



## Newsletter No. 2

August 2017

### About the GYLA's monitoring mission

**On June 1 the Georgian Young Lawyers' Association (GYLA) started the pre-election monitoring of the 2017 local self-government elections.**

**The GYLA is observing the pre-election period through its head office in Tbilisi and regional offices in eight regions of Georgia: Adjara, Guria, Imereti, Shida Kartli, Kvemo Kartli, Kakheti, Mtskheta-Mtianeti, and Samegrelo.**

The aim of the monitoring, **which is being carried out in the framework of the USAID-supported project "Promoting More Competitive, Fair and Inclusive Electoral Environment for the 2016-2018 Electoral Cycle in Georgia"**, is to contribute to the introduction of objective, fair, independent and effective investigations, fair trial, and uniform practice and to ensure the promotion of inclusive and competitive electoral environment for women, persons with disabilities, and ethnic minorities. The project also aims to promote transparent electoral processes, in particular, to inform citizens of Georgia and the international community of violations and trends related to the 2017 local self-government elections and to turn their attention to the shortcomings accompanying electoral processes, as well as to identify

problems in the electoral legislation and to advocate relevant legislative changes after the elections are over.

In the case of identifying violations, the organization submits the relevant information or complaints to the Election Administration, the Interagency Commission for Free and Fair Elections, the State Audit Office, and other relevant agencies with the aim of ensuring response provided for by law.

This newsletter deals with the developments and violations that can exert an influence on the electoral environment. The GYLA has requested additional information on alleged violations and other developments, and we will also provide the public with the results of their analysis.

In addition, in the nearest future, the organization will present to the public its first interim report on the pre-election context and the developments that take place during this period.

**This newsletter was made possible with the financial assistance of the American people through the United States Agency for International Development (USAID) within the frames of the project "Promoting More Competitive, Fair, and Inclusive Electoral Environment for 2016-2018 Election Cycle in Georgia".**

## Threats against the Chairperson of the District Election Commission of Akhalkalaki

According to information released by the Central Election Commission of Georgia, on September 2, Samvel Petrosian, Regional Representative of the Patriots' Alliance (former member of the Parliament of Georgia), and his son, Giorgi Petrosian (Trustee of the Head of Municipal Administration), made [threats](#) against Hasmik Marangozian, Chairperson of the District Election Commission of Akhalkalaki. In particular, the aforementioned persons threatened the DEC Chairperson with death, as well as with unlawful deprivation of his family members' liberty and damaging their property. According to the CEC's statement, the aforementioned persons have already made similar threats against Hasmik Marangozian on several occasions.

Hasmik Marangozian also confirmed this incident in a conversation with the GYLA's representatives.

In addition, on the same day, Samvel Petrosian stopped his car near Paata Panjikidze, Deputy Chairperson of the DEC of Akhalkalaki, who was walking in the street, and demanded his explanation regarding his official activity.

The GYLA's representatives also verified the incident with Samvel Petrosian who explained that the threats had not been made, although the argument with Hasmik Marangozian had occurred due to the fact that the latter tore the application of a person who had applied for the position of a member of the DEC, depriving him of the opportunity to take part in the job competition.

According to Samvel Petrosian, the incident was also witnessed by other members of the DEC.

The aforementioned incidents, if confirmed, may contain signs of a criminal offense. Such incidents in the run-up to the elections exert a negative influence on safe and free electoral environment.

GYLA urged the following agencies to respond on the abovementioned fact: *Law enforcement agencies, Inter-agency Commission for Free and Fair elections, Election Administration, Election subjects and their Representatives.*

**The GYLA continues to study the aforementioned incidents and will provide the public with additional information in the nearest future.**

## Electoral dispute regarding the registration of a monitoring organization

[Newsletter No. 1](#) contained information about an electoral dispute between N(N)LE Center – Future Initiatives and District Election Commission No. 27 of Mtskheta.<sup>1</sup>

The Tbilisi Court of Appeals refused to grant the appeal of the Center – Future Initiatives and upheld the decision of the Tbilisi City Court by which the Court had refused to register the Center as a monitoring organization at District Election Commission No. 27 of Mtskheta.<sup>2</sup>

The decisions of the Tbilisi City Court and the Tbilisi Court of Appeals were based on the argument that by the time the organization filed an application, the pre-election campaign had not yet started, which made it impossible to register it as a monitoring organization. The Court of Appeals also noted that a monitoring organization could obtain the right to monitor a concrete election, and the right to carry out monitoring could not exist in isolation from the electoral process, as the monitoring organization must exercise its right obtained through the registration in the framework of a concrete election; thus, the election commission could not deliberate on the registration of the Center as a monitoring organization until the election date was announced.<sup>3</sup>

However, a judge of the Administrative Panel of the Tbilisi Court of Appeals, Natia Kutateladze, dissented from the majority of the members of the Panel and enclosed her dissenting opinion to the decision.

In her opinion, both the CEC and the Court of Appeals had misinterpreted Part 3 of Article 40 of the Election Code and such interpretation of the law did not proceed from logical interpretation of the goals of the law; in particular, the legislator could not have set the earliest time for registration of monitoring organizations by setting the time frame mentioned in the aforementioned article, because the electoral process, as well as one of its main components – monitoring, consists of several parts which should be regarded as components of a unified process.

According to Natia Kutateladze, “...the real constitutional safeguard of a democratic state is the control of the government by the people. Such control will become impossible if a monitoring organization’s rights to observe the electoral process (not only the polling), to attend meetings of election commissions, and to file complaints against decisions made by administrative bodies in the manner established by law as a person entitled to file complaints are restricted by misinterpretation of law on the part of an

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<sup>1</sup> The Center – Future Initiatives appealed the decision of District Election Commission No. 27 of Mtskheta and, later, that of the Central Election Commission on refusing to register the organization as a monitoring organization in the Tbilisi City Court and, later, already in the Tbilisi Court of Appeals.

<sup>2</sup> Ruling of the Tbilisi Court of Appeals of July 18, 2017, in case no. 3B/1598-17; judgment of the Tbilisi City Court of July 13 2017.

<sup>3</sup> When determining the time frames for registration, the court relied on Part 3 of Article 40 of the Election Code, according to which “In order to be registered, a domestic election observer organization shall apply to the relevant election commission not later than the 10th day before the polling day and shall submit its constituent documents/statutes notarized according to the legislation of Georgia.” According to this interpretation, the time frame for registration as an observer organization starts from the day of announcement of the Election Day, or from the start of the pre-election campaign, and finishes not later than on the 10<sup>th</sup> day before the Election Day.

administrative body – the CEC...” “... The monitoring of the electoral process is always a long-term activity that can never be accomplished in the short-term period which was determined first by the CEC and then by the City Court...”

The nature and standard of continuity of the electoral cycle were established by the European Commission and the International Institute for Democracy and Electoral Assistance (IDEA). According to this definition, activities of electoral cycle are not isolated and each of them is related to other activities in the sense that regress in one area can strongly affect other activities, and monitoring organizations should take this interdependence into account when assessing the electoral process and formulating recommendations.<sup>4</sup>

In our view, the decisions of the CEC and the Tbilisi Court of Appeals establish a dangerous practice with regard to registration of monitoring organizations, because under such interpretation, a number of activities of the Election Administration which are carried out before the announcement of the election date are left without observation. Examples of such activities include the filing of complaints in court with regard to lists of voters; creation of electoral districts; and registration of parties, blocs, initiative groups of voters, etc.

Therefore, such interpretation of the aforementioned norms not only contradicts the goals of election monitoring but also poses a danger to the activity of monitoring organizations, which ultimately exerts a negative influence on the transparency of electoral procedures.

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<sup>4</sup> Considering the principles of the [Paris Declaration](#) on Aid Effectiveness of 2005, experts of the European Commission and the International *Institute for Democracy and Electoral Assistance* (IDEA) created [Electoral Cycle](#), a document which aims to help interested parties understand the cyclic nature of the electoral process.

## Memorandum on definitions related to the use of administrative resources

In order to ensure an equal pre-electoral environment, it is important to prohibit the use of administrative resources for electoral purposes.

Precisely with this aim, on August 29, 2017, the GYLA, seven non-governmental organizations, the Central Election Commission, and the Interagency Commission for Free and Fair Elections concluded a [memorandum](#) of cooperation.

By signing the memorandum, the parties agreed to be guided by the definitions included in the memorandum with regard to pre-election agitation, as well as administrative and court proceedings, which will help create an equal and fair electoral environment for the 2017 local self-government elections.



We believe it important that the judiciary, together with the aforementioned agencies involved in the electoral process, also take the definitions indicated in the memorandum into consideration when examining cases and taking decisions.

## The GYLA provides aid to independent candidates running in elections

With the aim of promoting equal and competitive electoral environment, the GYLA believes it important to ensure that all candidates running in elections are informed about electoral rules and procedures.

To achieve this goal, the GYLA provides aid to independent candidates for the 2017 local self-government elections. In addition to the GYLA's lawyers providing independent candidates with consultation, the organization has also prepared information brochures describing the rules and procedures with which independent candidates have to comply in order to run in the elections. These brochures are available on the organization's [website](#) and in the social network.

## Necessity of transparency of political finance

With the aim of monitoring the transparency and lawfulness of political finance, and considering the good examples of the previous years,<sup>5</sup> the State Audit Office (SAO) has set up the Temporary Consultation Commission for the 2017 local self-government elections.

**The GYLA gives a positive assessment to this initiative and joins the Commission together with 15 other NGOs.**

The Commission aims to contribute to increasing the transparency of the SAO's activity in terms of monitoring the funding of political parties. The creation of the Commission also gives monitoring organizations an opportunity to better familiarize themselves with the SAO's activity, discuss violations and other problems identified in elections in detail, and give relevant recommendations to the SAO.

## Distorted Gender Equality: 59 male and 2 female mayoral candidates

The Task Force on Women's Political Participation has responded to news reports about the Georgian Dream's list of mayoral candidates, according to which 61 mayoral candidates nominated by the party only include 2 women.<sup>6</sup>

Currently, women's representation in local self-government bodies is extremely low (not exceeding 12%) – none of the current mayors are women and 59 heads of municipal administrations elected directly only include 1 woman.



The authorities and the ruling party bear a particular responsibility for enhancing women's representation in politics. The trend of political parties nominating very few women as mayoral candidates is an alarming one and confirms that the public's demand for ensuring equal participation of men and women in the country's political and socioeconomic processes remains unheeded. This also prevents the fulfillment of international commitments taken by the State, which poses a threat to the country's democratic development.

The organizations have called upon all political parties to take into consideration the importance of women's participation in politics before the final registration of candidates and party lists, to submit gender-balanced lists for the 2017 local self-government elections, and to ensure equal participation of both genders in the elections.

<sup>5</sup> <https://gyla.ge/files/news/2014%20LOCAL%20SELF-GOVERNMENT%20ELECTION.pdf>

<sup>6</sup> <https://gyla.ge/post/qalta-politikuri-monatsileobis-samushao-igufis-ganckhadeba#sthash.vGZYKoMS.dpbs>

## Working meeting of the Council on Gender Equality on the issue of gender quotas

With the aim of increasing women's political participation, on June 12, 2017, the Council on Gender Equality held a working meeting to discuss a legislative [initiative](#)<sup>7</sup> submitted by a task force of non-governmental and international organizations.

The working meeting was attended by members of the Council and representatives of the GYLA and other non-governmental organizations that are authors of the initiative. The Legal Issues Committee was designated as the leading committee for the examination of the initiative. Representatives of the Committee noted the significance of the draft law and expressed readiness to work on the amendments.



The initiative envisages making amendments to two organic laws – the Election Code and the Law on Political Associations of Citizens. According to the amendments, parties and electoral blocs will be obliged to compile electoral lists based on the principle of equality and to ensure that every second person in the list represents a different sex. Otherwise, the Central Election Commission will return the list for them to eliminate the shortcomings, and, in the case of failure to eliminate the shortcomings, the party will not be able to be registered. And if an elected deputy's powers are terminated for some reason, the deputy's seat will go to the next candidate in the list who represents the same sex.

*"... First of all, we are going to start working with our colleagues. Almost all non-governmental organizations support this idea. The proposed amendments do not concern the local self-government elections planned in October, but it's important that parties also show the political will in these elections and include more women candidates in their electoral lists,"*- noted Eka Beselia during the meeting, expressing her support for the draft law.

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<sup>7</sup> <http://info.parliament.ge/#law-drafting/14155>

### ***Inclusive electoral environment and realization of political rights***

*The observation and research of the inclusiveness of electoral environment in the 2016 parliamentary elections highlighted a number of problems in terms of realization of political/electoral rights of women, persons with disabilities (PwDs), and ethnic minorities:*

- ✓ *Parties nominated few or no women as majoritarian candidates, and women were not included in winning places in party lists;*
- ✓ *Women's political participation is not a very popular topic in political parties, and they often avoid talking about it both at central and regional levels;*
- ✓ *Common stereotypes and the patriarchal society negatively affect women's activation in politics;*
- ✓ *The main problem identified while studying the political rights of PwDs is that they are not actively involved in the electoral process. Although they are paid more attention in the pre-election period, political parties only manipulate this topic and discontinue their activities after elections are over;*
- ✓ *Another problem is that they lack information and awareness of their political rights and electoral procedures.*
- ✓ *Low information level, language barrier, and skeptical attitude to political actors are among the main challenges in terms of realization of the political rights of ethnic minorities.*

***It is important that political parties consider the previous year's experience and take account of the needs of PwDs, women, and ethnic minorities when compiling their electoral platforms for the 2017 local self-government elections, in order to contribute to the creation of an inclusive electoral environment.***



საინფორმაციო ტექნოლოგიების მონიტორინგის ცენტრის მიერ დაგეგმილია გავლენის ანგარიშგამოკვეთილი ხალხის მხარდაჭერის წყალობით, რომელიც აშშ-ის საერთაშორისო განვითარების სააგენტოს (USAID) მხარდობით იქნა გაწეული. საინფორმაციო ტექნოლოგიების მხარდაჭერის გეგმის ფარგლებში მოსაზრებები ეკონომიკის განვითარების განხორციელების მიზნით დაგეგმილია არ გამოხატავდეს USAID-ის და აშშ-ის მთავრობის შეხედულებებს.

THIS NEWS LATTER WAS MADE POSSIBLE BY THE GENEROUS SUPPORT OF THE AMERICAN PEOPLE THROUGH THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID). THE OPINIONS EXPRESSED IN THIS NEWS LATTER BELONG TO GYLA AND MAY NOT REFLECT THE OPINIONS OF THE DONOR.