



The Georgian Young Lawyers' Association

MONITORING MISSION OF THE MAY 30, 2010 LOCAL SELF-GOVERNANCE ELECTIONS

PRE-ELECTION ENVIRONMENT, E-DAY AND POST-ELECTION MONITORING

MONITORING REPORT

July 15, 2010



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Format of the Monitoring Mission

Since the day it was founded, the Georgian Young Lawyers' Association (GYLA) has been implementing monitoring of elections.

During the monitoring GYLA always maintains strictly neutral position. The purpose of GYLA's monitoring is to identify to what extent are the election law and international democratic standards are observed by the representatives of electoral administration, electoral subjects and public servants during the pre-electoral period, on E-Day and the process of tabulation of results.

During the electoral period GYLA not only identified violations, but tried to encourage introduction of progressive interpretation of election law, bring legal measures against perpetrators and prevent future electoral violations through filing complaints with the electoral administration and court.

Observation of the May 30, 2010 local elections was implemented in frames of one of the strategic directions of the organization – promotion of effective, accountable and transparent governance¹.

Observation of the May 30, 2010 local self-governance elections was financially supported by the British Embassy to Georgia, the US Agency for International Development (USAID), Open Society-Georgia Foundation (OSGF) and the Swedish International Development Agency (SIDA)².

Scope of the Monitoring

On the January 29, 2010 session the board of administrators made a decision on implementing **pre-electoral** monitoring in the capital city and seven regions of Georgia – Adjara, Guria, Imereti, Shida Kartli, Kvemo Kartli, Kakheti and Mtskheta-Mtianeti. **The E-day and tabulation procedures** were observed in three main cities of Georgia – Tbilisi, Kutaisi and Batumi.

GYLA based its decision on implementing E-Day monitoring in three main cities of Georgia on following circumstances: GYLA implemented monitoring through its member-lawyers, staff and experienced observers (total of 250 observers). Correspondingly, the scope of monitoring should have entailed several regions. The decision to implement monitoring in Tbilisi was based on the fact that population of Tbilisi was electing the Mayor of Tbilisi through direct elections for the first time; furthermore, due to large amount of voters in these cities competition between electoral subject was the highest.

Monitoring Methodology

During **the pre-electoral period** GYLA's observers acquired information through different ways, including solicitation of public information from public agencies and monitoring of information reported by media outlets³; additionally, representatives of GYLA attended agitation meetings of political parties with voters; frequently citizens and members of political parties themselves provide us with information concerning violations they have observed during pre-election period. Having received information, GYLA's monitors verify each case directly with applicants.

If evidence allowed, GYLA filed with the CEC, court and law-enforcement officers over violations.

On E-Day GYLA's observers were performing permanent monitoring of 100 electoral precinct in Tbilisi, 50 electoral precinct in Batumi and 50 electoral precincts in Kutaisi. Members of 20 mobile groups in Tbilisi and ten mobile groups in Kutaisi and Batumi assisted GYLA's monitors.

At DEC's (10 electoral districts in Tbilisi, electoral districts of Batumi and Kutaisi) and the Central Electoral Commission (thereinafter, CEC) GYLA's lawyer observers were permanently stations from E-Day to tabulation of results.

¹ GYLA's Strategy 2007-2010, adopted by the general meeting of GYLA on Oct 28, 2007;

² Under the auspices of the sub-grant of NDI;

³ central and regional press, television and internet publications

Pre-Electoral Period

The amendment made to the Constitution of Georgia on February 12, 2010 set the date for the local self-governance elections – no later than July 1, 2010. The President of Georgia was commissioned to announce date for the elections no later than in 60 days. It shall be noted that the President of Georgia officially appointed the elections on March 30, 2010 – one day before the term established by the Constitution expired⁴. Therefore, political parties were given minimum term for pre-electoral campaigning.

Regrettably, during pre-electoral period of local self-governance elections, blurred line between activities of the government agencies and political parties was problematic, similarly to the 2008 elections. It contradicted international commitments undertaken by Georgia and created unequal playing field for political parties.

Regrettably, noted practice was encouraged by legal provisions in the Election Code which allows political officials to combine pre-election campaign with the conduct of their official duties. It shall be noted that the **Venice Commission** gives negative feedback to presence of the provisions in the Election Code of Georgia⁵ and considers that they contradict certain Articles of the **OSCE Copenhagen Document**, which call for a clear separation between the State and political parties and commit the state to “provide...necessary legal guarantees to enable [political parties] to compete with each other on the basis of equal treatment before the law and by the institution”.⁶

The report reveals facts of pre-election law violations, as well as trends that do not necessarily violate specific provisions of the Election Code, but in their essence constitute the use of Budget funds, thus creating unequal campaigning environment for election subjects.

Budget Resources and Pre-election Campaign

Under the December 28, 2009 amendments to the Election Code of Georgia, implementation of projects not formerly foreseen under the State/local budget is prohibited after the day of official appointment of elections to the final tabulation of votes. Purpose of the noted amendment was to restrict use of Budget funds during pre-election period.

Local self-governance elections were officially appointed by the March 30, 2010 #254 presidential decree. Correspondingly, it was possible to initiate different unforeseen projects, or increase their number in central or local Budgets by March 30.

Hence GYLA focused on programs that were initiated by March 30 by state or local self-governance agencies in order to find out whether initiation of different programs was linked to upcoming self-governance elections.

Budget of the City of Tbilisi

Initial version of the Tbilisi 2010 Budget, which was adopted by Sakrebulo of Tbilisi on December 28, 2009 defined **687 500.0 GEL as incomes of the city and 512 680.5 GEL as its expenditures**. Therefore, amount of expenditures had been increased by GEL 26 million from 2009.

The Feb 22, 2010 amendments to the 2010 Tbilisi Budget increased expenditures up to **570 820.7 GEL**.

Ultimately, expenditures defined by the 2010 Budget exceeded expenditures registered in 2009 with GEL 84 million. It shall be noted that the sum under the category “other expenditure” was significantly increased and the difference amounted to GEL 54 million.

Transfers foreseen for the city of Tbilisi by the 2010 State Budget were also significantly increased. In 2010 transfers designated for Tbilisi amounted to **GEL 521 million, which is a GEL 131 million increase from 2009**. Additionally, it shall be noted that Tbilisi received 62% of the total amount (836 934.0 GEL) designated for autonomous republics and local self-governance agencies by the 2010 State Budget.

Programs of Tbilisi City Hall

From the late autumn 2009 Tbilisi City Hall initiated significant amount of projects, which provided certain **benefits and monetary support** to local population. These programs are, but not limited to:

- free computer and English language classes;
- City Lawyers, which provides free legal aid to Tbilisi dwellers;

⁴ The May 30, 2010 #254 order of the President of Georgia on appointment of the local self-governance elections.

⁵ Joint Opinion on the Election Code of Georgia (as of July 2008) #. 454/2007, Jan 9, 2009, Strasbourg.

⁶ Articles 5.4. and 7.6 of the OSCE Copenhagen Document;

- calling a doctor free of charge in cases of virus infection;
- “Let’s Plan the 2010 Budget of Tbilisi Together”;
- GEL 10 pension raise for pensioners residing in the capital city;
- Issuing of medication vouchers worth GEL 25 to pensioners residing in the capital city;
- 50 % decrease of public transportation fees for pensioners residing in Tbilisi;
- Issuing of vouchers by the City Hall for co-payment of communal bills;
- Writing off all the cleaning service bills that had been accumulated by January 2010;
- “Let’s listen to Tbilisi dwellers in every district”;
- Program for employment of socially vulnerable large families in private sector;
- “Movie Mania”.

GYLA’s interest in the above-listed programs was caused by the fact that **most of them were brand new programs that were implemented simultaneously with other budget projects (including the projects that have been reflected in the report of the inter-agency task force). Additionally, financial support of the projects that had not been recently initiated were unprecedentedly increased for the election year.**

Tbilisi City Hall may have been implementing a number of social programs in 2007-2009 non-election years, but the fact is that funding of social welfare programs have been significantly increased for current year, amounting to GEL 78,302,600, which is a GEL 51 million increase from 2009. Furthermore, it shall be noted that in 2009 (non-electoral year) amount foreseen by the City Budget for funding social programs was almost two times less than the amount foreseen in the election year 2008 (in 2008 – GEL48,068,400, in 2009 – GEL 26,842,400).

For example, the program to provide pensioners with medicines was implemented in 2008-2009 and was continued in 2010 as well. The amount of funds foreseen for the noted program is GEL 3 million, which is the highest amount provided for funding the program for over the last three years. In 2009 (non-election year) GEL 15,400 was foreseen to provide pensioners with medicines, in 2008 (electoral year) these funds amounted to GEL 1,690,600.

GYLA focused on such large-scale activities undertaken by Tbilisi City Hall and requested public information concerning specific dates of initiation of above-listed projects, their duration and funds allocated from the city Budget for implementation of the projects. Regrettably, the City Hall failed to provide suitable information; therefore on April 6, 2010 GYLA and TI-Georgia addressed Mayor of Tbilisi Gigi Ugulava with an open letter calling for transparency⁷, but to no avail.

“Let’s plan the city budget together” is one of the budget programs of Tbilisi City Hall, which may be linked to self-governance elections. The aim of the noted program is to poll each citizen about priorities of the 2010 city budget, in order to plan it according to public interests. Several circumstances questioned effectiveness of the project and actual aims of its implementation. **Firstly**, polling started in December, before December 28, 2009, which made it impossible to fully analyze polling results and make corresponding amendments to the draft 2010 Tbilisi budget before it was adopted. **Secondly**, large-scale polling of citizens started in December 2009, when draft Tbilisi Budget was already submitted to Sakrebulo for adoption. **Thirdly**, last question in the questionnaire⁸ – **“what would you advise to the Mayor?”** – enabled interviewers to identify how each Tbilisi-dweller felt about acting Mayor, who was at that time considered to be UNM’s candidate for the position of mayor in local self-governance elections.

Noted suspicions are further solidified by the fact that Tbilisi City Hall refused to provide us information concerning polling results; namely, to what extent the polling results were reflected on planning of the 2010 Tbilisi budget.

The answer provided by the City Hall several months after the term had expired⁹ included results of citizen polling and stated that the polling was held in order to *identify needs and problem of local population so that results of the noted research were reflected in the budget.*

Regrettably the answer failed to note ways results of the polling funded from the Budget were reflected in 2010 draft budget, which is the single most significant factor to evaluate how successful the project was, whether it achieved its purpose – active involvement of the population in setting budget priorities.

Therefore, passive stance of the City Hall to openly provide information concerning activities it has undertaken makes us think that incorporation of the polling results in 2010 draft budget was impossible due to short amount of time and it never happened. The project Let’s Plan Tbilisi Budget Together was part of the pre-electoral campaigning.

⁷ refer to the link: http://gyla.ge/index.php?option=com_content&view=category&layout=blog&id=1&Itemid=103&lang=ka

⁸ ref. to annex #1; 11/20164-7

⁹ Response of Tbilisi City Hall to GYLA’s letter #07-40338-1; 11/20164-7.

Apart from the noted large-scale social project, which was launched by Tbilisi City Hall right before the self-governance elections were appointed, the City Hall initiated negotiations with natural persons to provide different types of benefits to Tbilisi-dwellers; for example:

- The City Hall signed an agreement with BasisBank, thus engaging the bank in its project “Start Your Business with the Help of Tbilisi City Hall”;
- The City Hall signed an agreement with Kaztransgaz-Tbilisi for restructurization of debts of the city dwellers;
- The City Hall and Georgian Water and Power Company signed an agreement which served as the basis for restructurization of water bills of Tbilisi dwellers.

Out of the projects implemented in the regions, **Students’ Employment Program** is noteworthy. It was adopted by the February 26, 2010 decision of Sakrebulo of the City of Batumi. As a representative of the Youth Service of Batumi City Hall informs, **students’ employment program** was to be launched in **May**¹⁰; although the program was terminated until elections on the basis of recommendation of the inter-agency task-group.

Use of Administrative Resources

At the April 12 session of the Parliament Bureau, Speaker of the Parliament Davit Bakradze touched upon the issue of using administrative resources in the election process. He warned state officials to act in frames of the law. Davit Bakradze called on the inter-factional group to get involved in the process and control use of administrative resources¹¹. Nevertheless, we have identified facts of illegal involvement of state officials in the election processes and illegal use of administrative resources.

❖ *Slogan of Tbilisi City Hall – I Love Tbilisi on Candidates’ Agitation Materials*

Frequently line is blurred between state programs and activities of political parties in terms of agitation materials.

For example, unifying logo of UNM majoritarian candidates’ agitation materials is “I Love Tbilisi¹²”. Noted logo/slogan represents a project of Tbilisi City Hall. Under the initiative of the City Hall, all ongoing projects in Tbilisi are unified under the noted logo. Correspondingly, Tbilisi dwellers associate the logo/slogan with current activities undertaken by the City Hall, an administrative agency¹³. For example, the I Love Tbilisi logo is also used as a mark certifying that a parking fee has been paid.

The logo was used by UNM’s candidate for Tbilisi Mayor Gigi Ugulava. He campaigned with agitation material displaying the I Love Tbilisi logo. For example, on April 27 in frames of his election campaign Gigi Ugulava visited a bakery at Dadiani St. He participated in the campaign wearing a T-shirt with the I Love Tbilisi logo.¹⁴

GYLA considers that such actions contradict Article 5 of the OSCE Copenhagen Document 1990¹⁵, *which calls for clear separation of state and political parties so that political parties will not be merged with the State*. Regrettably, boundaries between activities of the State and the ruling party candidates are frequently blurred. **Correspondingly, use of the logo by any specific political party for agitation purposes may have caused the public to identify activities funded by the State/local Budget with political party activities.**

❖ *Project of Tbilisi City Hall _ Movie Mania and Propaganda of the Listing number of the Election Subject*

On April 19 under the initiative of the Tbilisi City Hall’s Department of Youth Affairs Monitoring, project **Movie Mania** was launched, which foresees issuance of discount cards to students of state universities. The owner of the card gets 5 GEL discount when purchasing a movie theatre ticket. Commercial banner of the noted project is posted on Tbilisi City Hall website¹⁶.

¹⁰ Source: Matsne news bulletin, TV 25, April 7, 2010.

¹¹ http://www.parliament.ge/index.php?lang_id=GEO&sec_id=56&info_id=27332

¹² Ref. to annex #2 – agitation material of UNM majoritarian candidates

¹³ for example, noted logo can be found in the questionnaire that was used by Tbilisi City Hall to poll Tbilisi dwellers in frames of the program Let’s Plan Tbilisi Budget together.

¹⁴ Rustavi 2, 9 pm news, April 27, 2010;

¹⁵ Document adopted in frames of the Conference on Security and Co-operation in Europe (later OSCE).

¹⁶ Ref. to annex #3

Commercial banner of the noted project posted on the Tbilisi City Hall's website¹⁷ showed a circled number 5 on red background. It shall be noted that the banner was posted on the website after UNM decided to participate in elections with a listing number 5 again and submitted corresponding application to CEC¹⁸.

GYLA considered that production of such discount cards constituted agitation of the election number of a specific political party, which contradicted Article 73.3 of the Election Code of Georgia that says: "during election campaign period it is forbidden to produce print materials with State/local budget funding, which reflect any election subject, or its listing number for participation in elections".

Violation of the noted rule is qualified as unlawful use of administrative resources and is subject to liability in the amount of GEL 1000 foreseen by Article 126²⁷ of the Election Code of Georgia.

GYLA applied to the chairperson of CEC with an application¹⁹ requesting study of the noted fact and imposition of administrative sanctions on law-breakers.

CEC chairperson discussed the noted fact and deemed the action of an employee of the Unit for Youth Affairs Monitoring of Tbilisi City Council as an administrative violation, constituting use of administrative resources during pre-electoral agitation and campaigning. Correspondingly, protocol of administrative violence was drawn up against Tornike Khutsishvili under Article 126²⁷ of the Election Code of Georgia.

❖ *Involvement of Public Servants in the Pre-Electoral campaigning*

Unlike the 2008 presidential and parliamentary elections, public servants used annual due leave of absence to legitimize their involvement in pre-election campaigning, while continuing to use their offices and office cars. They continued to hold meetings with representatives of local self-governance and administrative agencies and to receive citizens as usual.

Use of administrative resources in such a disguised manner contradicts not only the applicable stipulations of the Election Code prohibiting use of official or working position during pre-election campaigning and agitation (Article 76.1) but it also violates Para b of Article 89 of the Law on Public Service which states that **duties shall be suspended during annual leaves**.

For example, Gamgebeli of Gardabani **Zviad Epitashvili** who is currently on a one-month leave is using office car with government license plates MER-638 and his office room in the building of Gamgeoba.

Former Gamgebeli of Dusheti region, Zurab Otiashvili whose authority was ceased by the March 10, 2010 order of Sakrebulo still uses office of Gamgebeli, receives visits from citizens and utilizes administrative resource. For example, on April 14 he received visits from citizens at Gamgeoba (municipal district) building, at the office of Gamgebeli. During whole pre-electoral period Zurab Otiashvili coordinated pre-election campaign of UNM in the region and spent most part of the day at the Dusheti office of UNM. Dusheti dwellers report that he is considered to be number one on the party list of UNM for Dusheti municipality.

On May 5, 2010 around 5pm at the Movie House building that is currently housing the UNM's election headquarters former Gamgebeli of Dusheti **Zurab Otiashvili** who is listed number 1 in the UNM's party list held a meeting with employees of Dusheti Agency of Subsidies and requested their support in the local self-governance elections.

According to the Kakheti Information Centre journalist, Gela Mtvlishvili, head of the Signaghi District-election commission Mamuka Korashvili attends meetings of the regional organization of UNM and holds meeting at the office with Nodar Kochlamazishvili, the municipality Gamgebeli currently on the leave of absence.

Election headquarters of the UNM's majoritarian candidate in Vake election district Vato Natsvlishvili was located at A. Tsereteli Library (address: 24 Chavchavadze Av.). Pursuant to Article 3 of the Law of Georgia on Library-related Activities, a library operates on the basis of the basic principle of political neutrality. In compliance with the stipulation, use of a library as an election headquarters or as a storage of agitation materials of any election stakeholder or its candidate is prohibited. It shall be noted that the part of the library where the election headquarters was located houses a reading-room, which was not functioning until the end of elections.

Participation of unauthorized individuals in pre-election campaign

On April 16, around 2:00pm at the Ozurgeti movie-theatre hall following individuals attended a pre-election meeting of the political faction United National Movement: **state representative – governor of Lanchkhuti**,

¹⁷ Ref. to the annex #3.

¹⁸ Listing number 5 was granted to UNM for the May 30 elections at the April 21, 2009 session of CEC;

¹⁹ Statement of GYLA on April 28, 2010, #c-01/150-10;

Ozurgeti and Chokhatauri municipalities Valeri Chitaishvili and the head of the Roads Department of Georgia Ramaz Nikolaishvili. None of them were on the leave of absence at that time²⁰.

On May 12 the **general prosecutor of Georgia Murtaz Zodelava** made a statement regarding the election process. He reminded employees of the prosecutor's office of Georgia of restrictions imposed by the election law on participation of prosecutors in pre-election campaign and called on the employees of the Office to restrain themselves from getting involved in the election process.²¹ Although before the general prosecutor's statement, on April at the cultural centre of Gurjaani introduction of party list and majoritarian candidates of the UNM was attended by the **regional prosecutor of Gurjaani Gela Lazarashvili.**²²

❖ *Litigation of GYLA over the Facts of Illegal Participation of Public Servants in Pre-Electoral Campaigning*

GYLA applied²³ to CEC concerning participation of Valerian Chitaishvili and Ramaz Nikolaishvili in agitation meeting and requested imposition of administrative sanctions due to violation of Para. 5 of Article 73 of the Election Code of Georgia.

The CEC turned down²⁴ the complaint as it considered that the meeting held at Ozrugeti cinema-house was not of a political nature, therefore political statements and proclamations supporting any party had not been made. CEC decided that analysis of the above-noted factual circumstances did not corroborate violations by governor-state representative in Lanchkhuti, Ozurgeti and Chokhatauri municipalities Valeri Chitaishvili and the head of the Roads Department of Georgia Ramaz Nikolaishvili.

It shall be emphasized that during review of the noted application, CEC did not pay attention to such facts as involvement of UNM's political activists and agitators in the meeting. CEC did not take into consideration journalists' statement that at the noted meeting pre-electoral promises were made and attendees perceived the meeting as a meeting with the ruling party. Hence, CEC ignored significant facts and circumstances and failed to hold public servants violating the law accountable.

Vote buying by items of material value, promises

In December 2009 in response to the demand of NGOs an amendment was made to Para 9 of Article 73 of the Election Code, explicitly defining that during the pre-election period it is prohibited to provide gifts or goods of material value to citizens of Georgia **notwithstanding their costs.** In spite of the imperative stipulation of the law, on May 6 and 9 when candidates' meetings with voters were particularly intensified, number of cases of distributing gifts and goods of material value among citizens was observed:

- On May 6 the **majoritarian candidate of the Chirstian-Democratic Movement Zaza Gabunia** awarded the winner of a football tournament held under the CDM's initiative. He gave medals, certificates and religious icons to winners as gifts;
- On May 9 **candidate of the National Council for the position of the mayor Zviad Dzidziguri** visited a veteran of WWII Ekaterina Ghvinadze with flowers and wine as gifts;
- On May 9, **the majoritarian candidate of the United National Movement Zurab Gachechiladze** attended final of a football tournament held in Vazisubani. Winners were awarded with medals and GEL 500;²⁵
- On May 9 Dusheti Municipality organized a meeting with veterans. Opening remarks were delivered by former Gamgebeli of Dusheti Zurab Otiashvili who is listed number 1 on the UNM list. Zurab Otiashvili, along with **the majoritarian candidate of UNM Zurab Tskaruashvili** who is currently the head of Sakrebulo, awarded veterans with medals;
- On May 9 in the village of Chochkati in Lanchkhuti region, **assistant of the state representative in the**

²⁰ GYLA claimed information from the administration of the state representative-governor and the Roads Department in order to find out whether Valerian Chitaishvili and Ramaz Nikolaishvili were on a leave of absence. The governor's administration informed us that Valerian Chitaishvili had been on the leave of absence since April 30. Letter #522/11-02 of the administration of the state representative-governor. The information provided by the Roads Department proves that Ramaz Nikolaishvili was not on the leave of absence on April 16. The May 5, 2010 letter #07-06/2088 of the Roads Department of Georgia.

²¹ View the statement of the General Prosecutor of Georgia at http://www.justice.gov.ge/index.php?lang_id=GEO&sec_id=23&info_id=2304

²² The information is upheld by the Centre for Human Rights. GYLA's monitor interviewed Gela Mtvlishvili.

²³ Statement of GYLA on May 21, 2010, #c-05/54-10;

²⁴ May 25, 2010 order of the CEC #337/2010.

²⁵ The TV report does not show who handed awards to the winners, although the tournament participant stated he was grateful to Zurab Gachechiladze for organizing the tournament.

village and the UNM majoritarian candidate in the village Dali Kverenchkhiladze awarded five families of veterans with a GEL 50 check sent by the municipality.²⁶ Representatives of the Alliance for Georgia provided GYLA with a recording of a conversation where veterans Amiran Tughushi and Germane Zenaishvili confirm that Dali Kverenchkhiladze was there when the gift was handed, although it was the assistant of the state representative gave them the check.

GYLA's Litigation over "Vote Buying":

a) The fact of transferring items of monetary value to voters by the candidate for majoritarian electoral district candidate Giorgi Chachanidze

On May 9, 2010 Kavkazia TV aired a program Week's Report. According to the report, on April 29, 2010 activists of UNM organized a banquet for 400 persons attended by friends and supporters of UNM's candidate for Didube Electoral District Giorgi Chachanidze.

As we have already mentioned, the election law prohibits giving money, presents and other material values to the citizens of Georgia (notwithstanding their costs), sales of goods by advantageous prices, free acceptance or dissemination of any goods (except for the propaganda materials envisaged by the present Law), also promising to citizens of Georgia money, securities and other material means (notwithstanding their costs) personally by candidates of the election subject(s) and their representatives or through a third party from the date of publishing of the relevant legal act on announcement of elections until publishing of their final results.

The banquet held on the initiative of the activists, where 400 persons were invited shall be deemed as an action violated by applicable law implemented by representatives of an election subject in favor of the election subject. "Activists" may not be acting independently. When their activities are implemented in frames of an electoral campaign of a political movement or a candidate, they are automatically identified with them and their actions ultimately benefit electoral subjects.

GYLA deemed a comment made by Giorgi Chachanidze, revealing important information about the banquet, as an important evidence corroborating the fact. In the report Chachanidze confirms that the banquet was organized by his friends and activists and a many people were attending. In an interview with a journalists State Minister for European and Euro-Atlantic Integration Giorgi Baramidze also confirms that he was present at the banquet.

GYLA, as a registered observation organization, applied to the Board of Administrative Cases of Tbilisi City Court on May 24, 2010 and requested annulment of registration of majoritarian candidate for Sakrebulo membership Giorgi Chachanidze, as under Para 9¹ of Article 73 of the Election Code of Georgia violation of stipulations of para 9 of Article 73, is deprived of its registration. GYLA requested solicitation and study of additional evidence regarding the fact.

Tbilisi City Court reviewed the case and with its May 25, 2010 judgement #3/2070-10 turned down GYLA's lawsuit, stating that Giorgi Chachanidze's confessing comment was not enough of an evidence; it shall be noted that the court had not solicited additional information or evidence; it neither upheld GYLA's petition for obtaining additional evidence. Correspondingly, the decision was made **without due investigation and study**.

b) The fact of transferring items of monetary value to voters by the candidate for Tbilisi Mayor Irakli Alasania

According to media outlets, namely the Interpressnews news agency and recordings of the news bulletins of Kavkazia TV, Imedi TV, Rustavi 2 on May 21, 2010, candidate for the position of Tbilisi Mayor Irakli Alasania attended awarding ceremony of competition winners at Vitsipedia study centre. At the ceremony winners were awarded portable computers and other items of monetary value.

On May 21, 2010 the Interpressnews news agency reported that noted event was organized by We Create Future Today and Vitsipedia foundations. As official webpage of the election subject Irakli Alasania himself indicates, We Create Future Today foundation is a **"foundation within Irakli Alasania's party, which operates from donations of businessmen and focuses on supporting education of future generations"**.

Hence, presented evidence demonstrated that with financial and organizational support of the Foundation We Create Future Today, acting in favor of an electoral candidate, winners of Vitsipedia contest were awarded portable computers and other items of monetary value. GYLA considered that noted activity of candidate for Tbilisi Mayor Irakli Alasania involves violation of Para 9 of Article 73 of the Election Code of Georgia; more specifically, the legal entity operating in his favor – We Create Future Today foundation organized awarding ceremony of winners of the Vitsipedia learning centre contest, which was attended by the candidate for Tbilisi Mayor, Irakli

²⁶ Head of the Alliance for Georgia's Lanchkhuti organization Elguja Chkheidze provided GYLA monitor with the information.

Alasania. The activity was linked with implementation of his pre-election agitation.

GYLA applied²⁷ to the Central Election Commission of Georgia regarding the noted fact, requesting examination of the noted fact and referring the case to the court for annulling registration of Irakli Alasania if the violation were proved.

The CEC reviewed GYLA's application and turned it down²⁸, declaring that direct involvement of candidate Irakli Alasania in transferring awards to winners, or participation in funding or organizing the event was not evident.

c) The fact of transferring items of monetary value to voters by candidate for Tbilisi Mayor Zviad Dzidziguri

On May 9, 2010, candidate of Tbilisi Mayor Zviad Dzidziguri transferred gifts – wine and flowers to the patient of #1 hospital of Tbilisi Ekaterine Ghvinadze, which was broadcasted by the May 9, 2010 news bulletin of Rustavi 2 TV.

GYLA considered that noted fact constituted violation of the Subparagraph “a” of Paragraph 9 of Article 73 of the Election Code of Georgia; transfer of symbolic gift to a citizen.

GYLA applied²⁹ to the Central Election Commission, requesting study the noted fact and annulment of Dzidziguri's registration if the violation was proved.

The CEC reviewed GYLA's complaint and turned it down³⁰, ruling that “violation of pre-election campaign rules in Zviad Dzidziguri's actions are not evident, as no sufficient proof exists for the CEC to take further action by applying to court with request to revoke election registration of the noted candidate for Tbilisi Mayor”.

It shall be noted that CEC did not question the fact of transferring wine and flowers to a citizen by Zviad Dzidziguri, but it did not qualify the fact as a violation and made a legally founded decision.

d) The fact of transferring items of monetary value to voters by majoritarian candidate for Tbilisi Sakrebulo Zurab Gachechiladze

UNM's majoritarian candidate for 8th regiment of Vazisubani Zurab Gachechiladze attended final of mini-football tournament at Tsulukidze St. in Tbilisi, held on May 9, 2010. GYLA learned from the May 0, 2010 news bulletins of Imedi TV and Rustavi 2 TV about the noted information. According to the reports aired, the tournament was organized by Zurab Gachechiladze. As the anchor stated, tournament winners were awarded a cup and a monetary prize in the amount of GEL 500.

GYLA applied³¹ to the Central Election Commission, requesting study of the noted fact and applying to court for annulment of the candidate's election registration if the violation was proved.

The CEC discussed the application and made the decision³² to turn it down, stating that violation of the election law stipulations were not evident in the candidate's actions. CEC's decision was based on the oral testimony of UNM's proxy who declared that Zurab Gachechiladze “had nothing to do with organizing the tournament”. Although, it shall be noted that the CEC failed to adequately examine the case circumstances; hence the decision was shallow.

d) The fact of transferring items of monetary value to voters by majoritarian candidate for Tbilisi Sakrebulo Zaza Gabunia

Majoritarian candidate for Tbilisi Sakrebulo Zaza Gabunia also violated agitation rules during the pre-election period. As Rustavi 2 TV and Imedi TV news bulletins reported on May 23, 2010, Zaza Gabunia installed a wide screen in Bukia Square for Saburtalo-dwellers to watch the final of champions league. Majoritarian candidate Zaza Gabunia himself attended the screening. As Imedi TV reports, anyone could attend the open-air screening. As Zaza Gabunia noted in an interview with Rustavi 2 TV, the screening was organized by **himself and his campaign staff**. Zaza Gabunia declared that he decided to hold a football fest for Saburtalo-dwellers and that he is happy to offer a great show on a wide-screen to them.

Therefore, the majoritarian MP candidate for Saburtalo offered a free screening of champions league final match on a wide-screen to his voters, which constitutes transfer of gifts to voters, prohibited by Para 9a of Article 73 of the Election Code of Georgia.

²⁷ Ref. to Annex #4 the May 26, 2010 application of GYLA #c-05/56-10

²⁸ The June 5, 2010 decision #371/2010 of the CEC;

²⁹ Ref. to Annex #4 the May 26, 2010 application of GYLA #c-05/56-10

³⁰ Ref. to Annex #7 the June 5, 2010 №372/2010 resolution of the Central Election Commission

³¹ Ref. to Annex #8 the May 27, 2010 application of GYLA #c-05/57-10

³² Ref. to Annex #9 the June 5, 2010 №370/2010 resolution of the Central Election Commission

As in previous cases, GYLA applied to the Central Election Commission³³, requesting study of the noted fact and applying to court for annulment of Zaza Gabunia's registration.

With its June 4, 2010³⁴ decision the CEC established that service provided by Zaza Gabunia was insignificant, as voters did not receive any material benefit from watching the champions league match; therefore, GYLA's claim was turned down.

Illegal provision of service by candidates

Para 9b of Article 73 of the Election Code of Georgia prohibits natural or legal persons from using "private personal funds ... for the purposes of performing such works or providing such services, which are under the competence of Georgian State and/or local self-governance bodies, according to the Georgian legislation".

On May 11, at Chechelashvili St. in Kutaisi **Amiran Khvadagiani, majoritarian candidate of UNM's Kutaisi organization and former chairman of Sakrebulo** held a meeting with population. At the meeting, the candidate made a promise to resolve the issue of a dumpster and clean the territory *before the Election Day*. GYLA considers that Amiran Khvadagiani's promise contradicts the restriction imposed by Para 9b of Article 73 of the Election Code of Georgia, as under Article 16 of the Law of Georgia on Local Self-Governance, maintenance of dumpsters, collection of household waste and planning and implementation of utilization works constitutes and exclusive authority of local self-governance agencies.

Correspondingly, under Para 9 of Article 73 a candidate has no right to provide such service.

Pre-election agitation in public schools

On April 21, the Ministry of Education and Science of Georgia released an official statement regarding the elections. In its statement the ministry recommends administrations of all public schools to eliminate any attempts of pre-election agitation at school premises in order to avoid obstruction of the teaching process.³⁵ Nevertheless, several cases of using public school for campaign purposes were observed, including **with the involvement of the Minister of Education himself**.

According to the representative of the Movement for Fair Georgia's Adjara regional organization Guram Khozrevanidze, **a member of the Supreme Court of Adjara a/r Zurab Khorzevanidze, deputy Gamgebeli of Khulo Nodar Tavartkiladze and the candidate for membership of Khulo Sakrebulo Asland Tunadze** allegedly visited public school in the village of Okruashvilebi, Khulo Region during the teaching process and held pre-election agitation. As Guram Khorzevanidze states, the visit greatly disturbed the teaching process. The information was confirmed by one of the school teachers in an interview with GYLA observer. On May 20 the Ministry of Education and Science of Georgia reported dismissal of the acting principal of the Khulo public school due to disobedience to the ministry's instructions.³⁶

On May 14, 2010 at the public school #55 president Mikheil Saakashvili opened a new dining hall with the minister of education. After the opening in an interview with journalists he spoke about the May 30 local self-governance elections and emphasized importance of coordinated efforts of all levels of government. He linked ongoing successful process of reforms at public schools was the result of a coordinated cooperation between the City Hall, Ministry of Education and the president and called on the voters to take the above mentioned into consideration and make a responsible choice on May 30.³⁷

Regarding the president's visit at the public school #55 in a report produced by Maestro TV students talked about how the teaching process was stopped for two days in preparations for the president's visit.³⁸ Additionally, the footage shows students standing outside the school building waiting for the president to arrive, wearing t-shirts that say "Gigi Ugulava – Mayor of Tbilisi". T-shirts also reveal number 5.³⁹ Involvement of students in pre-election agitation contradicts Para 13.1 of the Law of Georgia on higher education that **prohibits politicization of the teaching process** and Para 3.2c of the Law that **guarantees independence of public schools from political factions**;⁴⁰ it also contradicts instructions given to public school administrations by the Ministry of

³³ Ref. to Annex #10 the May 27, 2010 application #c-05/58-10 resolution of GYLA

³⁴ Ref. to Annex #11 the June 4, 2010 №365/2010 resolution of the Central Election Commission

³⁵ View the statement of the Ministry of Education and Science of Georgia at: <http://mes.gov.ge/content.php?id=776&lang=geo>

³⁶ <http://mes.gov.ge/content.php?id=880&lang=geo>

³⁷ Ref. to the May 14, 2010 3pm news of Rustavi 2

³⁸ view <http://www.maestro.ge/?address=uc&id=8192&page=5>

³⁹ View: <http://www.maestro.ge/?address=uc&id=8192&page=5>

⁴⁰ Para 1 of Article 13 of the Law of Georgia on Higher Education: "politicization of the education proces at higher education institutions is inadmissible".

Education and Science of Georgia. On May 21 GYLA applied to the general inspection of Ministry of Education and Science concerning the noted fact and demanded corresponding response.

By the time the report was published, noted no further actions had been taken regarding the application.

Facts of pressure and intimidation for political affiliation

During the pre-election period political parties frequently indicated about intimidation and threats exerted against their representatives. As a result of the threats and intimidation several subjects refrained themselves from participating in the elections⁴¹. Frequently candidates keep silence on the reasons that pushed them to change their decision to run for elections. Except for the cases when representatives of political parties personally asked us not to indicate their names or names of their fellow party-members, we deem it expedient to publish all verified information in the report. Information obtained by GYLA also featured cases of exerting a pressure against and intimidating party activists, voters and individuals participating in voters' list verification. Regrettably, facts included in the report went without a response, except for several exceptions. As for the reaction to such facts, it only entailed suspension of authority of individuals breaking the law, or issuing an official recommendation to take a leave of absence to them.

- **Exerting a pressure against candidates**

We are starting the list of facts of pressure and intimidation with an incident in Mestia, where unlike other incidents, witnesses and victims were ready to raise voice against the incident in Mestia that occurred on May 3. Nevertheless, investigation that was launched only after NGOs filed a complaint failed to deliver a result. All governmental officials involved in the incident still maintain their positions.

- On May 4 regional media outlets spread information on the fact of violence exerted against oppositional political party members on May 3. According to witness reports, Governor of Samegrelo Zemo-Svaneti **Zaza Gorozia**, head of the regional police Tengiz Gunava, head of Mestia police **Giorgi Shedania**, deputy head of Mestia police **Joni Belkania**, MIA high-ranking officer **Anzor Margiani**, majoritarian MP of Mestia **Kandid (Kakha) Kvitsiani** and Gamagebeli of Mestia **Gocha Chelidze** were involved in the incident.

Representatives of GYLA and TI-Georgia arrived in Mestia on May 14 to verify the information. They met with representatives of oppositional parties. It shall be noted that on May 14 party-list candidates of the Freedom faction **Bikenti Saghliani** and **Nugzar Argvliani** departed from the village of Tskhumari to meet representatives of the NGOs. They were accompanied by **Bachuki Saghliani** who declares that having approached Mestia, Bikenti Saghliani received a phone-call from law-enforcement officers; afterward the candidates changed their mind about meeting GYLA observers.

Representatives of the NGOs managed to speak in person with following individuals: **Neli Naverian** (number 1 on the list of the **Alliance for Georgia** in Mestia election district), **Nino Japaridze** (majoritarian MP candidate and number 2 on the party list in Mestia); **Natia Gigani** (secretary of Mestia election commission); **Bachuki Saghliani** (candidate of the Freedom party in Tskhumari election district) and **Gocha Chelidze** (Gamagebeli of Mestia).

Eye-witnesses testified that on May 3, from 11pm several armed individuals and vehicles of law-enforcement officers were mobilized outside Gamageoba of Mestia, which is also confirmed by video-material recorded by an eye-witness. Candidates of the political movement Freedom were forcefully taken into the building of Gamageoba. They were forced to sign applications prepared beforehand regarding removal of candidacy from election registration. Head of the regional police **Tengiz Gunava**, **head of local police Giorgi Shedania** and **deputy head of the local police Joni Belkania** were also present in the building. Joni Belkania was particularly aggressive; he physically insulted Neli Nakani who entered the building. During the confrontation Gunava threatened the candidate of the Alliance for Georgia Kakha Zhorzholiani with arrest. Nodar Nakani, spouse of **Nino Japaridze**, **MP candidate of the Christian-Democratic Movement** was also threatened. According to Nino Japaridze **deputy governor Erekle Japaridze** and **member of the district commission Nugzar Nakani** were also present in the building.

A 15-year old girl **Natia Nakani** with her friend Mari Gvarliani was recording the incident outside the building for 15-20 minutes. Having noticed the girls armed individuals started chasing them, attempting to seize the camera. Underage **Jemal Japaridze**, who tried to interfere with the police to let the girls escape, were kidnapped by armed individuals and his whereabouts was unknown till next morning.

⁴¹ According to the head of Signaghi regional organization of Alliance for Georgia, Malkhaz Khutsishvili they offered several individuals to participate in election on behalf of the party and they agreed. Although, later they turned down the offer due to pressure exerted against them. In conversation with GYLA Malkhaz Khutsishvili refused to name the individuals, citing the motive of confidentiality.

Having been forced to sign the application, four candidates removed their candidacy; four candidates refused to sign the document. Later member of the Alliance for Georgia Maia Chartolani removed her candidacy after she was threatened to. Another member of the Freedom political movement, Bogdan Nigurian was pressured into writing the application before the May 3 incident.

On May 3, at night, in the village of Tskhumari pickups arrived at the house of a candidate of the Freedom political movement, **Bachuki Saghliani**. The visitors were looking for the candidate, but he was out at that time. **Nugzar Arghvliani** and **Bikenti Saghliani** were taken to Gamgeoba from Tskhumari and were forced to sign applications on removal of their candidacy. In the villages of **Ipari** and **Kala** other candidates of the Freedom political movement, **Mirza Dadvani** and **Ivane Gulbani** were also visited and forced to signed applications on removal of their candidacies on their way to Gamgeoba.

Additionally, candidate of the Freedom **Lasha Pirveli** was visited by a police escort in the village of Ipari, forcing him into removal of his candidacy. L.Pirveli refused to sign the application and he was left alone.

After the incident was publicized, inter-agency election working group recommended Zaza Gorizia to take a leave of absence, which **may not be considered to be a sufficient remedy for restoring confidence in election process in Mestia**.

GYLA considers that eye-witness statements clearly reveal indications of a crime committed by certain public servants, including “*Interference into Exercising One’s Will in Elections, Referendum or Plebiscite*” (Article 162), “*Coercion* (Article 150), “*Threat*” (Article 151), *Violence* (Article 162), and “*Exceeding Official Powers*” (Article 333). Therefore, on May 21 GYLA with TI-Georgia and ISFED applied to the general prosecutor regarding the incident that took place in Mestia, requesting investigation into the noted fact. According to the information provided by the inter-agency task force, the investigation is still ongoing.

Member of Our Georgia-Free Democrats and majoritarian candidate of Alliance for Georgia in Nigvziani community, Avtandil Surmanidze was pressured. Avtandil Surmanidze confirmed the noted fact in conversation with GYLA monitor and declared that on April 7, he was summoned at local department of Lanchkhuti Security service. As Surmanidze states, security officer Ckheidze also attended the meeting along with another person who was presented as “boss” from Kutaisi. These persons suggested Surmanidze “not to complicate matters with them” and advised him against participation in elections through the party list of Alliance for Georgia. Additionally, Surmanidze who is currently deputy state representative in Nigvziani community was summoned by Lanckkhuti Gamgebeli Giorgi Goguadze, who suggested him to quit.

Avtandil Surmanidze was summoned once more by the head of the local bureau of Lanchkhuti Security Service Bukhuti Chkhaidze on April 27. At the meeting B.Chkhaidze demanded A.Surmanidze to keep silence about the fact of intimidation. **With the help of GYLA’s Ozurgeti Office Avtandil Surmanidze filed an application in the prosecutor’s office**. As the inter-agency election working group informs, B.Chkhaidze’s official authority has been temporarily suspended while the general inspection is investigating into his case.

According to the head of Sagarejo organization of the **Movement for Fair Georgia**, Ioseb Otiashvili, spouse of the party’s majoritarian MP candidate Nato Kurdovanidze was fired by school principal allegedly due to Nato Kurdovanidze’s oppositional party affiliation, Representatives of GYLA verified the noted fact with Nato Kurdovanidze herself, who declared that the school principal warned her husband about the dismissal a month before, citing political activity of his spouse as a reason.

Head of the Kvareli regional organization of the UNM Davit Chotilashvili informed GYLA of the pressure leveled against their party candidates. According to Davit Chotilashvili, **Mzia Khutuashvili and Aneta Mgebrishvili** refused to participate in elections after presentation of the party list. The National Council states that the administration of Kakheti Governor is exerting pressure on the candidates. First deputy governor of Kakheti **Giorgi Sibashvili** rejected the allegations in an interview with GYLA’s observer.

Political faction Movement for the United Georgia provided GYLA with information concerning the fact of pressure exerted against a member of Gori Sakrebulo, Severian (Kakha) Kareli. According to the report on April 28, at 2:00pm S. Kareli who was driving was stopped by one of the Tkviavi police officers. He was forced to get out of the car and was taken to the local police department by about five police officers; two of them were identified by the applicant as **Zviad Khmiadashvili and Grigol Elikashvili**. S. Kareli spent several hours at the department. According to his written explanatory note, one of the police officers demanded him to abandon running in the elections. On April 28 the Movement for the United Georgia was an election subject registered by CEC.⁴² S.Kareli was running in the local self-governance

⁴² http://77.92.224.197/index.php?lang_id=GEO&sec_id=13&info_id=6011

elections as the Movement for the United Georgia party member, although his candidacy was not yet officially presented. Having spent several hours at the police department, S. Kareli was taken to the court and charged with disobedience to the lawful order of police. Protocol of an administrative violation was drawn up. Court judgement demonstrates that S. Kareli was released from the courtroom, although the case was referred to the district prosecutor citing the motive that indications of crime were evident. Currently S. Kareli is released and the case is referred to the prosecutor's office; although no one has yet contacted S. Kareli from the prosecutor's office so far. It shall be noted that on April 30 the political faction **Movement for the United Georgia** decided to refuse participation in elections and filed corresponding application with CEC.

— **The Movement for Fair Georgia** notified GYLA that on May 2 police arrested candidates named by the National Council for membership of Tianeti Sakrebulo **Givi Chitauri** (Zaridzebi election district) and **Gia Berberashvili** (Tushuri election district). Givi Chitauri confirmed the noted fact with GYLA's observer. Regrettably, Gia Berberashvili refused to talk. According to the information provided by the party, Gia Berberashvili's sister (principal of the public school in the village of Zaridzebi) and son-in-law (officer of the Mtskheta Patrol Police) were pressured; as a result, Gia Berberashvili refused to participate in the elections.

— **Gia Ghviniashvili, a brother of the UNM's majoritarian candidate Paata Ghviniashvili insisted the majoritarian candidate of the Alliance for Georgia in the village of Ruisi, Gia Baliashvili** to remove his candidacy; otherwise he threatened to arrest his relatives. Regardless Gia Baliashvili did not remove his candidacy.

— **Majoritarian candidate of the Movement for Fair Georgia in Bolnisi, Kveshi territorial agency Tsezar Mamulashvili** was summoned at Gamgeoba and threatened to cause problems in his business. GYLA's observer could not get in touch with Tsezar Mamulashvili in order to verify the names of the individuals who threatened to cause problems. **As head of the party's Kvemo Kartli organization Nukri Shatirashvili** informed us, Tsezar Mamulashvili did not remove his candidacy regardless of the pressure.

— **Representative of the National Council in the 4th election district of Abasha, Elguja Gabiskiria** was arrested by a police officer Otia Gabelaia on May 2, at 12:00. As Elguja Gabiskiria declares, the policeman ordered him to sit in the patrol car without stating any reason. On their way to Abasha regional PD O. Gabelaia was urging E. Gabiskiria to cut his ties with the political party. From the regional PD E. Gabiskiria was taken to Zugdidi for a drug test. Later he was released.

❖ *Pressure on individuals verifying the voters' lists*

— Representatives of Khakhuri office of the **Movement for Fair Georgia** informed GYLA monitors that phone calls with threats were made against their party secretary Tamar Abramishvili. The fact was confirmed by Tamar Abramishvili herself, who declared that threats were made by phone call. Tamar Abramishvili states that an anonymous caller threatened to 'pay back' if she verified voters' lists objectively.

— Representatives of the Khashuri office of **Movement for Fair Georgia** informed GYLA's monitor that pressure was exerted on their personell. According to them, Maguli Beruashvili, who lives in the village of Tkotsa and participated in the process of verification of the voters' lists found a letter in her courtyard, threatening her not to indicate houses where no one was living. Maguli Beruashvili confirmed the information in an interview with GYLA's representative.

— In an interview with GYLA's observer, **chairman of Sighnaghi regional organization of Alliance of Georgia Malkhaz Khutsishvili** noted that on April 30 Lali Janikashvili, a representative of the Alliance in electoral precinct of the village of Zemo Magharo was threatened by the chairperson of the PEC to quit verification of the voters' lists.

❖ *Pressure on Party Activists and Voters*

— According to thairman of Dedoplistskaro regional organization of **Movement for Fair Georgia Shota Jamaspishvili**, school administration was exerting a pressure on the party's activist Nunu Kadagishvili, who is currently a teacher. She was threatened to to be sacked for her political affiliations. According to the verified information, after the fact was publisized, Nunu Kadagishvili no longer faced problems.

— Representative of **People's Party from Rustavi Mamuka Tabatadze** informed GYLA's observer that frequently an unidentified car was following her with a government lisencc plates HNH-729. Mamuka Tabatadze considers that the noted fact has something to do with his political activities.

- **Representative of the Alliance for Georgia in Gori, Davit Tsetsvadze** told GYLA observer that he had noticed a car with the government license plates TTI-863. He states that two individuals in the car were videotaping all persons entering the office. David Tsertsvadze could not state the exact date.

❖ ***Pressure on journalists***

- According to the statement of Kakheti information centre correspondent Tamar Kviriashvili when she was taking photos of public servants (who were not on the leave of absence at that time) coming out of the UNM headquarters, **employee of Gurjaani municipality Gangeoba Tamaz Abramishvili** verbally abused her and attempted use of physical force. The journalist was forced to leave the headquarter premises. Regardless of the intervention, the journalist managed to take a photo of the **deputy chief of staff of Gangebeli, Lela Javakhishvili** and government-owned vehicles that candidates are still using. According to the journalist former chairmen of Gurjaani municipality Sakrebulo **Zakaria Iaganashvili** witnessed the incident. He is running in the elections as the UNM candidate. Although asked for a number of times, Iaganashvili did not react to the incident.

❖ ***GYLA's litigation over the fact of a violent propaganda by a candidate***

On May 8, 2008 candidate of a political movement Tavisupleba for the electoral district of Mtatsminda #1 Vladimir Sadgobelashvili posted a following text with a violent content on his Facebook webpage:

*"It is time to demonstrate Fascist and Nazi spirit..."
Gays' blood must be spilt..."*

GYLA considers that noted text constitutes propaganda of violence, prohibited by para 2 of Article 75 of the Election Code, which states: "the election program shall not call for wars and violence, forceful change of the existing state and public order, violation of territorial integrity of Georgia, fostering national hatred and religious and ethnic confrontation".

The Electoral Code of Georgia defines the form of election agitation. More specifically, according to para 6 of Article 73 of the Election Code, election propaganda may be implemented via mass media, large scale events (meetings and sessions with constituencies, public debates and discussions, gatherings and demonstrations) with publishing/distribution of printed propaganda materials, audio amplifiers or in other form in accordance with the rule defined by the legislation of Georgia.

Social network Facebook is a mass-medium of internet communication, particularly when a user's page is not closed.

GYLA deemed it necessary to respond to the noted fact and applied to Tbilisi City Court, requesting annulment of the April 30, 2010 order #89/2010 of #1 Mtatsminda DEC concerning registration of Vladimir Sadgobelashvili as an MP candidate for Tbilisi Sakrebulo, due to violation of para 2 of Article 75 of the Election Code.

With its May 25, 2010 decision Tbilisi City Court turned down GYLA's complaint as it ruled that facts of Vladimir Sadgobelashvili calling for violence are not proved and explained that even if the facts are proved, the basis for revoking registration of the candidate.

To sum up, GYLA litigated on following issues:

1. Use of violence and coercion against election subjects;
2. Use of administrative resources prohibited by law;
3. Transfer of gifts and items of monetary value to voters;
4. Illegal participation of civil servants in pre-election campaigning;
5. Propaganda of violence.

During the pre-election period GYLA submitted total of three complaints in common courts, five applications in CEC and one application in the General Prosecutor's Office regarding violation of pre-election rules.

Out of a number of facts of violence identified by GYLA, the corresponding agencies responded to one. In rest of the cases, the CEC, as well as common court avoided thorough study of issues raised by us and obligation to find evidence. Frequently corresponding agencies failed to take adequate measures for finding additional proofs, or totally ignored evidence submitted; in a number of cases they wrongfully interpreted legal provisions.

We consider that CEC and court play a role of utmost importance in creating fair election environment. It is necessary that CEC and court respond to violations committed by different election subjects and candidates.

E-day observation

The Georgian Young Lawyers' Association's carried out the voting and vote count procedures monitoring in the 30 May 2010 local elections in **Tbilisi, Kutaisi and Batumi** electoral districts.

GYLA observers monitored the voting, vote count and tabulation procedures in 200 polling stations. At the same time, GYLA's 30 mobile groups visited more than half of the polling stations in Tbilisi, Kutaisi and Batumi.

In **Tbilisi** GYLA had deployed: 100 permanent observers; 20 mobile groups that were visiting precincts set up on the district territories and 10 DEC observers;

In **Batumi** GYLA's observation was implemented through 50 precinct observers, 5 mobile groups and 2 DEC observers;

In **Kutaisi** observation was implemented through 50 precinct observers, 5 mobile groups and 2 PEC observers.

Violations identified by E-Day monitoring

Aside from several exceptions, the voting took place in a generally calm environment on 30 May. However, **the control imposed by the ruling party's activists over the voters' expression of their will cast a significant shadow over the positive trends that set these elections apart from the 2008 presidential and parliamentary ballots.**

Voters subjected to control while expressing their will

Para 1 of Article 28 of the Constitution of Georgia provides for "free expression of voter's will".

According to the section 2 of the Election Code, "any influence restricting free expression of voter's will and control of free expression of voter's will is prohibited". On May 29 chairman of the legal committee of Parliament Pavle Kublashvili declared that outside the electoral precincts UNM's activists registered turnout of their supporters at the electoral precincts. On May 30, E-Day GYLA monitors observed groups that were monitoring turnout of voters at electoral precincts and recording turnout of the UNM supporters in special registers at electoral precincts in Tbilisi, Kutaisi and Batumi.

UNM proxies registered identities of voters that arrived electoral precincts in Tbilisi outside the 77th precinct of Isani Electoral district #5; electoral precincts # 9, 24, 32, 53, 54 of Gldani Electoral district #10; electoral precinct #83 of Samgori Electoral district #6; electoral precincts #5, 6, 10, 24, 25, 34, 35, 47, 48, 57, 58, 59, 67, 72 of Vake Electoral district #2; electoral precincts #9, 5, 81, 48, 54, 50 of Saburtalo District #3; electoral precincts #87, 89, 90 of Nadzaladevi District #9; #32 precinct of Gldani #10 District.

Precincts #16, 60, 71, 69, 42, 39, 33 of Kutaisi Electoral District #59.

Precincts #21, 75, 21, 23, 58, 1, 2, 3, 6, 7, 8, 49 and 53 of the Batumi Electoral District #79.

GYLA considers that presence of noted groups outside the electoral precincts constituted **control on expression of voters' will, which violated fundamental principles of free and fair elections.**

Violations during the process of voting

Although voters were able to make their choices in a calm environment inside the polling stations, in some electoral precincts, **the process of voting involved significant problems, some of which cannot be described as mere procedural irregularities.**

For example, in Electoral Precinct #41 of Batumi Electoral District #79, an observer attempted to rig the vote results, while a person voted instead of another voter (Levan Kharazishvili). In the same precinct, two individuals attempted to vote instead of other voters (Mamuka Loria and Mamuka Matkava) but the commission members did not let them do it.

In Electoral Precinct #23 of Batumi Electoral District #79, there were **multiple cases of individuals voting with other people's documents.** Specifically, voters found signatures across their names on the voter list upon arriving at the polling station. Similar cases were recorded in electoral precincts ## 27, 28 and 16 of the same district.

In Electoral Precinct #62 of Batumi Electoral District #79, a voter who arrived at the polling station around noon took a ballot paper outside the station. Despite an observer's remark, the electoral commission did not react to the incident.

Procedural violations producing real threat of vote rigging

In several of Tbilisi's electoral precincts – for example, in Krtsanisi and in three electoral precincts of Saburtalo – **the inking verification device** was out of order for a certain period of time but people continued to vote despite the device malfunction. In **Electoral Precinct #42 of Batumi Electoral District #79**, the inking device did not work at all for half an hour though the people continued to vote.

In electoral precincts ## 1, 8, 9 of Didube Electoral District #8, **dozens of voters had been included on the mobile ballot box list incorrectly**. In Electoral Precinct #13 of Electoral District #59, the mobile box ballots were not signed and stamped before being taken from the polling station. Four people voted with this kind of ballots. A similar case was recorded in Electoral Precinct #89 of this district.

In Electoral Precinct #35 of Mtatsminda Electoral District #1, political party representatives took the mobile ballot box from the polling station at 10 a.m. No observers accompanied them. The box was returned to the polling station at 5 p.m. though there were plus signs instead of voter signatures in the voter list supplement.

Obstruction of observers' work and pressure on observers:

While the Central Electoral Commission was trying its best to assist observer organizations throughout the Election Day, a negative, and sometimes hostile, attitude could be felt precinct and district commissions. In several special precincts in Tbilisi, observers had problems entering the polling stations both when the stations opened and before the start of the vote count procedure. On several occasions, observers were not allowed to enter the polling stations.

In **Electoral Precinct #3 of Batumi Electoral District #79**, the Precinct Electoral Commission members physically assaulted a GYLA observer after he filed a complaint demanding annulment of the results in the polling station. In Electoral Precinct #5 of **Samgori Electoral District #6 in Tbilisi**, the Precinct Electoral Commission chairman would not allow a GYLA observer to leave the territory of the precinct after the results were summed up. In **Electoral Precinct #13 of Mtatsminda Electoral District #1**, the commission chairman forced a GYLA observer to leave the polling station. The observer returned to the polling station following the District Electoral Commission's intervention. In Electoral Precinct #80 of Isani Electoral District #5, the chairman of Isani Electoral District Commission prohibited a GYLA observer from approaching the registration table. In **Electoral Precinct #12 of Chughureti Electoral District #7**, the commission chairman filed a complaint against a GYLA observer because the observer had written a complaint.

Violations during vote count and tabulation procedures

In most cases, the level of training of precinct electoral commissions in the area of vote count was very poor. In the majority of electoral precincts where the Georgian Young Lawyers' Association monitored the elections, the precinct commissions had difficulties in drawing up final protocols. The situation was particularly alarming in the precincts where the commissions had to count the votes from the special precincts they had been assigned.

The majority of precinct electoral commissions agreed unwillingly the observers' demand that the counting members be selected through a draw. In Electoral Precinct #57 of Batumi Electoral District #79, the entire commission, rather than the members selected through a draw, participated in the ballot count.

E-day Complaints and appeals

The largest number of complaints was filed in the Mtatsminda, Krtsanisi, Chughureti and Isani districts in Tbilisi, as well as in some precincts of Batumi Electoral District #79.

A total of 41 complaints were filed by GYLA with precinct electoral commissions, and 30 remarks were recorded in journals.

Due to grave violations GYLA sought annulment of following precinct results:

Precincts #16, 23, 27, 28, 41 of Batumi Electoral District #79 – due to individuals voting instead of others and precinct 62 of the same district – due to taking the ballot box out of the electoral precinct; Precinct #3 – number of envelopes in the ballot box exceeded number of signatures on the list.

Annulment of precincts #13 and 89 of Kutaisi Electoral District #59 due to finding unsigned ballots in the mobile ballot-box.

Annulment of precinct #35 of Mtatsminda Electoral District #1 due to absence of signatures on the list of a mobile ballot-box. Annulment of a list of mobile a mobile ballot-box at electoral precinct #1, 8, 9 of Didube Electoral District #8.

On E-Day GYLA sought disciplinary and administrative punishment of certain members of twenty PECs due to exerting a pressure on observers and performing authorities poorly.

Monitoring of post-election complaints review and tabulation procedures at district and precinct electoral commissions

GYLA monitored post-election procedures in twelve DECs in Tbilisi, Kutaisi and Batumi. Upon identification of a violation, GYLA filed a corresponding complaints with DECs, CEC or court.

GYLA's complaints mainly focused on disciplinary and administrative punishment of electoral commission members violating the law, as one of the means to prevent further violations.

The Georgian Young Lawyers' Association observers filed 41 complaints with the Tbilisi, Kutaisi and Batumi district electoral commissions, 7 complaints with the Central Electoral Commission (CEC), and 7 appeals with the city courts and the Court of Appeals.

Of the **41 complaints** filed by the organization with the district electoral commissions:

- **9 complaints** sought administrative penalties for the members of 12 precinct electoral commissions. District electoral commissions did not uphold any of these complaints;
- **20 complaints** sought disciplinary sanctions against the members of 51 precinct electoral commissions. District electoral commissions upheld 11 of these complaints;
- **13 complaints** sought invalidation of results in 13 electoral precincts. District electoral commissions did not uphold any of these complaints;

6 complaints sought a recount of votes in 27 electoral precincts. One complaint was fully upheld and another one was upheld partially by the district electoral commissions.

The Georgian Young Lawyers' Association appealed against the rejections issued by district electoral commissions with the CEC and the courts.

In 7 complaints filed by the organization with the Central Election Commission (CEC):

- **Three complaints** sought administrative penalties for the commission members who committed violations;
- **Four complaints** sought disciplinary sanctions for the commission members who committed violations;

None of the complaints have been satisfied.

Of the 5 appeals filed by the organization with city courts:

- **Two appeals** sought administrative penalties for the commission members who committed violations. The court did not uphold any of these complaints;
- **Two complaints** sought annulment of voting results in a number of precincts (Electoral Precinct #35 of Mtatsminda Electoral District #1, Electoral Precincts ##3, 16, 23, 27, 28, 41, 62 of Batumi Electoral District #79). The court only upheld one appeal, albeit partially. It annulled voting results in Batumi's Electoral Precinct #3);
- **One appeal** sought a ballot recount in an electoral precinct. The court did not uphold the appeal.

Of the 3 appeals the organization filed with the Court of Appeals:

- **One appeal** sought annulment of voting results in an electoral precinct, while
- **One appeal** sought **administrative penalty** for the commission members who committed violations;
- **One complaint** sought abolishment of the First Instance Court's decision and annulment of the CEC decision.

The Court of Appeals did not uphold any of these appeals.

Below is the report of monitoring of complaints review and tabulation procedures by GYLA according to each electoral district.

Mtatsminda Electoral District #1

Complaints filed with the district: GYLA's observers filed 3 complaints with the district. Specifically,

- **Complaint of GYLA's observer Tamta Mikeladze over restriction of observers rights**

Complaint concerning #13 Mtatsminda electoral precinct was filed over forceful expulsion of GYLA's observer Tamta Mikeladze by the PEC chairperson.⁴³ The complaint sought administrative penalty for violation of Article 126³⁰ of the Election Code of Georgia, which foresees a fine in the amount of GEL 500 for interfering with the work of an observer.

Decision of the district: The DEC ruled that as Tamta Mikeladze was allowed back to the precinct upon arrival of the PEC chairperson and GYLA's district observer Sulkhan Kapanadze arrived, the claim lacked grounds and it was turned down.⁴⁴

As due to the PEC chairperson's unlawful actions Tamta Mikeladze had to spend two ours outside the precinct premises, which violated her rights of an observer, GYLA considered that the DEC's decision was unlawful and appealed it in the CEC.⁴⁵

Session/decision of the CEC: The complaint filed by GYLA with CEC sought annulment of the DEC decision and requested the CEC itself to impose administrative sanction on the PEC chairperson.

At the CEC session, DEC chairperson presented explanation concerning the complaint⁴⁶, which cited simultaneous presence of GYLA's two observers – Tamta Mikeladze and Sulkhan Kapanadze as the reason for Tamta Mikeladze's expulsion from the precinct. Noted explanation failed to correspond with truth, as Sulkhan Kabanadze arrived with Mtatsminda District chairperson Vladimer Tsutskiridze at the precinct in order to clear up the situation. There are a number of witnesses of the fact.

DEC chairperson's explanation contradicts his decision, as the district cited **elimination of the violation** as the reason for turning down Tamta Mikeladze's claim. The alleged simultaneous presence of GYLA's two observers at the precinct had not been discussed by the district.

At the session CEC upheld the unlawful fact of expulsion of GYLA's observer from the precinct, although it did not satisfy GYLA's claim and instead of imposing the administrative sanction in the amount of GEL 500, it commissioned the district to examine the case again and discuss imposition of disciplinary punishment on the PEC chairperson.⁴⁷

Ultimately, authority of the PEC #13 chairperson was revoked, although Mtatsminda DEC had not discussed the matter of his disciplinary punishment.

On July 2 GYLA applied to the CEC seeking examination of Mtatsminda DEC chairperson's false explanation submitted to the CEC on purpose, as well as the matter of enforcement of the CEC #357/2010 resolution and disciplinary punishment for the individuals involved.

- **Complaint of GYLA's observer Tamta Mikeladze over violation of rights of local observer Giorgi Kasradze**

GYLA's observer Tamta Mikeladze filed a complaint with the district over the fact of expulsion of local observer Giorgi Kasradze by Mtatsminda #43 PEC.⁴⁸ The complaint sought administrative sanction for the PEC chairperson for violation of Article 126³⁰ of the Election Code of Georgia. The Article foresees a fine in the amount of GEL 500 for interfering with the work of an observer.

Decision of the district: the DEC ruled that Giorgi Kasradze was lawfully expelled from the precinct. The DEC based its decision solely on explanation of the electoral precinct that claimed that Giorgi Kasradze did not allow a voter to enter the booth. The DEC did not share statement of GYLA's observer that such fact had not occurred.

Therefore the district commission turned the complaint down for **lack of grounds**; although with the same decision the district imposed disciplinary punishment – suspension of the authority – on the PEC chairperson due to disorder at the precinct.

⁴³ The May 30, 2010 complaint #526/2010 of GYLA's observer Tamta Mikeladze

⁴⁴ The June 1, 2010 order #127/2010 of Mtatsminda #1 Electoral Commission

⁴⁵ The June 2, 2010 complaint #70 of Tamta Mikeladze.

⁴⁶ Explanation of Mtatsminda DEC Chairman Vladimir Tsutskiridze dated June 3, 2010, #79/2010;

⁴⁷ Order of the CEC dated June 3, 2010, #357/2010

⁴⁸ Complaint of Tamta Mikeladze dated May 30, #515/2010

- **Complaint filed by GYLA's observer Gvantsa Tsereteli over violation of procedures for compiling the list of a mobile ballot-box**

GYLA's observer Gvantsa Tsereteli⁴⁹ filed a complaint with the district commission for violation occurred at the electoral precinct #25. Specifically, plus signs instead of voters' signatures was found on the list of the mobile ballot-box returned to the electoral precinct. Based on the noted list, the PEC members marked the unified list, which constitutes another violation.

GYLA's complaint filed with DEC sought annulment of the mobile ballot-box.

Session/decision of the district: During review of the complaint at the DEC #35 session, PEC members presented the list of the ballot-box, which had been signed by voters.⁵⁰ Correspondingly, the DEC turned down the complaint for lack of grounds. It shall be noted that despite multiple requests of observers at the precinct, the list had not been presented; **therefore, GYLA believes that signatures had been recorded on the list later, after the ballot-box was returned to the district and the complaint was filed.**

Decision/session of the court: it shall be noted that the court upheld defendant's arguments without any examination and decided that statement of GYLA's observer and a witness that corroborated the circumstances listed in the complaint.

Specifically, the court upheld the fact that the ballot box was returned to the district with signatures, although the representative of the observation organization and the witness testified otherwise.

Without any evidence the court upheld wrongful statement of the defendant, who declared that GYLA's two observers were simultaneously present at the precinct during the time the complaint was drawn up.

Despite GYLA's appeal, the court did not exercise the authority granted by the Code of Administrative Proceedings and failed to examine the material recorded by the video surveillance at the precinct. Therefore, the court made the decision without proper investigation of factual circumstances. It deemed GYLA's complaint as groundless without proper examination of factual circumstances and turned it down.⁵¹

The City Court's decision was upheld by the Court of Appeals.

Saburtalo DEC #3

Complaints filed with the district: GYLA filed 3 complaints with the DEC over restriction of observers' rights and inaccuracies in summary protocols:

- Complaint of GYLA's observer Nino Masurashvili over restriction of observers' rights

GYLA's observer Nino Masurashvili faced problems in entering the attached district from the special district. Specifically, the chairperson of the PEC #49 prevented GYLA's observer from entering the precinct and observing post-polling procedures until the mobile ballot-box was brought from the special district #90. Hence, the observers was prevented from practicing her authority. The complaint filed with DEC by Nino Masurashvili sought administrative punishment (fine) for the chairperson of Saburtalo PEC #49.

Decision of the DEC: the DEC reviewed GYLA's complaint and turned it down for lack of grounds.⁵²

GYLA considers that DEC's decision is unlawful, as it cited provision of the Election Code that regulates entrance of special electoral precinct commission members to the attached district as the basis for its decision.

Para 1b of Article 70 of the Election Code of Georgia authorizes an election observer to "be present at the polling station at any time during the voting day, move without hindrance around the territory of the polling station and observe freely all the stages of the voting process from any place". An observer's right to be present at the polling station on E-Day entails the right to enter the polling station; without this right an observer would not be able to exercise his rights envisioned in para 1b of Article 70 of the Election Code. Article 3 of the Election Code of Georgia defines Voting Day as "the day of conducting elections, repeated voting, or second round of elections". Under Article 3¹ of the same code, Voting Day means a calendar day. Therefore, as Nino Masurashvili states, she, as an observer was authorized by law to observe electoral processes any time on Voting Day. Her right was unlawfully restricted by the PEC #49 chairwoman Eter Kenchiashvili, which constitutes and administrative violation.

Decision of the city court: decision⁵³ of the DEC was appealed in Tbilisi City Court by GYLA.

⁴⁹ Complaint of Gvantsa Tsereteli dated 30.05.10, #01/168

⁵⁰ Order of Mtatsminda DEC, dated June 1, 2010, #132/2010

⁵¹ Decision of Tbilisi City Court for the case #3/2254-10., dated June 3, 2010.

⁵² Order of Saburtalo #3 DEC, dated May 31, 2010, #163/2010

⁵³ Order of Saburtalo #3 DEC, dated May 31, 2010, #163/2010

Nino Masurashvili requested annulment of the May 31, 2010 decision #163/2010 of Saburtalo DEC #3 and drawing up of a protocol of administrative violations against Eter Kenchiashvili under Article 126³⁰ of the Election Code.

After examination of the claim and case materials and hearing explanations of the party, the court turned down the claim for lack of grounds.⁵⁴ The court clarified, that PEC #49 chairwoman Eter Kenchiashvili had not violated provisions of the Election Code of Georgia; therefore, there was no ground for drawing up a protocol of administrative violation against her.

Decision of the court of appeals: in the appellate court GYLA stated that the decision of the City Court was unclear and unfounded: for example, in the decision para 9 of Article 58 of the Election Code is cited, which regulates exceptional cases regarding admittance of precinct commission members at polling stations. The complaint emphasized that para 9 of Article 58 regulates admittance of other PEC members at an electoral precinct defined beforehand, which may not automatically apply to an observer.

In the complaint we also noted that the court applied the law that should not have been applied; specifically, para 9 of Article 58 of the Election Code of Georgia, subparagraph "e" of Article 70 of the same Code and Chapter 16 of the PEC members' guidebook adopted by CEC's April 11, 2010 decision #25/2010, which were irrelevant to the case under review.

The court of appeals upheld the decision of the first instance court and turned the claim down.

- **Complaint filed by GYLA's representatives Giorgi Burhanadze and Lika Tsiklauri seeking annulment and repeal of the summary protocols of certain precincts of Saburtalo #3 electoral district and recount of votes.**

GYLA's representatives found summary protocols drawn up with violation of requisites of the Election Code at a number of precincts after protocols were received. As the DEC is commissioned with verification of accuracy of summary protocols drawn up by PECs, GYLA's observers applied to the electoral commission on June 2, 2010 with a request to annul and repeal summary protocols of certain precincts and/or recount the votes.

Decision of the DEC: the DEC ruled that GYLA's claim was submitted with violation of procedural terms and did not review it.⁵⁵ It shall be noted that other district (ex. Nadzaladevi and Chugureti districts) admitted similar complaints and reviewed them in compliance with all procedures.

Krtsanisi Electoral District #4

Complaints filed with the district:GYLA's observers filed six complaints with the DEC over restriction of the observers' rights and inaccuracies in summary protocols:

- **Complaint filed by GYLA's observer Jaba Kobrashvili over restriction of rights of an observer**

On the voting day at 7:00am GYLA's observer arrived at the electoral precinct, but he was not given an opportunity to enter the station; therefore, he was unable to attend the process of casting lots. A complaint was filed with the DEC seeking administrative sanction for the commission chairperson.

Decision of the DEC: review of Jaba Kobriashvili's complaint at the DEC was held on May 31, 2010. The DEC members turned down the complaint. Minutes of the session demonstrate that all twelve members of the commission did not uphold the complaint. Although, neither the minutes nor the resolution states what served as the basis for turning down the complaint; therefore, motive of the decision is unclear.

- **Complaint filed by GYLA's observer Jaba Kobriashvili seeking disciplinary sanction for the PEC #39 secretary**

On the voting day at 7am GYLA's observer Jaba Kobriashvili was hindered to enter the district; therefore, he could not attend the process of casting lots. Kobrashvili wrote a complaint, although the PEC secretary refused to register the complaint. Jaba Kobrashvili applied to the DEC over unlawful actions of the secretary, requesting imposition of sanctions on her.

Decision of the DEC: the DEC reviewed the complaint filed by Jaba Kobriashvili at the May 31, 2010 session and upheld the claim. Under the decision of the commission, disciplinary sanction – reproof – was imposed on the secretary.⁵⁶

⁵⁴ Decision of the Board of Administrative Cases of Tbilisi City Court , dated June 3, 2010, #3/2255-10

⁵⁵ Order of Saburtalo #3 DEC, dated June 2, 2010, #171/2010

⁵⁶ Ref. Krtsanisi #4 DEC order, dated May 31, 2010, #064/2010

- **Complaint filed by GYLA's observer Tsiala Utiashvili, seeking imposition of disciplinary sanctions on the PEC #31 chairperson**

At the electoral precinct #31, PEC chairperson refused GYLA's observer to release properly certified copy of the summary protocol. GYLA's observer applied to the DEC, requesting imposition of disciplinary sanctions on the PEC chairperson.

Decision of the DEC: the DEC reviewed Tsiala Utiashvili's complaint on the May 31 session and upheld the claim. The PEC chairperson was rebuked for disciplinary violation.⁵⁷

- **Complaint filed by GYLA's observer, seeking disciplinary sanctions for the PEC #15 chairperson**

On the May 30 local self-governance elections GYLA's observer Ia Macharashvili was present at the special electoral precinct of Krtsanisi #36 (set up in an exceptional case). Electoral precinct #15 was selected for counting votes of the noted precinct. GYLA's observer arrived at the electoral precinct #15 at 07:15pm, although she was allowed to enter the polling station one hour late. Ia Macharashvili filed a complaint with the DEC, seeking disciplinary sanction for the PEC chairperson.

Decision of the DEC: the DEC turned Ia Macharashvili's complaint.⁵⁸ Regrettably, the DEC's resolution, like all other decisions fails to include validation for turning down the complaint.

- **Complaint of GYLA's observer Giorgi Gotsiridze seeking administrative sanctions for the members of the PEC #11 and #13**

Data in summary protocols prepared by Krtsanisi electoral precinct commissions #11 and #13 had been corrected. The modified data had not been enclosed with protocols of correction as mandated by the election law. GYLA's observer applied to the DEC, requesting imposition of administrative sanctions on the PEC chairpersons and secretaries; additionally, GYLA also requested recount of the number of voters that took part in polling and the number of votes cast in order to validate accuracy of the data corrected in summary protocols.

Decision of the DEC: the complaint filed by GYLA's observer Giorgi Gotsiridze was reviewed at the June 3 session of the DEC and partially upheld the claim; specifically, the DEC did not uphold the part of the complaint that sought identification of violation of law and arrangement of violation protocol. The commission made the decision to satisfy second half of the complaint seeking recount of the number of voters that participated in polling and the number of votes cast at the electoral precincts of Krtsanisi #11 and #13.⁵⁹

By its June 3 order the commission made the decision to open sealed documents of the electoral precincts #11 and #13 of Krtsanisi Electoral District #4, recount them and incorporate the results in summary protocols.⁶⁰

- **Complaint filed by GYLA's observer Giorgi Gotsiridze, seeking verification of legality of the summary protocols of the electoral precinct #23 and #25 and delivering corresponding decision, as well as disciplinary punishments for the individuals involved in the violation.**

Contradicting data was found in summary protocols of the electoral precincts #23 and #25 of Krtsanisi electoral district. The contradicting data in the summary protocols created a suspicion that polling, vote count and protocol preparation processes had been conducted improperly. Therefore, GYLA's observer applied to the DEC, requesting verification of legality of the summary protocols of the electoral precincts, as well as taking further actions and imposing disciplinary sanctions on individuals involved in violations.

Decision of the DEC: at the May 3 session the DEC made the decision to uphold GYLA's claim.⁶¹

The DEC made the decision to open sealed documents of Krtsanisi District electoral precincts #23 and #24, recount and incorporate results in the summary protocols.⁶²

Isani Electoral District #5

Complaints filed with the district: GYLA's observers filed two complaints with the DEC over restriction of observers' rights.

⁵⁷ Ref. Krtsanisi #4 DEC order, dated May 31, 2010, #066/2010

⁵⁸ Ref. Krtsanisi #4 DEC order, dated May 31, 2010, #065/2010.

⁵⁹ Ref. Krtsanisi #4 DEC order, dated June 3, 2010, #072/2010.

⁶⁰ Ref. Krtsanisi #4 DEC order, dated June 3, 2010, #073/2010.

⁶¹ Ref. Krtsanisi #4 DEC order, dated June 3, 2010, #074/2010

⁶² Ref. Krtsanisi #4 DEC order, dated June 3, 2010, #075/2010

- **Complaint filed by GYLA' observer Kakha Kozhoradze over the refusal to allow him enter the electoral precinct #7**

GYLA's observer arrived at the precinct after 8:00pm, in order to observe vote-counting. Although stating the motive that stations close down after the polling is over, GYLA's observer was not allowed to enter the station. Therefore Kakha Kozhoridze filed a complaint with the DEC. He sought drawing up of a protocol of administrative violation for interfering with the work of an observer.

Decision of the DEC: the DEC did not dispute the right of an observer to enter the polling station after the polling is over. At the DEC session the PEC presented a protocol signed by the PEC members stating that the commission chairperson went outside the station to bring the observer in, although no one was standing there. The protocol was signed by all members of the commission. The DEC turned down the claim.⁶³ Although the chairperson's decision failed to provide an argument for turning down the complaint. It shall be noted that the commission did not discuss whether the protocol presented by the PEC at the session was drawn up earlier than the complaining of GYLA's observer. It questions the protocol's authenticity and adds vagueness to the situation itself. The commission should have at least discussed authenticity of the protocol submitted before making the decision.

- **Complaint filed by GYLA's observer Kakha Kozhoradze over the refusal to allow him enter the electoral precinct #10, seeking administrative sanction for the commission chairperson**

GYLA's observer was not given an opportunity to enter the station after polling process was over in order to attend the vote-count procedures. Kakha Kozhoridze applied to the DEC with a request to draw up a protocol of administrative violation against the commission chairperson, based on his interference with observers' work.

Decision of the DEC: the DEC did not uphold the complaint of GYLA's observer.⁶⁴ The decision fails to provide the basis for turning down the claim.

Session/decision of the DEC: the complaint filed with DEC by Kakha Kozhoridze sought annulment of resolutions of chairmen of the PECs #7 and #10. It also requested drawing up a protocol of violation against the PEC chairmen.

Decision of the DEC: the DEC turned down the complaint submitted by GYLA's observer; additionally, it failed to verify authenticity of the protocol and did not let the ISFED's observer to make an explanation regarding the protocol drawn up by the commission concerning the noted fact.

Hereby, it shall be noted that while the DEC did not dispute whether an observer had a right to enter the polling station, the DEC declared that all observers are prohibited to enter the polling station after 8:00pm by the Election Code as a motive for turning down the complaint. With this decision, the DEC wrongfully interpreted the law and what's most important, it interpreted the law in favor of restricting an observer's rights.

Samgori Electoral District #6

Complaints filed with the district: GYLA's observers filed two complaints with the DEC over faults of summary protocols:

- GYLA's observers Beka Dochviri and Ketevan Kachlishvili filed a complaint over faults of the PEC summary protocols, seeking disciplinary sanctions for the PEC chairpersons and secretaries.

Summary protocols of several majoritarian electoral precincts at Samgori Electoral District #6 were drawn up with violation of law. Specifically, summary protocols of the electoral precincts #5, #40, #63, #71, #34, #91, #76, #89, #48, #57 failed to indicate the date and time the protocols were drawn up, as well as registration number. GYLA's observers applied to the DEC with a request to impose disciplinary sanctions on the PEC chairpersons and secretaries for inadequate performance of their duties.

Decision of the DEC: utilizing the terms of simple administrative proceeding the DEC reviewed the facts provided in the complaint, listened to explanations of the PEC chairpersons/secretaries; although stating absence of the disciplinary violation, it turned down the complaint.⁶⁵ In its resolution the DEC noted that facts provided in the complaint are insignificant and do not affect results of the elections; additionally, faults of the summary protocols did not violate the principles of universal, fair, direct elections, secret voting and free expression of voter's list. The DEC noted that faults identified were insignificant and constituted mechanical error of secretaries that may not be qualified as malpractice.

⁶³ Ref. order of Isani #5 DEC Chairperson, dated May 31, 2010, #3/2010

⁶⁴ Ref. order of Isani #5 DEC Chairperson, dated May 31, 2010, #4/2010.

⁶⁵ Ref. Samgori DEC order dated June 4, 2010, #215/2010.

- **Complaints filed by GYLA’s observers Ketevan Kachlishvili and Beka Dochviri for drawing up a violation protocol against the PEC #36 chairperson and secretary of Samgori Electoral District**

Corrected data was found in the summary protocol of the majoritarian polling drawn up by the electoral precinct #36; specifically, number of the signatures of voters that participated in polling was changed and the protocol of correction was not enclosed. The complaint filed with the DEC sought drawing up of a protocol of administrative violations against the PEC chairperson and secretary under Article 126²⁶ of the Election Code.

Decision of the DEC: the DEC turned down the claim for drawing up a protocol of administrative violations.⁶⁶ Resolution of the chairperson providing grounds for turning down the claim of GYLA’s observers is identical to the resolution delivered for another complaint of GYLA’s observers. The chairperson notes that the violation is insignificant and it does not affect results of elections, as well as free expression of voters’ will; although with the same resolution the commission chairperson raised the issue of disciplinary sanction of the PEC #36 secretary before the DEC.

The DEC reviewed the issue of disciplinary punishment, listened to explanations of the PEC chairperson, as well as the secretary and imposed a disciplinary punishment – reproof – on the secretary.⁶⁷ Although the resolution fails to state what kind of disciplinary punishment occurred that served as the basis for imposing disciplinary sanction on the secretary.

Chughureti Electoral District #7

Complaints submitted to the district were mainly filed over interference with observers’ work and inaccuracies in summary protocols.

- **Complaint over restriction of rights of GYLA’s observer Tamar Rusitashvili**

GYLA’s observer Tamar Rusitashvili was hindered to enter premises of the special electoral district in a timely manner. Later Tamar Rusitashvili was allowed at the polling station.

The complaint filed by GYLA with the DEC sought drawing up of a protocol of administrative violations against the PEC #39 chairperson under Article 126³⁰ of the Election Code for interfering with the work of observer Tamar Rusitashvili.

Decision of the district: under the May 31, 2010, #040/2101 resolution of the DEC chairman the complaint was turned down. The resolution **cites para 8 of Article 58 of the Election Code, which states that “the polling station closes at 8:00pm”**. Citation of the noted Article is unlawful, as the Election Code authorizes an observer to monitor the election process any time on the voting day. Subparagraph “b” of Article 70.1. stipulates an observer has the right to **“be present at the polling station at any time during the voting day, move without hindrance around the territory of the polling station and observe freely all the stages of the voting process from any place”**.

The resolution notes that the fact indicated in the complaint was “soon eliminated” by the PEC chairperson, although the legislation qualifies restriction of an observer’s rights as an administrative violation, notwithstanding duration of the violation, or whether it was later eliminated.

Session/decision of the court: the DEC decision was appealed in Tbilisi City Court by GYLA. The court turned down the claim with its May 3, 2010 decision. It shall be noted that although the DEC chairperson cited para 8 of Article 58 of the Election Code as grounds for turning down the complaint (“the polling stations closes at 8:00pm), it presented totally different arguments in court. The chairperson stated that while the observer’s work was interfered with, the PEC chairperson was trying to find out whether an observer of the same organization was present at the precinct. The court ruled that “the PEC was verifying an alleged presence of two observers of GYLA at the polling station, which requires certain amount of time and the court thinks that 20 minutes is a reasonable time for the procedure”.

It shall be noted that at the trial the DEC chairman rejected misinterpretation of para 8 of Article 58 that he cited in his resolution as the basis for turning down the claim.

- **Complaint over infringement of rights of GYLA’s observer Bela Taturashvili**

Complaint over belated admittance of GYLA’s observer Bela Taturashvili at the premises of the special electoral precinct #45 was filed with the DEC. Bela Taturashvili was not allowed to enter the courtyard (where the polling station was located) for failing to enlist in the list of attendees the day before.

⁶⁶ Ref. order of Samgori DEC chairperson, dated June 4, 2010, #46/2010;

⁶⁷ Ref. Samgori DEC order dated June 4, 2010, #216/2010.

GYLA's complaint sought compilation of a protocol of administrative violence against the PEC #46 chairperson for infringement the observer's rights. After the DEC found out that the observer faced problems in entering a courtyard as opposed to the polling station itself, turned down GYLA's claim.

- **GYLA's complaints over inaccuracies in summary protocols**

After submitting of summary protocols from PECs, inaccuracies in summary protocols of the precinct electoral districts # 17, #20, #21, #25 were found. Specifically, in certain cases data contradicted other data recorded in protocols.

GYLA sought corrections to the summary protocols and disciplinary sanctions for the PEC members.

With its June 4, 2010 #051/2010 order, the DEC partially upheld the complaint. The commission ruled that protocols where "the sum of number of votes cast and the ballots annulled is less than the number of voters that participated in polling, shall not constitute basis for recount of the precincts". The judgement was thoroughly based on Chapter XIX of the guidebook for PEC members adopted by the CEC with its order #25/2010.

"As for the Sakrebulo majoritarian summary protocol of the electoral precinct #21, under the decision of the DEC noted precinct had been recount and corresponding amendments have been made to the summary protocol". The recount demonstrated multiple inaccuracies; specifically, number of spoilt ballots, ballots that had not been used and total number of voters that participated in voting was inaccurate. In compliance with Article 34, para 4, 5, 6 of Article 63, Article 77 and subparagraph "a" of para 2 of Article 37¹, Chughureti DEC #7 partially upheld the complaint of GYLA's observer and imposed disciplinary sanction – warning – on all PEC #21 members.

Didube Electoral District #8

Complaints filed with the district: GYLA's observers filed three complaints with the district over violations of the compilation procedures of the mobile ballot-box list and sanctions for the commission members.

- **Application of GYLA's observer Maia Khutsishvili seeking respond to violations identified in log-books of the electoral precincts #1, #8, #9.**

While monitoring electoral precincts #1, #8, #9 of the district #8, the observer found out that names of voters, registration numbers of their applications or telephone-calls included on the list annex were not recorded in the log-books, which violates provisions of Article 57 of the Election Code. The observer contacted the DEC concerning the violation during the day, although the commission did not responded to the notification. We requested ballots in the mobile-box not to be counted with main ballots in the noted precincts.

Session/decision of the DEC: According to GYLA's observer, the complaint was carelessly reviewed, for formalities sake only. An attempt of physical insult occurred; specifically, the commission members made cynical statements and remarks regarding alleged incompetence of the claimant. After the observer requested review of the complaint, the commission members responded that they had not slept for three nights and all of them were tired.

Ultimately, the commission reviewed Khutsishvili's complaint and turned down her claim for annulling election results of the electoral precincts #1, #8, #9 of Didube Electoral District #8, stating that circumstances pointed out by the observer may not have affected authenticity of voting results. The DEC discussed the matter of liabilities of chairmen and secretaries of the PECs and issued warnings only.⁶⁸

Decision of the CEC: the decision was appealed with CEC. The complaint noted that prompt and immediate resolution by the DEC was necessary, which has not been made. GYLA's observers sought disciplinary sanction for the DEC #8 chairperson for inadequate performance of professional duties. The CEC reviewed the complaint and declared that factual and legal verification of circumstances provided in the complaint did not validate violation of provisions of the election law and Article 78 of the Civil Service Law of Georgia - non-performance or inadequate performance of professional duties – by Didube DEC #8 chairperson. Therefore, GYLA's claim was turned down.⁶⁹

- **Complaint of GYLA's observer Vladimir Kvataia seeking disciplinary sanctions for members and secretaries of the #28, #35, #45 and #50 EPCs**

GYLA's observer monitored following violations at the electoral districts #28, #35, #45 and #50 of the electoral district #8: stamps of the EPC were brought in packaged but not sealed and it did not have signatures of the PEC

⁶⁸ Ref. Didube #8 DEC order #63/2010

⁶⁹ Ref to the CEC order, dated June 3, 2010, #355/2010;

chairpersons, secretaries and other commission members on it. Complaints have been filed, seeking disciplinary sanctions for the noted individuals.

Decision of the DEC: the DEC reviewed complaints filed by GYLA's observer and imposed disciplinary punishments on chairmen, members and secretaries of the electoral districts #28, #35, #45 and #50 of the electoral district #8.

- Complaint filed by Vladimer Kvitaia, seeking disciplinary punishment for a chairperson and a secretary of the PEC #25 of Didube Electoral District #8

GYLA's observer monitored following violations at the electoral district #8: the summary protocol that came in from the electoral precinct #25 to the DEC was not stamped with the PEC seal. Chairperson of Didube #8 DEC qualified the noted fact as a technical error and commissioned the PEC chairperson with opening the sealed stamp brought from the electoral precinct #25 and stamping the voting summary protocols at the DEC. The DEC chairperson made the decision without collegiate discussion. GYLA's observer drew up a complaint seeking disciplinary punishment for the chairperson and the secretary of the PEC #25.

Decision of the DEC: the DEC reviewed complaint of the GYLA's observer and satisfied the claim.

Decision of the CEC: GYLA's observer simultaneously filed the complaint with CEC over opening a sealed stamp of the PEC and stamping the summary protocols of the precinct committed by the DEC #8 chairperson. GYLA sought disciplinary sanction for the DEC #8 chairpersons. The CEC turned down the claim, stating that the DEC #8 assembled later and made the decision to register the individual decision of the DEC chairperson as a joint DEC decision.

Nadzaladevi Electoral District #9

Complaints filed with the district: GYLA's observer filed two complaints with the district:

- **Complaint of GYLA's observers Lina Ghvinianidze and Tamar Gurchiani over errors in the summary protocols of the PECs #2, #7, #13, #16, #18, #23, #47, #61, #79, #82, #96 of Nadzaladevi Electoral District sought disciplinary punishment for the chairpersons and secretaries of the noted PECs.**

A number of summary protocols of Nadzaladevi region failed to include requisites obligated by law, including: registration number of the protocol, time and date of the registration, as well as the number of the commission stamp. Signatures of a chairperson and a secretary were absent in several protocols. GYLA's observers applied to the DEC with a complaint and demanded imposition of disciplinary punishment on chairpersons and secretaries of the PECs for inadequate performance of their duties.

Decision/session of the DEC: the DEC was commissioned with investigating the case circumstances to make corresponding decision in compliance with simple terms of procedural proceedings. In violation of the law stipulations the commission failed to investigate factual circumstances, which is also validated by the minutes of the DEC session, which notes "the DEC members discussed absence of certain requisites and ruled that noted error is mechanical, caused by exhaustion of the commission members and an emotional day". The DEC made the decision to turn down GYLA's claim.⁷⁰

- **Complaint filed by GYLA's observer Lina Ghvinianidze and Tamar Gurchiania seeking legal validation of summary protocols of the electoral precincts #8, #43, #51, #52, #58, #59, #66, #83 of the electoral precinct #8 to make relevant decision, as well as imposition of disciplinary sanctions on the individuals involved.**

The complaint was submitted over contradicting data in summary protocols of a number of electoral precincts of Nadzaladevi; specifically, in certain cases certain category of data indicated in protocols contradicted another data registered in the same protocol. Such contradictions created a substantial grounds for a suspicion that that polling, vote count and protocol preparation processes had been conducted improperly. The complaint sought validation of ballot-count results to make relevant decision, as well as imposition of disciplinary sanctions on individuals involved.

Session/decision of the DEC: at the session the commission failed to examine factual circumstances indicated in the complaint. Summary protocol of only a single electoral precinct - #58 - was presented, corroborating technical errors pointed out in the complaint. As for summary protocols of all other precincts, it was orally noted by the DEC that the PEC chairpersons had given explanations, although none of them were presented during the complaints review. The DEC made the decision to turn down GYLA's complaint.⁷¹

⁷⁰ Ref. to Nadzaladevi #9 DEC order, dated June 3, 2010, #030/2010;

⁷¹ Ref. to Nadzaladevi #9 DEC order, dated June 3, 2010, #030/2010;

Session/decision of the court: a section of the June 3, 2010 decision of Nadzaladevi DEC concerning lawfulness of summary protocols of the PECs #8, #43, #51, #52, #58, #59, #66, #83 was appealed in the City Court by GYLA. The claim sought partial annulment of the DEC decision (#030/2010), verification of lawfulness of summary protocols of noted PECs and delivering relevant decision, as well as imposition of sanctions on individuals involved in any violation identified. At the trial the defendant presented four correction protocols, which had not been presented during review of the same claim at the DEC session; furthermore, the commission had not even verbally indicated about existence of such documents, which creates a founded suspicion that the correction protocols were drawn up right before the trial.

The court turned down our claim and ruled that the cases where number of used ballots exceeded number of voters that participated in polling is an irrelevant violation of election procedures, which does not change results of the elections. As for the cases, when the number of used ballots is less than the number of voters that participated in polling, the court ruled that it may not be deemed as a violation by an electoral commission, as it is not obligated to control number of ballots inserted in a special envelope by a voter. As for disciplinary sanctions, the court stated that no violations by authorized individuals were evident.

Session/decision of the CEC: the CEC reviewed complaints filed over disciplinary sanctions for chairpersons and secretaries of the electoral precincts #2, #7, #13, #16, #18, #23, #47, #61, #79, #82, #96 of Nadzaladevi district. The review of the complaint was held on June 9, at 07:00pm. At the CEC session it became clear that a session was held at the DEC at 1:00pm the same day, where summary protocol of the majoritarian elections was drawn up and authority of all members of the PECs in Nadzaladevi district was revoked (GYLA's observers knew that the DEC session was to be held on June 9, at 6:00pm, although no one informed them that the session had been rescheduled). The CEC ruled that as authority of the individuals involved had already been revoked, there were no grounds for satisfying the complaint of GYLA's observers.⁷²

Gldani Electoral District #10

Complaints filed with the district: GYLA's observers haven't filed complaints with Gldani #10 Electoral District.

District sessions: review of complaints filed by political parties went normally. The positive aspect was that the commission publicized and reviewed all complaints filed with the district, familiarized itself with all records in the log-book. The DEC invited all observers and representatives of political parties registered at the district to the complaints review.

Kutaisi #59 DEC

Complaints filed with the district: GYLA's observers filed four complaints and four applications with Kutaisi #59 Electoral District.

Observers Giorgi Chikaberidze and Natia Basiladze drew up a **complaint seeking annulment of the precinct results and imposition of disciplinary sanctions**. GYLA's observers filed over the PEC chairperson refusing to give ballots sealed signed and by registration desk officers to commission members accompanying the mobile ballot-box, as mandated by law.

GYLA's observe Zaal Gorgidze drew up two complaints concerning the electoral precinct **#89 for annulment of the precinct results and imposition of disciplinary sanctions** over following facts: polling started late (08:25am) at the precinct #89 and commission member accompanying the mobile ballot-box were given ballots that were not sealed or signed.

At the electoral precinct #102 GYLA's observer Teona Arabidze drew up a complaint over interference to record data into the book of records. The complaint sought sanctions for the PEC chairperson and secretary.

GYLA's observer Nodar Jikia filed **an application** seeking disciplinary sanctions for **the PEC #20 chairperson and secretary for correcting data in the summary protocol**.

The PEC #75 presented a book of records instead of a summary protocol at the DEC. **GYLA's observers** Nodar Jikia and Giorgi Chikaberadze drew up a complaint seeking suspension of authority of the PEC members and tabulation of voting results by the DEC.

GYLA's observer Nodar Jikia filed with the DEC seeking disciplinary sanctions for chairmen and secretaries of the electoral precincts **#11, 12, 13, 18, 23, 24, 25, 34, 37, 42, 45, 46, 51, 53, 55, 56, 58, 65, 66, 68, 71, 83, 85, 90, 93, 94, 95, 96, 98, 102, 116 and 117 of Kutaisi #59 Electoral District** for submitting unsealed documents with the DEC, violating the Electoral District provision.

⁷² Ref to the CEC order, dated June 9, 2010, #377/2010.

Sessions/decisions of the district: Kutaisi DEC #59 turned down part of the complaint of GYLA's observer seeking annulment of results of the electoral precinct #13; part of the complaint seeking disciplinary sanctions for the chairperson, the secretary and the PEC members accompanying the mobile ballot box of the electoral precinct #13 was successful; specifically, **20% of the chairperson's salary was withheld** (order #422/2010), **10% of the secretary's salary was withheld** (order #423/2010), **warnings** were issued for the PEC members (orders #424/2010 and #425/2010).

Under the district's decision, **disciplinary punishment** was imposed on the PEC #20 chairperson and secretary – **20% of their salaries were withheld** (orders #433/2010 and #434/2010) – for correcting data in the “**Number of Votes in favor of the Candidate**” section of the summary protocol, while **Article 126²⁶ of the Election Code** foresees a fine in the amount of GEL 2000 for the noted violation. The DEC did not apply noted measure, explaining that “**the violation had not inflicted significant damage**”.

The issue concerning the electoral precinct #102 was similarly resolved by the DEC; specifically, disciplinary sanctions – warning- were imposed on the chairperson and the secretary for **hindering GYLA's observer from recording data into the log-book**, while **Article 126²⁹ of the Election Code** foresees a fine in the amount of GEL 500 for the violation.

#59 Kutaisi DEC also turned down GYLA's application seeking suspension of authority of the PEC #75 members. Under the decision of the district, **disciplinary sanctions – warning** (orders #333/2010, 332/2010, 331/2010, 330/2010, 329/2010, 328/2010, 327/2010, 326/2010, 325/2010, 324/2010, 322/2010) were imposed on the PEC members and **20% of salaries** of the secretary and the chairperson were withheld (orders #323/2010, 321/2010).

The district satisfied part of the complaint of GYLA's observer, where disciplinary sanctions were sought for the chairperson, the secretary and the members of the PEC #89. Under the DEC's decision, warning was issued for the PEC members (orders #419/2010, 418/2010, 415/2010, 413/2010, 412/2010, 411/2010, 410/2010, 409/2010, 408/2010), 20% of the chairperson's salary and 10% of the secretary's salary was withheld (orders #405/2010 and #406/2010).

Batumi DEC #79

Complaints/applications filed with the district: GYLA filed 7 complaints with Batumi Electoral District #79.

GYLA's observer filed a complaint concerning the electoral precinct #3 seeking annulment of the PEC results due to the fact that excessive number of ballots were found in the ballot-box, as well as imposition of administrative sanctions on the PEC members due to physical abuse of GYLA's observer.

GYLA's observer drew up a complaint at the electoral precinct #16 over the fact that a voter, having arrived at the station, found out that a line along his name had already been signed. Similar violations were observed at the PECs #23, #27, #28, #41, #57.

Vote count at the electoral precinct #57 proceeded in a chaotic state and in violation of Article 62 of the Election Code; specifically, all members of the commission were involved in the vote-count. GYLA's observer drew up a complaint, seeking sanctions for the PEC members.

GYLA's observer also drew up a complaint seeking sanctions for the PEC #62 chairperson and annulment of the results, as a voter took a ballot outside the polling station. Despite GYLA's observer pointed out the violations multiple times, the PEC chairperson failed to react to it.

Sessions/decisions of the district: during review of complains by the DEC of Batumi #79, evidence was not properly examined and the DEC's decisions frequently lacked the grounds.

Batumi DEC #79 turned down the complaint of GYLA's observer seeking annulment of the PEC #3 results and imposition of administrative sanctions. Under the district's decision, disciplinary sanctions - early dismissal - were imposed on the precinct's chairperson and secretary.⁷³

The district also turned down claims of GYLA's observers seeking annulment of results of the PECs #23, 27, 28, 41, 57. As for sanctions ofr the PEC members, warnings were issued for the secretary of the PEC #16, a salary for five days of the secretary of the PEC #41 and the chairperson of the PEC #57 were withheld.⁷⁴

Batumi #79 DEC turned down the complaint against the PEC #62 seeking annulment of the precinct results and imposing sanctions on the PEC chairperson.

Complaints filed with court: GYLA's observers applied the DEC's decision in Batumi City Court. The complaint

⁷³ Ref. Batumi #79 DEC order #62/2010;

⁷⁴ Ref. Batumi #79 DEC order #62/2010;

sought partial annulment of the June 1, 2010 decision of Batumi #79 DEC for the elections of the local self-governance agency – Sakrebulo of Batumi, as well as annulment of the pollings results at the electoral precinct #3, 16, 23, 28, 41 and 62 of Batumi Electoral District #79.

Court of Batumi partially upheld GYLA's complaint: summary protocol and the polling results of the EPC #3 were annulled. As for rest of the precincts, the annulment claim was turned down for lack of grounds.

Findings

Review of complaints filed with the DEC's and the CEC concerning the E-Day and post E-Day procedures demonstrated multiple flaws and problems of the election administration's activity:

- **Frequently ineffective measures were brought against subordinate commissions by the Election Administrations;** specifically,
 - The Election Code of Georgia imposes fines in the amount of 500, 1000 and 2000 GEL as an administrative measure for interfering with activities of an observer, failing to provide summary protocol and modifying data in summary protocols. Although noted violations were evident, the election commissions failed to adopt administrative measures against members of commissions violating the law. The CEC, as well as district election commissions cited high amount of fines as the basis for their decision. They stated that they "could not impose" noted fine on members of subordinate commissions due to their "law salaries";
 - The Election Code of Georgia foresees citation, warning, withholding part of salary or revoking the authorities before the end of their term as **disciplinary measures** against commission members for faulty or improper performance of their official duties. Despite gravity of the violation, superior election commissions adopted lightest forms of disciplinary measures against precinct election commissions – citation and warning.
 - Although in certain cases CEC commissioned district election commissions to consider disciplinary responsibilities against precinct election commission members, the decisions were not enforced due to the fact that they were delivered or provided to the district commission late, while authority of precinct election commission members is revoked upon tabulation of election results by district election commissions.
 - The CEC failed to satisfy any claim for imposition of disciplinary sanctions against district election commission members. The CEC stated the circumstance that the Code provides a number of procedures that are frequently impossible to fulfill by the commission members as the basis for its decision. Significant procedural violations were frequently justified by exhaustion and stressful regime of subordinate commission members.
- Complaints were not properly examined at election commissions and frequently decisions were based on personal opinion of commission members, as opposed to evidence. Such practice was mostly observed at Didube, Nadzaladevi, Chughureti, Isani and Batumi election districts.
- In the process of reviewing claims, explanations provided by subordinate commission members frequently included inaccurate factual circumstances and circumstances were fabricated on purpose. (Ex.: explanations submitted to CEC by chairperson of Mtatsminda Election District, precinct commissions of the Isani #7 and #10 election precinct commissions regarding GYLA's complaints);
- District election commissions, as well as court frequently interpreted one and the same norm differently, creating inconsistent practice of complaints review. Norms regarding procedures for appealing and admitting monitors at the precinct proved to be particularly problematic.
- It shall be emphasized that district election commissions, as well as CEC members frequently demonstrated hostile attitude toward representatives of monitoring organizations in the process of complaints review. Often aggression and personal insult by central and district election commissions were leveled against monitors, which served as the basis for delivering biased decisions due to inadequate examination of factual circumstances.

CONCLUSION

At the 2010 Local Self-Governance Elections the Government of Georgia clearly demonstrated that it attaches significant importance to the positive evaluation of the May 30 elections by international community.

Despite the progress and several steps forward – transparency of the CEC activities, assignation of budgetary funds to political parties for identifying inaccuracies in the voters lists, openness of the inter-agency task force working on the elections and fewer cases of physical abuse exerted against political opponents – it can be concluded that the 2010 Local Self-Governance Elections were characterized with serious flaws.

Conducting free and fair elections were hindered by flawed election legislation, wrongful implementation of the law, absence of effective remedies and lack of political will to effectively respond to violations.

The pre-election process was also characterized with flaws, when defective legislation allowed the ruling party to mobilize budget and administrative resources for supporting the National Movement candidates. The Election Administration and Courts turned down all but one complaint filed by GYLA concerning use of administrative resources and facts of vote-buying. The authorities did not react appropriately to the facts of intimidation and pressure that occurred in the regions.

On the control imposed by the ruling party's activists over the voters' free expression of their will cast a significant shadow over the positive trends that set these elections apart from the 2008 presidential and parliamentary ballots. Facts of interfering with work of monitors and exerting pressure against them also occurred on E-Day.

As for the process of complaints review, regrettably both the Election Administration and courts failed to respond effectively to violations on E-Day. Although the CEC's work can more or less be evaluated as positive due to its transparency and constructiveness during the pre-election period, it failed to maintain the position to the end, inflicting significant damage to its objectivity and professional reputation by the process of complaints review.

Finally, the Georgian Young Lawyers' Association would like to express its hope that this report will help interested parties strengthen achievements and eliminate flaws characteristic to the 2010 local self-governance elections.