Clergy

Recently, the media has repeatedly disseminated the statements containing pre-election propaganda made by clergy of high hierarchy. There were the cases when the clergy [expressly opposed the position of](#) the political union "Georgian Dream" and their supported independent presidential candidate - Salome Zurbashvili. In connection with this, on September 19 of the current year, the Catholicos-Patriarch of All Georgia released [an appeal](#) and urged the clergy and bishops to refrain from making statements of political content, from mentioning any political subjects inappropriately in the public space in order not to cast a shade on the church and themselves.

Although making statements containing propaganda by certain clergy do not constitute a breach of the law, we believe that the clergy, in particular – members of Holy Synod, have to be especially cautious when exercising the right of expression of political views, due to their social status and their role in certain parts of the society.



According to the Election Code:

Religious organizations have no right to conduct or participate in pre-election campaigning.¹ The Church shall be represented without any special authorization by: Church Council, Catholicos-Patriarch of All Georgia, Holy Synod of Georgian Orthodox Church and Patriarchate of Georgia (authorized persons: Senior Archbishop and the Secretary).² Consequently, [Archbishop Jakob](#), most likely, has violated [the requirement of the law](#) of election campaign.³

GYLA called upon the representatives of religious organizations to refrain from making statements containing the signs of pre-election campaigning, as well as the Central Election Commission of Georgia - to investigate the factual circumstances of pre-election propaganda by the clergy and provide a relevant legal response thereof.

¹ Article 45(4) (Z) of the Election Code of Georgia

² Article 1(4) of the Decree of the Parliament of Georgia "On Approval of the Constitutional Agreement between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia"

³ The alleged violation of this type by Archbishop Jacob [occurred during the pre-election period of 2014 local self-government elections](#), in regarding to which non-governmental organizations disseminated [a public statement](#) and appealed to the Election Administration. However, the CEC chairperson considered that the statement made by the Archbishop, as a separate appeal (preaching) to the parish [did not represent the statement made on behalf of the Church](#). Furthermore, the trend of violation of the pre-election campaigning rules by the clergy was observed [in the pre-election period of the 2012 parliamentary elections](#). Monitoring Report of 2012 Parliamentary Elections, GYLA, p. 19

Disarrangement of Pre-Election Meetings

During the reporting period, GYLA observed **two facts of alleged attempts to disrupt pre-election meetings** of the independent presidential candidate Salome Zurabishvili. Moreover, at **one of the meetings, journalists were interfered with their activities**, which was later eliminated and the journalists were able to cover the pre-election meeting.

Meeting in Kutaisi

On September 12, Salome Zurabishvili, an independent presidential candidate held a pre-election meeting in L. Meskhishvili Theater in Kutaisi. GYLA's observer also attended the meeting. The presentation of the election program of the presidential candidate supported by the ruling party was [attended](#) by Imereti Governor, Kutaisi Mayor, Kutaisi City Municipal Assembly (Sakrebulo) deputies, officials of n(n)lp organizations of the City Hall, lecturers of Tsereteli State University and employees of I. Chavchavadze Public Library.

The meeting was held in the background of a protest rally. [Representatives](#) of United National Movement and "Free Zone" were trying to disrupt the meeting by shouting and creating a tense situation. They were gathered outside the building equipped with posters and protested against Salome Zurabishvili's attitude towards the beginning of the war. They even attempted to get inside the hall where the presidential candidate was, but failed to do so.

The rally against Salome Zurabishvili was in action in parallel with her meeting. After the completion of the meeting, a verbal [confrontation](#) occurred between Zurabishvili's supporters and rally participants. The cause of the confrontation was the statements made by the presidential candidate regarding the August War 2008.

Meeting in Zugdidi

On September 22, 2018, an independent presidential candidate Salome Zurabishvili held a meeting with her supporters at the Youth Palace in Zugdidi, which was attended by a GYLA observer.

The meeting of the presidential candidate supported by the ruling party was attended by employees of budgetary institutions, but other persons willing to be present at the meeting were not allowed to do so.

Representatives of the media also had [difficulty](#) to attend the meeting: the cameramen and reporters of Rustavi 2, Imedi and Iberia. A member of the non-governmental organization "Fair Elections" was also trying to get inside the meeting room. According to him/her, while the supporters of the "Georgian Dream" were trying to prevent him/her from entering the hall, s/he fell down. Maia Kalandia, a member of "United National Movement" was not allowed to the meeting either. The police forces were mobilized both outside and inside the building. Later, the persons wishing to attend the meeting entered the hall together with the Zugdidi Majoritarian MP and the situation was eased.

Salome Zurabishvili was nominated as a candidate for the presidential elections in Zugdidi by Archil Talakvadze, and Merab Kvaraia, Zugdidi Majoritarian deputy provided her description.

During the meeting, Maia Kalandia, the member of National Movement, was trying to disrupt the meeting by making various remarks.

Given the above, GYLA considers that it is inadmissible to interfere with the activities of journalists as well as to disrupt meetings of presidential candidates.

Stands for displaying Election Campaigning Materials were Delayed in Batumi

On September 8 of the current year, Batumi City Municipal Assembly (Sakrebulo) delivered a Decree №66 "On the regulation of some issues related to placement of pre-election campaigning materials for the presidential elections of October 28, 2018," which determined the places for installation of stands in order to allow interested parties to have the opportunity for displaying their campaigning materials.

Batumi City Hall was instructed to execute the above mentioned Decree and implement any relevant organizational-legal activities for this purpose. However, the local government bodies failed to fulfill their commitment within the designated timeframe as provided for in the law, thus violating the requirements of Article 46 of the Organic Law of Georgia "Election Code of Georgia", which stipulates that local self-government bodies shall publish the information about places and / or installed stands designated for posting and displaying campaign materials no later than 10 days before calling elections.

The GYLA monitors checked the information on September 18 of the current year, and revealed that the stands were not installed at the following addresses specified in the Batumi City Municipal Assembly (Sakrebulo) Decree: Europe Square, the territory adjacent to the Miracles Park, the park in front of Batumi Municipality Administrative Building (address: Batumi, Luka Asatiani street # 25), the intersection of N. Baratashvili and I. Chavchavadze Streets, the park near the church, the territory in the new boulevard adjacent to the restaurant "Acharuli House" and the restaurant "Tower", the territory adjacent to Aqua Park in the new boulevard, and the territory adjacent to the Amphitheater in the new boulevard.

With respect to the above mentioned fact, the Batumi City Hall explained that they have not violated the requirements set out in Article 46 (5) of the Organic Law of Georgia on the Election Code, as the conjunction used in the Article "and / or" conveys the alternative content and the legislator does not specify a special timeframe for [installation of the stands](#).

It should be noted that Batumi City Hall solved the problem after representatives of media and observer organizations expressed the interest towards the abovementioned fact.

Facts of Physical Confrontation

Two facts of physical confrontation between representatives of Georgian Dream and United National Movement were identified during the reporting period in Kutaisi and Tianeti. In the course of physical confrontation in Kutaisi, the fact of interfering with the journalists professional activities was also revealed. GYLA [responded](#) to the incidents of violence occurred in Kutaisi and Tianeti, as well as the fact of interference with the journalists during the Kutaisi incident.

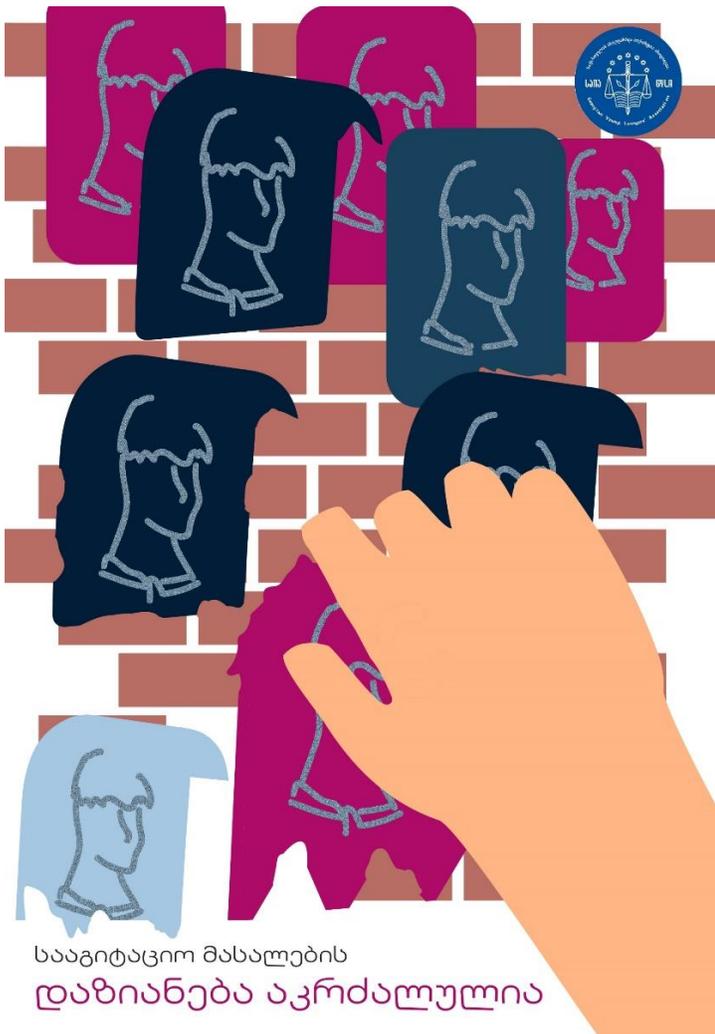
Physical Confrontation in Tianeti

[According to the media report](#), on September 15 this year, physical confrontation took place in Tianeti, where supporters of "Georgian Dream" and "United National Movement" opposed each other. According to the same report, the confrontation was [triggered](#) by the fact of tearing off the poster of Grigol Vashadze, the presidential candidate of the United Opposition, by Roma Pashurishvili, an employee of the bureau of Zakaria Kutsnashvili, the Georgian Dream activist and a member of the Parliament of Georgia.

GYLA observer checked the above information with the opposing parties.

In this connection, National Movement declared that Pashurishvili tore off Grigol Vashadze's posters and posted them on the Facebook page. According to them, this is the first time of tearing off Grigol Vashadze's posters and they will have a relevant response to all the cases of interference with their candidate's campaign, including physical clash.

An investigation has been initiated regarding the above incident under Article 156, which implies persecution. The court [imposed 3,000 GEL bail on Davit Zimshitashvili](#), an activist of United National Movement, for confrontation with the Georgian Dream activist.



სააგიტაციო მასალების
დაზიანება აკრძალულია

Physical Confrontation in Kutaisi

On September 19 of the current year, prior to the start of the meeting of Kutaisi City Municipal Assembly (Sakrebulo), Imeda Saghinadze, a member of the majority of the Kutaisi City Municipal Assembly (Sakrebulo), and Gia Ukleba, a National Movement deputy, confronted each other. The confrontation started in the Sakrebulo assembly hall which later transformed into a furious fight in the corridor. The members of the majority of the Kutaisi City Municipal Assembly (Sakrebulo), Kakha Bochorishvili and Nikoloz Chechelashvili from "Georgian Dream" joined in the fight and beat Gia Ukleba in his face. As a result of the physical confrontation, the Sakrebulo "National Party Deputy" sustained "injuries in the face area." GYLA's observer was also attending the meeting.

The alleged cause of the disagreement was the posts published by Gia Ukleba in the social network with the insulting statements towards Salome Zurabishvili and her supporters. According to the representatives of National Movement, the confrontation was staged and actually was linked to the statements made by Giorgi Chigvaria on September 18 of this year. Later, the meeting was resumed, but the issues were discussed in the background of verbal confrontation and provocative [statements](#).

The Ministry of Internal Affairs of Georgia has launched an investigation under Article 126 of the Criminal Code of Georgia, which [implies violence](#). According to the disseminated information, the offense may be related to the political views of the UNM member. Thus, it is of extreme importance that the prosecution and investigative bodies should pay proper attention to this circumstance at the initial stage of the investigation - to examine any possible political motives into the case and in the event of their confirmation, assign the case a relevant qualification (for example, Article 156 of the CCG).

It should also be noted that [according to the media reports](#), the head of the Economic Department of Kutaisi City Hall was trying to cover the video camera of "KutaisiPost" in order to prevent the journalists from taking the footage of the September 19 fight in the Kutaisi City Municipal Assembly (Sakrebulo), and a Sakrebulo deputy from "Georgian Dream" tried to force journalists out of the assembly hall.

We believe that the signs of criminal offense against the "KutaisiPost" journalist are obvious. In particular, there was the fact of alleged offense provided for in Article 154 of the Criminal Code- **Unlawful interference with the journalist's professional activities i.e. coercing a journalist into disseminating or not disseminating information.**

Technical Presidential Candidates



For the 2018 presidential election, 10 opposition parties [established](#) the Coalition "Power is in Unity". The member parties are: "For New Georgia," "Serve Georgia," "National-Democratic Party," "State for the People," "Christian-Conservative Party," "New Georgia," "United National Movement," "Civil Alliance for Freedom," "European Democrats" and "Georgia among Leaders."

The member parties of the Coalition declared that they have their common candidate Grigol Vashadze for the presidential elections, who was [presented](#) to public on July 17. Later, the party United National Movement, a member of the Coalition, [presented](#) Grigol Vashadze, as a presidential candidate to the Central Election Commission.

Noteworthy that besides "United National Movement", four other member parties of the opposition coalition individually applied to the election administration and [nominated](#) their own presidential candidates: "National-Democratic Party" - Zviad Iashvili, "State for the People"- Mikheil Antadze, "Christian-Conservative Party" - Zviad Mekhatishvili and "New Georgia" - Zviad Baghdavadze.

As the head of Grigol Vashadze's campaign headquarters told the media, *the above step is a part of their campaign strategy and the four candidates are [technical candidates](#). "with the view to preventing falsification of the elections, and having more representatives at all electoral levels, we technically register candidates so that all those benefits which are associated with qualified subjects should be used to prevent the electoral fraud. This means that we will have one representative per qualified subject, through which we will ensure fraud prevention. This [step](#) is also justified in terms of advertising time. "*

According to the election law, a party registered in the CEC and an initiative group of voters shall have the right to nominate one candidate for President's post of Georgia. ⁴

The individual participation in the elections by the parties of the Coalition does not violate the law. However, the procedure for presenting a presidential candidate is problematic and needs to be revised. The existing regulations create incorrect stimuli for political unions to nominate "technical" presidential candidates, the main purpose of which is to obtain additional state funding and other benefits. This poses extra burden on the state budget and does not ensure equal conditions with respect to other subjects participating in the elections.

⁴ The Election Code of Georgia, Article 98(1).

Gaps Regarding the Lists of Voters of Presidential Candidates

On September 18 of the current year, the Central Election Commission (CEC) of Georgia made a statement about the information disseminated through the media regarding the falsification of signatures in the lists of voters of the opposition political coalition "Movement-State for the People" and "National Democratic Party".

According to the CEC, the signature and data of Mamuka Bakhtadze, the Prime Minister appeared in the list of the voters of Mikheil Antadze the presidential candidate nominated by the political coalition "Movement - State for the People". Actually, [according to the CEC](#), the signature on the voters' list was completely different from the signatures affixed by Mamuka Bakhtadze and publicly known to the CEC. Moreover, the CEC said that a member of the DEC filed a statement regarding repeated falsifications of his/her signature in the list of voters of the National Democratic Party's candidate. The CEC appealed to the Prosecutor's Office and requested to launch an investigation into the case.

The Chief Prosecutor's Office of Georgia [started an investigation](#) into the alleged fact of falsification of signature on the voters' list of the presidential candidate of the political union "State for the People" under Article 362(1) of the Criminal Code of Georgia.

The Prime Minister [called](#) "disgrace" the falsification of his signature in the list of supporters of the presidential candidate. Nika Machutadze, in whose voters' list the CEC discovered the Prime Minister's signature, declared that it had been a provocation and the signature of the Prime Minister had been intentionally recorded in the list. [According to Bachuki Kardava](#), Head of the National Democratic Party, sending voters' lists to the Investigative bodies by the CEC is a new practice and the Central Election Commission is actually managed by the Government and the SSSG.

We believe that the process of collecting and verifying the signatures of supporters is defective and needs to be revised. It is important to ensure high standard of protection of voters' personal data in the process of drawing up supporters' lists, as well as to develop additional support mechanisms for collecting and verifying the signatures of supporters to increase confidence into the process and prevent any sort of manipulations with voters' signatures.

Attempt to discredit and pressurize Observer Organizations

During the reporting period, **the state institutions engaged in the election process expressed a number of unsubstantiated criticisms towards local observing organizations, which go beyond the ethical level and create an impression of the attempt to discredit the non-government sector.**

On August 21 of this year, the Chairwoman of the Central Election Commission (CEC) of Georgia called the report prepared by GYLA ["unserious" and "unprofessional"](#).

On August 24 of the same year, Tea Tsulukiani expressed interest towards the GYLA's monitoring report on the staffing of election commissions and [declared](#) that "there is no information on the methodology in the document, without which the research document cannot be deemed serious."

On September 14 of this year, the Georgian National Communications Commission demanded from the ISFED to [remove](#) the "wrong and unqualified information and assessments" from the first interim report of the pre-election monitoring of the 2018 presidential election.

[GYLA](#) and [ISFED](#) responded to the above **groundless and unethical allegations**, but we consider it important to reiterate our opinion again. In particular, **making any destructive, non-professional, unsubstantiated and groundless statements by administrative bodies towards the non-governmental sector is inadmissible and unacceptable, especially against observer organizations during the pre-election period.** This creates a reasonable assumption that these are the attempts aimed at discrediting and pressurizing the civil society organizations with many years of experience, which may not be positively reflected in the development of democratic processes in our country. Members of the delegation of the Parliamentary Assembly of the Council of Europe have also paid attention to the above facts and highlighted [the significance of the civil sector for the development of democracy](#).

Once again we urge any relevant persons to refrain from making unethical, groundless and unsubstantiated statements, be constructive and conduct evidence-based discussions, which will promote the development of sound electoral environment and democratic processes in the country.

Memorandum of the use of administrative resources



The [Memorandum of Understanding](#) was signed between the Central Election Commission (CEC) of Georgia and the Inter-Agency Task Force for Free and Fair Elections on September 14, 2018. The [conclusion](#) of the memorandum of mutual cooperation between the CEC and local election observer organizations has been carried out for the last few election cycles, and its technical support provided by the International Foundation for Electoral Systems (IFES). Traditionally, we, the signatories to the Memorandum agree that, regarding proceedings of administrative and judicial cases as well as pre-election campaigning, we will be

guided by the provisions envisaged in the Memorandum.

While working on the text of the Memorandum, observing organizations requested to add a provision on social networks in order to eliminate the possibility of any violation through social media. We believe that social networks are a powerful instrument to influence the will of the electorate, and election campaigning through the social networks is a growing challenge. Initially, the issue was not agreed with the CEC. It should be noted that, during the last election cycle, the CEC failed to provide a progressive definition of the law in this regard. Consequently, certain facts remained legally unresolved.⁵

In addition to the above mentioned, the NGOs urged the CEC to solve the issues, such as conducting a thorough and fair examination of electoral disputes, as well as ensuring respect towards local election observing organizations and provision of adequate conditions for their activities.

Several working meetings were held in order to reconcile the positions of the CEC and civil organizations regarding the issue of campaigning via social media. The observer organizations suggested to the CEC to define election campaigning via social networks, including propaganda through personal accounts / pages during the working hours or when performing official duties, as pre-election campaigning/canvassing. The CEC expressed its willingness to recognize the issue of pre-election campaigning through personal pages on social networks as a problem, however, offered an alternative definition of the issue: The CEC suggested inclusion of a provision on conducting of pre-election campaign by public officials using administrative resources through their social networks in the Memorandum as one of the types of use of administrative resources.⁶ Finally, the formulation proposed by the CEC was reflected in the text of the Memorandum.

Despite the fact that the CEC did not share our formulation, recognition by the election administration of canvassing through social networks as a challenge is important and should be assessed positively.

⁵ For example, participation of the foreign citizens - Mikheil Saakashvili & Andrei Shevchenko in the campaign of 2016 & 2017 elections, & canvassing carried out by public officials through social networks during the working hours in the course of the local self-government elections in 2017.

⁶ In particular, the CEC clarified that using of means of communication (including e-mails), information services (including official web-pages and / or social media administered by State Budget funds) and other types of equipment (including publishing of information containing pre-election campaigning (canvassing) signs on personal social networks using the above-mentioned means of communication or other equipment) designated for state government institutions and local government bodies and the organizations which are funded from the State Budget shall be prohibited.

Media Environment

Media Union “OBIJEKTIVI” Fined

On August 9 of this year, Georgian National Communications Commission (GNCC) [imposed a fine](#) in the amount of 3132, 36 GEL on the N(N)LP Media Union “Obiektivi”.

It should be noted that the GNCC in its decision regarding the N(N)LP Media Union “Obiektivi” refers to Article 66¹ of the Law of Georgia “On Broadcasting”, which states that “*political parties may not finance broadcasters and may not procure their services and finance or co-finance directly or indirectly the production of and broadcasting of broadcasters’ programmes.*” Simultaneously, Article 50 of the Election Code determines the general regulations for media coverage of election campaigns, which specifies the obligations which the broadcaster shall have when placing advertisements in the period of elections. Accordingly, a political party has the right to place a political advertisement any other time and placement of political ads shall not be considered as the procurement of services indicated in Article 66¹ of the Law of Georgia “On Broadcasting”.

Furthermore, Article 66¹ of the Law of Georgia “On Broadcasting” was adopted in 2013 and no amendment has been implemented therein so far. The Georgian National Communications Commission [changed](#) the attitude towards the placement of political advertisements during non-election period after the second round of the 2016 parliamentary elections without making any notification in that regard.

It is noteworthy that the NGCC [warned](#) the N(N)LP Media Union “Obiektivi” with the same ground on August 24, 2017.

The new interpretation of the regulation provided by the NGCC contradicts the previous practice and causes misinterpretation of the existing law. Prohibiting parties to place political advertisements during non-election period in the broadcaster is actually an act against the freedom of expression and restricts the media space for political forces during non-election period. Moreover, we believe that due to the political culture existing in Georgia, parties must have the opportunity to communicate with electorate during the election period and after elections.



An Administrative Offence Report Drawn up by the Georgian National Communications Commission against the Broadcasting Company Rustavi 2 LLC



The National Communications Commission (NGCC) has issued an administrative offence report against the Broadcasting Company Rustavi 2 LLC for placing political /pre-election advertisements in violation of the requirements of the legislation on August 15 and August 16, 2018. The Commission accused the Broadcasting Company of violating the requirements of Article 50 of the Election Code of Georgia. It is noteworthy that the above Article regulates media coverage of pre-election campaigns and specifies the obligations which shall arise no later than on 50th day before polling day.

According to Article 45 of the Election Code, pre-election campaign shall begin 60 days prior to polling day. The date of the 2018 presidential election is 28 October of the current year and accordingly, the obligations of the media under Article 50 of the Election Code shall arise no sooner than August 29, 2018 and no later than 08 September 2018.

As regards the Commission's [statement](#) related to the launch of the pre-election period on 1 August 2018 is correct. However, it should be noted that the requirements of Article 50 of the Election Code refer to pre-election campaign and not the election period. And the pre-election campaign, as already mentioned, started on 29 August 2018.

Based on the aforementioned, drawing up an administrative offence report against the Broadcasting Company Rustavi 2 LLC is in contrary to the Election Code of Georgia.

The Statement of the Georgian National Communications Commission Regarding the Publication of the Public Opinion Polls

The Georgian National Communications Commission (GNCC) in connection to the publication of the public opinion polls is guided by Article 51 of the Election Code of Georgia, which determines the requirements the above mentioned polls shall meet. The requirements can be divided into two parts:

1. What shall be indicated when publishing public opinion polls (Article 51 (11) ("f") of the Election Code;
2. What requirements an opinion poll shall meet, including credibility and objective verification of results of research methodology (Article 51 (11)("a" - "e") of the Election Code).

Unarguably, it is mandatory to make necessary references while publishing opinion polls. However, some questions arise regarding the subparagraphs "a-e" of Article 51(11) of the Election Code.

According to the explanation provided by the Georgian National Communications Commission, the requirements stipulated in Article 51(11) ("a-e") of the Election Code shall apply to a broadcaster commissioning a public opinion poll. It is noteworthy that the Commission cannot practically conduct an in depth examination of all details regarding the opinion poll. At the same time, the regulator transfers the issues subject to self-regulation to the area of regulation, thus creating a risk that citizens may refrain from taking part in opinion polls as the administrative body may become aware of the position of persons participating in the poll about the support or opposition expressed by them towards a particular party / person.

The questions are raised also by the fact that the mentioned provision was adopted in 2006 and has not been amended ever since. The Commission makes the present interpretation based on 2016.

Consequently, the interpretation of this provision by the regulator (application of the requirements envisaged in Article 51 (11) ("a" - "e") of the Election Code) with the above wording is unacceptable. The interpretation contains risks of discriminatory approach by the Commission and may complicate the process of conducting public opinion polls. In addition, we believe that a research organization shall be responsible for the research and imposing responsibility on the media is inadmissible.

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FROM THE AMERICAN PEOPLE

საინფორმაციო ტექნოლოგიების მონაწილეობის მოზარდებს შესაძლებელი გახდა ამერიკელი ხალხის მხარდაჭერის წყალობით, რომელიც აშშ-ის საერთაშორისო განვითარების სააგენტოს (USAID) მეშვეობით იქნა გაწეული. საინფორმაციო ტექნოლოგიების გამოყენებით მოსაზრებები ეკუთვნის საქართველოს ახალგაზრდა იურისტთა ასოციაციას და შესაძლებელია არ გამოხატავდეს USAID-ის და აშშ-ის მთავრობის შეხედულებებს.

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