

2014 Local Self-Government Election Observation Mission

# Pre-election Environment, Election Day and Post-Election Period Monitoring Report

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*Georgian Young Lawyers' Association*

## **2014 LOCAL SELF-GOVERNMENT ELECTION OBSERVATION MISSION**

### **PRE-ELECTION ENVIRONMENT, ELECTION DAY AND POST-ELECTION PERIOD MONITORING REPORT**

**(April 1 - July 22 2014)**



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## 1. INTRODUCTION

One of the priorities of the Georgian Young Lawyers' Association (GYLA) is supporting effective, accountable and transparent governance. For this purpose, GYLA is actively engaged in the monitoring process of the legislative, executive and local self-government elections since its establishment in 1994.

The goal of the organization is to ensure that the election administration representatives, electoral subjects and public officials comply with the electoral legislation and the internationally established democratic standards. The activities of GYLA in the electoral period are not limited to only revealing the violations – through submitting the complaints and lawsuits to the electoral administration and the courts, the organization supports establishing the progressive interpretation of the electoral legislation, application of legal measures against the violators and further prevention of the electoral violations.

The current report covers the period from April 1 to July 22, 2014 and includes the information about the procedures of the pre-election period, Election Day and the post-election complaint consideration and summarization of the results of the June 15, 2014 elections of the representative and executive bodies of the local self-government.<sup>1</sup> The report also covers the repeat elections and the second rounds.

## 2. SHORT SUMMARY

The elections of the representative and executive bodies of the local self-government were conducted on June 15, 2014. The voters have elected 2'088 members of the 71 Sakrebulo, Mayors of the 12 self-governing towns and Gamgebelis of the 59 self-governing communities through the direct elections. The date of the self-government elections – June 15, was approved by the April 10 decree #10/04/02 of the president of Georgia and by the countersigning of the prime minister.

In comparison with the 2012 parliamentary elections, fewer electoral violations have occurred during the 2014 electoral period (among others, such types of the violations as the use of the administrative resources for the electoral purposes, voter bribery, detaining political activists). However, in comparison with the 2013 presidential elections, there were far more problems during the 2014 local election period.<sup>2</sup>

According to the Central Election Commission (CEC), after the election candidate registration started, **101** persons have registered as the candidates for the Mayor's office, **262** for the post of Gamgebeli, **21'574** – for the Sakrebulo membership.<sup>3</sup> Among others, **1'220** independent candidates were registered. However afterwards, **more than 600**

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<sup>1</sup> GYLA started the pre-election observation since April 1, 2014 and evaluated the pre-election environment twice, in its May 20 and June 11 intermediate reports: <http://gyla.ge/uploads/2014.pdf> and <http://gyla.ge/geo/news?info=2160>;

<sup>2</sup> <http://gyla.ge/geo/news?info=2170> ;

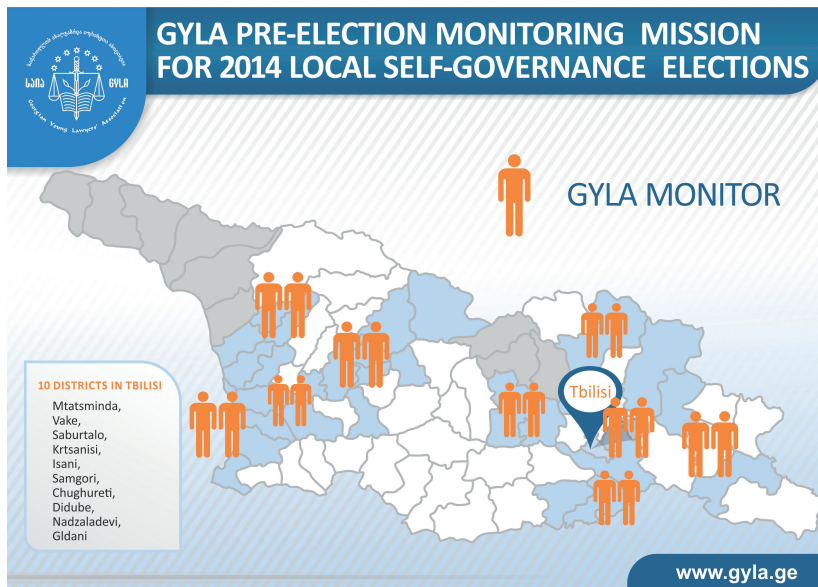
<sup>3</sup> Party Sakrebulo – 13'879, majoritarian party list – 6'475, independent candidates -1'220;

candidates have refused to participate in the elections by submitting individual statements of refusal.<sup>4</sup> Finally, after the de-registering from the candidacies, total of **20** political parties, **4** electoral blocs and **821** initiative groups have participated in the elections.<sup>5</sup>

GYLA started the pre-election observation within the period starting from April 1 and until the July 22, 2014. GYLA has observed the pre-election period of the June 15, 2014 local elections of the representative and executive bodies of the local self-governments, as well as the Election Day and the post-election period. In addition, GYLA has observed the repeat elections and the second rounds of the Mayor/Gamgebeli elections.<sup>6</sup>

GYLA has observed the **June 15 pre-election period in Tbilisi and in 9 regions of Georgia** through its its **20** observers. GYLA has forwarded the information about the alleged violations to both the CEC, as well as to the Inter-Agency Task Force for Free and Fair Elections (IATF). In specific cases, GYLA has also informed the State Audit Service and the National Commission of Communications of Georgia.<sup>7</sup> On the **Election Day**, GYLA has conducted the observation in the **40** electoral districts located in **10** regions of Georgia through up to **500** observers.<sup>8</sup>

Couple of months prior to the local elections, the provisions regulating the electoral system, political party funding,



<sup>4</sup> Response#02-04/1792 (August 21/2014) of the CEC. 481 majoritarian list, 223 proportional list, 3 Mayor and 5 Gamgebeli candidates. Out of majoritarian list candidates, 208 party-nominated candidates have refused to participate in the elections and 273 initiative group-nominated candidates;

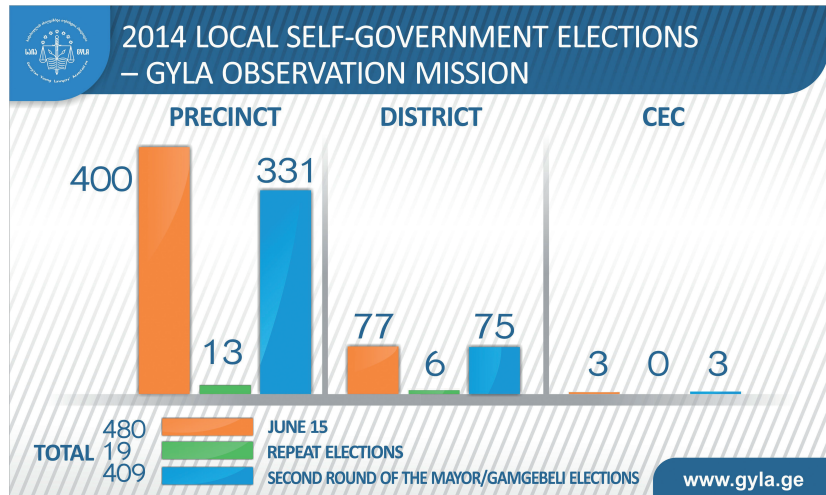
<sup>5</sup> <http://www.cesko.ge/uploads/other/29/29027.pdf>;

<sup>6</sup> GYLA started the pre-election process observation since April 1, 2014 and evaluated the pre-election environment twice – in its two intermediate reports, on May 20 and June 11. <http://gyla.ge/uploads/2014.pdf> and <http://gyla.ge/geo/news?info=2160>;

<sup>7</sup> Specific facts are given in the appendix 1;

<sup>8</sup> GYLA observed June 15/2014 elections of the representative and executive bodies in 10 districts of Tbilisi and in the following districts: Batumi, Kobuleti, Khelvachauri, Khulo, Kutaisi, Tskaltubo, Terjola, Khoni, Ambrolauri, Ozurgeti, Lanchkhuti, Chokhatauri, Zugdidi, Tsalenjikha, Khobi, Gori, Kareli, Kaspi, Khashuri, Akhaltsikhe, Adigeni, Aspindza, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Signaghi, Akhmeta and Dusheti;

voting procedures, media coverage and other issues were amended in the Election Code. According to the amendments to the legislation, the number of the self-governing towns has increased from the 5 to 12; the election of the Mayors in the self-governing towns and Gamgebelis in the self-governing communities has become direct; the barrier (50%+1) has been introduced for electing Mayors and Gamgebelis; the barrier of 4% has been introduced in the Sakrebulo elections and it has been equalized throughout an entire country. The amendments were enacted to the law on the “Public Service” and the provision, which stipulated that then incumbent public servants, employed at the local self-governing



bodies would have been dismissed after the local elections, was invalidated.<sup>9</sup> Despite a number of amendments, introduced to the legislation, the electoral legislation has not improved significantly.

The creation of the Inter-Agency Task Force for Free and Fair Elections (IATF) was belated; the IATF was created on April 3, 2014. With the engagement of the stakeholders, the IATF was examining the submitted statements in detail; was considering the information, requesting response from various organizations and elaborated the relevant recommendations. Within the reporting period, the Commission has issued 12 recommendations, among others, the recommendations that served implementation of the conditions of the government-announced Moratorium and ensuring the equal pre-election environment for all.

The election administration was prepared for the start of the pre-election period. The administration has implemented innovative projects for communicating with the persons, engaged in the electoral process and for informing voters. Based on the information existing by the 2014 local elections, the CEC has presented the gender statistics. Prior to the selection of the Precinct Election Commission (PEC) members, the CEC chairperson has addressed the District Election Commissions (DEC) with the open letter and called upon them to demonstrate maximum respon-

<sup>9</sup> This was perceived not only as the serious pressure upon the public servants and an attempt to forcefully engage them in the electoral processes, but also directly violated the Constitution of Georgia and the labor rights of persons, employed at the public sector. In May 2014, the members of the ruling majority have initiated the draft law in the parliament, as a result of which the disputable provision was invalidated. <http://gyla.ge/geo/news?info=1992> and <http://gyla.ge/geo/news?info=2114> May 14, 2014;



sibility and professionalism in selecting the PEC members.<sup>10</sup>

In the districts, in which GYLA has conducted the observation, the process was mainly compliant with the established rules.<sup>11</sup> However, there were tendencies, which might have had a negative impact on the unbiased and objective operation of the election administration on the Election Day .

The CEC has upheld the majority of the complaints, submitted by GYLA in the pre-election period.<sup>12</sup> The CEC was examining the information on the pre-election violations not only as a result of the submitted complaints, but also based on its own initiative, which deserves positive evaluation. However, during the registration of the electoral subjects, the CEC has applied double standards in the two almost identical cases; as a result, the ambiguousness in the Election Code, which stipulates the requirement of the 2-year permanent residence in Georgia prior to the elections for the Gangebeli and Mayor, was applied against the oppositional political candidates and in favor of the pro-government political unions.<sup>13</sup> To prevent the invalidation of the party lists (which became a risk due to the de-registration of the candidates), the CEC has introduced a special resolution and provided the cases in which a party list registration would have been invalidated on the basis of the falling short of the minimum-number requirement, provided under the Election Code.<sup>14</sup>

In April 2014, GYLA and the International Society for Fair Elections and Democracy (ISFED) have submitted a lawsuit to the Constitutional Court on the prohibition to nominate Mayor/Gangebeli by the initiative groups. The claimants requested to recognize unconstitutionality of the provision of the Election Code, which allows only parties and electoral blocs to nominate Mayor/Gangebeli candidates. The case is pending.

According to the amendments, enacted to the law, the biometric registration of voters (which was one of the significant outcomes of the 2013 inter-faction group work) has not been conducted. Instead of this, the State Service Development Agency has conducted comparison of the photos existing in its database and elimination of the duplicates. As a result, the duplications were eliminated in **3'271** cases.<sup>15</sup> According to the information, provided by the State Service Development Agency, total of **90'787** photos (mistakenly attached to the information of different citizens) were corrected in the electronic database. In difference with the parliamentary and presidential elections, the number of the special precincts has significantly decreased during the 2014 local elections, which deserves positive evaluation.

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<sup>10</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-reelizebi-13-ge/ceskos-tavmdjdomaris-gia-werili-saolqo-saarchevno-komisiebs.page> ;

<sup>11</sup> The June 15/2014 first monitoring report of the pre-election environment; <http://gyla.ge/uploads/2014.pdf> ;

<sup>12</sup> During the reporting period, GYLA submitted 5 statements in relation to the electoral violations: 4 to the CEC, 1 to the Ozurgeti DEC, the election administrations have upheld 4 statements; 1 statement was rejected, which related to the illegal campaigning by the Deputy Kutaisi Mayor on May 28 and alleged use of resource by the Kutaisi Mayor;

<sup>13</sup> <http://gyla.ge/uploads/2014.pdf>

<sup>14</sup> Resolution of the CEC #31/2014, June 3, 2014. [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2362713&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2362713&lang=ge)

<sup>15</sup> <http://www.justice.gov.ge/News/Detail?newsId=4567>

According to the information, provided by the State Audit Services, during the electoral period, the expenses of the electoral subjects totaled **11'860'771 GEL**,<sup>16</sup> while the amount of the received donations totaled **6'578'822 GEL**.<sup>17</sup> Among others, the ruling electoral bloc had the most of the donations and expenditures. It is notable that the Consultation Commission, composed of the NGOs was created under the auspices of the State Audit Services for the 2014 local elections. Within the monitoring mandate, the Consultation Commission was examining the information provided by the State Audit Services regarding the implementation of the regulatory rules of political financing, among others, the information on the alleged violations of the party funding regulations. GYLA became the member of the Consultation Commission and took active participation in its work. It should be noted, that within the mentioned period, one of the problematic issues for the State Audit Services was informing the independent candidates and submission of the information by the candidates. Since the nuances of the electoral legislation were a novelty for the independent candidates, the State Audit Services did not fine the candidates at the first stage and granted an additional time for them to submit the information.

Within the electoral period, GYLA observers have revealed 5 cases of alleged campaigning by the public servants, 4 cases of administrative resource use, 1 case of voter bribery, 10<sup>18</sup> cases of the criminal persecution, 18 cases of imposing administrative violations' responsibility, 14 cases of physical violence, 20 cases of obstructing the pre-election meetings, illegal obstruction of the journalists' work,<sup>19</sup> 1 case of pressure upon the journalist,<sup>20</sup> 6 cases of obstructing campaign material distribution and 11 cases of work dismissals. For responding to the electoral violations and preventing further violations, GYLA has addressed the IATF with 14 statements, the election administration with 5, the State Audit Services with 3, the National Commission of Communications of Georgia with 1 and the law-enforcement bodies with 2 statements.<sup>21</sup>

**The pre-election period** – within the mentioned period, the cases of campaigning during the implementation of the work duties by then incumbent Gamgebelis/Mayors have occurred. There were a number of cases in which then municipality Gamgebelis or a Mayor of a self-governing city was conducting the pre-election campaign while holding the post of the Gamgebeli/Mayor.<sup>22</sup> In addition, as the local self-government elections were approaching, the initiation of various projects has become more frequent (the start of the projects has coincided with the pre-election

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<sup>16</sup> Among others, electoral bloc Georgian Dream – 6'318'735 GEL, UNM -2'435'792 GEL and Christian-Democratic Movement – 796'431 GEL.

<sup>17</sup> Among others, electoral bloc – Georgian Dream - 5'266'701 GEL, UNM – 299'383 GEL and Christian-Democratic Movement 335'802 GEL.

<sup>18</sup> According to the monitoring information, available to GYLA there were questions on whether the initiation of criminal persecutions related to the political activities of the accused persons.

<sup>19</sup> <http://gyla.ge/geo/news?info=2145>; <http://gyla.ge/uploads/4.PDF>;

<sup>20</sup> <http://gyla.ge/geo/news?info=2153>

<sup>21</sup> 1) fact of the distribution of the presents by the Kutaisi Sakrebulo independent candidate; 2) the costs of transportation of the local self-government employees from the Shida Kartli municipalities to the May 12 meeting with the prime minister in Gori; 3) the expenditures for activities of the persons, present at the polling stations on June 15, who counted the visiting voters.

<sup>22</sup> Batumi Mayor, Gamgebelis of Gurjaani and Tskaltubo, deputy Gamgebeli of Chokhatauri and others.

campaign). The initiatives had a social nature and were mainly targeted at the broad public.<sup>23</sup> On April 14, that is, couple of hours prior to the official start of the pre-election campaign, a number of local budgets have increased significantly. In those cases the law was not violated; however, the risks of alleged abuse of the budgetary means for the electoral purposes have arisen.

Since the start of the pre-election period of the 2014 local elections, the government has announced the Moratorium on conducting the legal procedures, which covered the persons, engaged in the electoral campaign.

Prior to the announcement of the Moratorium – that is, prior to April 14, 2014, a number of politically active persons were summoned, questioned or brought the charges against.<sup>24</sup> The mentioned persons mainly represented the political union “United National Movement” (UNM) and, according to the party, it was planned to nominate them as the party candidates in the upcoming local elections.

Following the announcement of the Moratorium, the cases of summoning to the investigation, questioning or bringing charges against the politically active persons were minimized; however, individual cases of criminal persecution against this group of persons have still occurred, which was explained by the urgent need by the law-enforcements.

Within the pre-election period, the information was aired on a number of times, according to which the candidates of various opposition parties or electoral blocs were refusing to participate in the elections and were de-registering themselves from a candidacy – allegedly, due to the pressure. The oppositional parties were discussing such cases and providing the NGOs (GYLA, among others) with the relevant information.<sup>25</sup> According to our information, as of June 2, up to **50** candidates of the **6** oppositional parties in **15** districts of the **9** regions have de-registered their candidacies, allegedly, due to the pressure.<sup>26</sup> According to the official information, the prosecution has examined 80 cases of alleged pressure against the political subjects, summoned more than 100 persons,<sup>27</sup> of which the investigation was initiated on 4 cases.<sup>28</sup>

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<sup>23</sup> For example, Kutaisi and Batumi budgets have significantly increased. The budgets of both cities increased with couple of million GEL: Batumi budget was increased with up to 10 million GEL, while Kutaisi budget was increased with more than 2 million GEL. According to GYLA's information, those sums were mainly allocated for infrastructural and social assistance programs.

<sup>24</sup> <http://gyla.ge/geo/news?info=2050>

<sup>25</sup> <http://gyla.ge/geo/news?info=2131> together with partner organizations, GYLA made a statement on May 30 and June 2, calling upon the MIA and the Chief Prosecution to examine the mentioned facts and to prevent any pressure upon the electoral subjects and party activists; GYLA called upon the IATF to examine alleged facts of pressure and to address the law-enforcement and local self-government bodies with the relevant recommendations; GYLA called upon the local self-governments' public servants to not exceed their authority, to avoid resulting in the criminal responsibility; upon the political party representatives – to address the law-enforcements in each such case, to provide the public with such information through media and NGOs;

<sup>26</sup> <http://gyla.ge/geo/news?page=6>

<sup>27</sup> [http://pog.gov.ge/geo/news?info\\_id=501](http://pog.gov.ge/geo/news?info_id=501) – “for the purpose of verification of the information, provided by political parties, NGOs, and the information aired by media, more than 100 persons were questioned”.

<sup>28</sup> [http://pog.gov.ge/geo/news?info\\_id=501](http://pog.gov.ge/geo/news?info_id=501)

Within the pre-election period there were cases of physical assault and violence against the politically active persons.

The victims correlated the physical violence against them with their political activism.<sup>29</sup> In addition, there were a number of cases of obstructing the pre-election campaigns, which were mainly directed against the UNM. In a number of cases, the obstruction exceeded the verbal confrontation and evolved into physical confrontation.

Within the pre-election period, electoral subjects in both the capital and in the regions were speaking of the obstruction in distribution of the campaign materials.<sup>30</sup> Mainly, the pre-election posters were ripped, damaged; also, the posters of other candidates were stuck over the pre-existing candidate posters. The separate electoral subjects were complaining that they were not given enough space for placing their posters.

Couple of months prior to the local elections, there were cases when the local self-government bodies were dismissing the employees from work, mainly those ones, who were perceived as the supporters of the oppositional political union UNM.

Within the pre-election period and on the Election Day the media was mainly free in covering the electoral campaign. Despite the fact that there were few cases of illegally obstructing the professional operation of the journalists, those cases did not have a broad-scale or systematic nature. Within the electoral period, there were a number of cases in which the high-level officials were criticizing media/journalists publicly.

**Election Day** – despite separate violations, the voting process was conducted mainly in a calm environment. Voters had a possibility to express their will freely. In most of the cases, an election administration was adequately responding towards the remarks made by GYLA observers and was correcting the procedural violations of the election legislation. The grave violations did not have a broad-scale nature. Especially grave violations have occurred at the following precincts: Martvili district, precinct #16 (ballots were stolen); Zugdidi district, precinct #32 (the voting process was terminated); Khoni district, precinct #22 (the polling station was raided); Khoni district, precinct #19 (attempts of breaking into the polling station and breaking the door); Telavi district, precinct #14 (forging signatures), Samgori district, precinct #32 and Khulo district, precinct #27 (threatening the observers). Due to the significant violations that have occurred in few precincts, the repeat elections were conducted on those precincts on June 29.<sup>31</sup>

On June 15 Election Day, GYLA observers have submitted **150** complaints and made **127** remarks in the logbooks; during the repeat Election Day – **2** complaints and **8** remarks; during the second round of the Mayor/Gamgebeli

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<sup>29</sup> For the detailed information see the Appendix 2 – Facts of Physical Assault and Violence

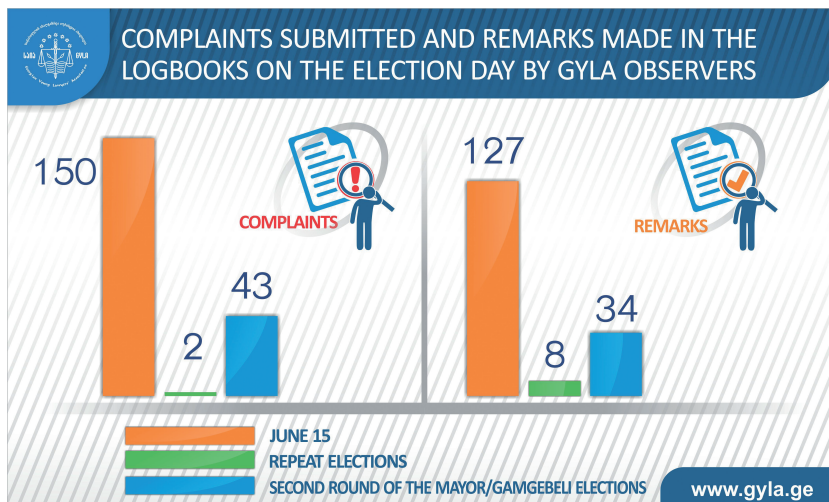
<sup>30</sup> For example, according to the Tbilisi Mayor's office, total of 97 administrative violations' protocols were issued upon the electoral subjects in the capital, within the period from May 20 to June 13, 2014; the protocols were sent for the response to the court. 22.08.2014 #11/14220759-17 Tbilisi municipality Mayor's legal services. The detailed information is given in the Appendix 4.

<sup>31</sup> See chapter on the repeat elections.

elections – 43 complaints and 34 remarks.

On July 12, 2014 for the first time in the country, the second round of the Mayor/Gamgebeli elections were scheduled.<sup>32</sup> The second round of the Mayor/Gamgebeli elections was held in those districts, in which the participating electoral subjects did not pass the threshold (50%+1) during the elections of the representative and executive bodies on June 15/2014.

Georgian Young Lawyers' Association (GYLA) has observed the second round in **Tbilisi and in 13 electoral districts**.<sup>33</sup>



According to GYLA observers' information, in a number of cases, in both Tbilisi and in the regions, the representatives of the electoral subjects were present at the adjacent territories of the polling stations; those representatives were counting the visiting voters.<sup>34</sup> The representatives of electoral subjects were also providing transportation of the observers to the polling stations. In separate cases, the cases of physical and verbal confrontation have occurred among the electoral supporters at the adjacent territories of the polling stations.

**The post-election period** – following the Election Day it has been revealed that in a number of precincts, there was no balance in the summary protocols, there was a large overall number of the invalidated electoral ballots and in a number of cases the summary protocols were either changed or filled out incorrectly; the changed summary protocols did not have the correction protocols attached.

<sup>32</sup> According to the amendments, enacted in the legislation of Georgia, in 12 self-governing cities and 59 self-governing communities, the direct election of Mayors and Gamgebelis was conducted through an absolute majority.

<sup>33</sup> GYLA observers were conducting observation at the precincts within 10 districts of Tbilisi and in Batumi, Kobuleti, Terjola, Khoni, Baghdati, Tkibuli, Ozurgeti, Martvili, Gori, Rustavi, Telavi, Kvareli, Mtskheta districts.

<sup>34</sup> Counting the voters, visiting the polling station is not directly prohibited. However, such facts may represent indirect control over voters' will. Voters have a legally guaranteed right to express their will without any direct or indirect control, in the free environment and have a right to decide for themselves who to vote for or whether to participate in the elections or not. GYLA has been discussing this problem for years and we hope that this topic will be discussed along with other problematic issues, within the context of the electoral reform and that prior to the upcoming elections the proper amendments will be introduced to the electoral legislation.

Following the June 15, 2014 Election Day , GYLA observers have submitted **214** complaints in the upper electoral commissions, out of which **70** were upheld completely and **61** complaints were upheld partially. Out of the **45** lawsuits submitted to the court of the first instance, **1** lawsuit was upheld completely and **17** were upheld partially; out of the **16** lawsuits submitted to the appellate court, **1** was upheld completely and **2** were upheld partially.

In addition, in the following period of the second round of the Mayor/Gamgebeli elections, **39** out of the **46** complaints were fully upheld and **3** were upheld partially. Out of the **2** lawsuits, submitted to the court, **1** lawsuit was partially upheld.

### 3. MONITORING SCALE AND METHODOLOGY

GYLA was observing the June 15/2014 pre-election processes through its central and regional offices in the **9** regions of Georgia: Adjara, Guria, Imereti, Shida Kartli, Kvemo Kartli, Kakheti, Samegrelo, Samtskhe-Javakheti, Mtskhet-Mtianeti and in Tbilisi through up to **20** observers.

GYLA observers were obtaining information from a variety of sources, among others, through requesting FOIA information from the public institutions; in addition, through media monitoring.<sup>35</sup> Very often, citizens and political party members were addressing GYLA and providing us with the information about the revealed violations on their own initiative. After receiving the information, GYLA observers were verifying each case individually with the source of the information and if needed, were providing the relevant legal assistance.

GYLA has been observing the 2014 local elections through the experienced observers, specifically, through the members of the “Observers’ League”<sup>36</sup> and was



<sup>35</sup> Central and regional press, national and regional outlets, internet outlets.

<sup>36</sup> On June 13, 2014, GYLA conducted the presentation of the Observers’ League. The primary goal of the Observers’ League is to actively engage

responding properly to any violation. The Observers' League was working both towards prevention, as well as towards resolving the electoral problems/violations.

**On the Election Day**, through the precinct and mobile group observers, GYLA conducted the observation in **40** districts of the **10** regions of Georgia through up to **500** observers.<sup>37</sup> Among others, GYLA was represented by **400** precinct, **77** district and **3** CEC observers.

**In Tbilisi** GYLA was represented by **92** observers, aided by the mobile groups. **250** observers of GYLA were conducting observation at the polling stations **throughout various regions of Georgia**.

GYLA mainly observed the precincts created as the exceptions, the precincts, located in the minority-settled areas and the precincts that have been identified as problematic during the previous elections.

The members of the Observers' League were immediately responding to any violation and informing the GYLA Analytical Center operators, who were simultaneously uploading the information to the **GYLA Electoral-Analytical Database**.

Within the election observation period, the GYLA's Analytical Center was receiving the information in real time, during any time of the day/night, regarding the existing environment in the capital and in the 10 regions of Georgia, in which GYLA observers conducted the observation.

On the Election Day, **GYLA conducted 4 briefings in the media center**, established by NGOs. The representatives of the press and other means of mass media were provided with the information on the violations identified by the GYLA observers and the information about the violations, submitted through the hotline by the relevant time of the briefing. In addition, the hotline was operating in GYLA throughout the day, which gave the citizens a possibility to inform GYLA of the identified electoral violations. Whenever needed, the mobile group was responding to problems, the information about which was submitted through the hotline.

**In the post-election period**, GYLA observers were permanently present in the 38 District Election Commissions (DECs) and in the Central Election Commission (CEC), who were attending the commission sessions and complaint consideration procedures.

GYLA has also observed the repeat elections of the June 15/2014 local elections and the second round of the Mayor/ Gamgebeli elections.

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the experienced observers of GYLA in the electoral and local self-government reform and to enable the young group of the society to present their position. In addition, the team of the experienced observers will permanently conduct the educational activities to create the analytical group prior to the 2016, 2017 and 2018 elections, which will observe the electoral and local self-government processes in more depth and will contribute towards the improvement of those processes.

<sup>37</sup> GYLA observed June 15, 2014 local elections (of the representative and executive bodies) in the 10 districts of Tbilisi as well as in Batumi, Kobuleti, Khelvachauri, Khulo, Kutaisi, Tskaltubo, Terjola, Khoni, Ambrolauri, Ozurgeti, Lanchkhuti, Chokhatauri, Zugdidi, Tsalenjikha, Khobi, Gori, Kareli, Kaspi, Khashuri, Akhaltsikhe, Adigeni, Aspindza, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Signaghi, Akhmeta and Dusheti.

GYLA has observed 13 electoral precincts during the repeat elections, which was conducted on June 29.<sup>38</sup> GYLA has observed **all the 10 districts of Tbilisi and the 13 districts in the regions** during the second round of the Mayor/Gamgebeli elections.<sup>39</sup> The static observers were deployed to **more than 300 polling stations** throughout Georgia. In addition, the mobile groups were observing the processes at the problematic polling stations. Our special attention was targeted at the precincts, identified as problematic during the June 15 Election Day and at the precincts, created in the exceptional cases (so-called “special precincts”).

On the Election Day of the second round, **GYLA held 3 briefings in the media center**, established by local NGOs and evaluated the election process on the next day.

#### 4. LEGISLATIVE FRAMEWORK

Couple of months prior to the 2014 local elections, on March 7/2014, the amendments were enacted in the Election Code. The amendments related to the electoral system, party financing, voting procedures, media coverage and other issues.

**Out of the enacted amendments, it should be positively evaluated that the number of the self-governing towns has increased from 5 to 12, the direct election of the Mayors/Gamgebelis was introduced, among others, through the majority of the participating voters (50%+1), introducing 4% barrier for the Sakrebulo elections and its equal application throughout the country.**

In addition, a number of other enacted amendments deserve positive evaluation; specifically, introducing financial incentives for increasing womens’ number in politics; accessibility of the polling station buildings for all voters; the obligation of providing sign language in cases of filming the political/pre-election advertisements and during airing the electoral programs through the public broadcaster. Other positive changes include the amendments to the law



<sup>38</sup> At the precincts #25 and 57 of the Marneuli district, precincts #4, #6, #47 and #52, precinct #1 of the Akhalkalaki district, #22 of the Khoni district, #2 and #5 of the Tkibuli district, #32 of the Zugdidi district, #103 of the Batumi district as well as the #34 of the Kobuleti district.

<sup>39</sup> Tbilisi (10 districts) as well as: Batumi, Kobuleti, Terjola, Khoni, Baghdati, Tkibuli, Ozurgeti, Martvili, Gori, Rustavi, Telavi, Kvareli, Mtskheta.



on the “Public Service”, according to which the public employees, working in the local self-governing bodies would not have been dismissed after the local elections.<sup>40</sup> There were also other amendments, aiming at eliminating the shortcomings and resolving the problems, revealed in the practice.

**Despite the fact that a number of amendments introduced to the Election Code deserve positive evaluation, we consider that overall, the electoral legislation was not significantly improved, which would have significantly improved the electoral environment if amended** and the expectation of which we, the NGOs had. Despite the importance of the topic, the Inter-Faction Group did not take into consideration the recommendations relating to the electoral system, citing the lack of time to change the system.<sup>41</sup>

*As a result, a number of issues remain to be problematic, for example:*

- **The electoral system for the Sakrebulo elections**, which does not ensure the equality of vote and proportional reflection of voters’ will in the mandates.<sup>42</sup>
- **The procedure of declaring mistrust towards the directly-elected Mayors/Gamgebelis (impeaching)**, which contradicts the principle of the representative democracy. It is notable, that the decision of declaring mistrust does not require justification, meaning that this mechanism might be used for the political purposes. Specifically, a Sakrebulo may initiate the mistrust procedure in case if there is political or other type of confrontation among the Sakrebulo and a Mayor/Gamgebeli;
- **Prohibition of nominating a candidate for the Mayor/Gamgebeli candidacy by an initiative group, which represents the neglect towards the important international standard.** Under the enacted amendments, the initiative groups were not given a right to nominate the candidates for Mayor/Gamgebeli posts.
- **The rule of composing an electoral administration** has not changed.
- **The biometric registration of voters did not take place**, while the decision on introducing biometric registration represented one of the most important outcomes of the 2013 Inter-Faction Group work. We consider that introduction of the biometric registration of voters would have ensured establishing an exact number of voters and correction of the existing inaccuracies in the voters’ lists.<sup>43</sup>

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<sup>40</sup> This was perceived as not only a serious pressure upon the public servants and an attempt to forcefully engage them in the electoral processes, but also directly violated the Constitution of Georgia and the labor rights of persons, employed at the public sector. In May 2014, the ruling majority has initiated the draft law in the parliament, as a result of which the disputed provision was invalidated. <http://gyla.ge/geo/news?info=1992> and <http://gyla.ge/geo/news?info=2114> May 14, 2014.

<sup>41</sup> The negative and positive aspects of the enacted and planned legislative amendments are discussed in the first and second intermediate reports of GYLA. <http://gyla.ge/uploads/2014.pdf> May 20, 2014. [http://gyla.ge/uploads/meoreshualeduri2014\\_ge.pdf](http://gyla.ge/uploads/meoreshualeduri2014_ge.pdf), June 11, 2014.

<sup>42</sup> Only increasing the electoral barrier for the Mayor/Gamgebeli elections is not enough for the improvement of the electoral system.

<sup>43</sup> According to the amendment, instead of the biometric registration, the photos existing in the database of the State Service Development Agency were compared and the duplicates in the lists were eliminated. We consider that the comparison of the photos in the database does not represent biometric registration of voters and therefore, does not ensure creation of highly reliable voters’ lists, which does not ensure fully resolving the inaccuracies in the lists.

## 5. INTER-AGENCY TASK FORCE FOR FREE AND FAIR ELECTIONS (IATF)

The IATF, existing under the auspices of the Ministry of Justice by the 2014 has continued operation in regular manner; however, the IATF was created in a belated manner.<sup>44</sup> Under the decree #17 of the Minister of Justice, the IATF statute was approved. The commission was composed of the representatives of the 9 ministries, the Government chamber's department of relations with the regions and local self-governing bodies, and the head prosecution.<sup>45</sup>

With the engagement of the stakeholders, the IATF was examining in detail the statements submitted, was considering the information and requests of response from the relevant organizations and elaborated the relevant recommendations. Within the electoral period, the IATF was holding the sessions in within the periods, established under the law.

Within the reporting period the IATF elaborated total of 12 recommendations. Based on the statement, submitted by GYLA, the IATF considered the recommendations, issued during the pre-election period prior to the 2013 presidential elections, as the important institutional mechanism. In addition, both member and non-member ministries have introduced mandatory guidelines for their employees, in order to ensure compliance with the obligations, imposed under the Election Code during the electoral period.

**We consider that the mentioned factor was the precondition for decreasing the number of cases of administrative resource use by the public employees in the pre-election period.** The recommendations were given to the local self-government bodies to provide detailed and clear instructions for their public employees on the rights and prohibitions under the legislation in the pre-election period.

Within the Moratorium, announced by the prime-minister in the pre-election period, the IATF has addressed political unions a number of times, asking to submit the lists of individuals, engaged in the electoral processes, to exclude the possibility of their detention and other limitations within the procedural activities.<sup>46</sup> The IATF has called upon political parties and electoral subjects to refrain from obstruction of distribution of the materials by the competitor candidates, from ripping down the campaign materials, etc. The IATF has further called upon the local self-government bodies to ensure the equal conditions of material placement for all of the engaged subjects; the IATF has also

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<sup>44</sup> [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2277882&lang=ge#](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2277882&lang=ge#)

Article 2. The IATF should have been created within 10 calendar days from the enactment of the amendments. The publication of the law was prescribed as the moment of the enactment of the amendments. The law was published on March 14, which means that the IATF should have been created on March 24; however, the Commission was created on April 3.

<sup>45</sup> [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2302493&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2302493&lang=ge)

<sup>46</sup> <http://personaldata.ge/ge/personalur-monatsemta-datsvis-inspeqtori-saarchevno-Moratoriumtan-dakavshirebit-politikur-partiebs-mimartavs/223> (seen on May 7, 2014). In relation to the mentioned initiative, the Personal Data Protection Inspector has called upon the political parties, electoral blocs and voters' initiative groups to properly inform all of the persons in the lists prior to submitting the lists to the IATF and to present the written confirmation of their approval in accordance with the Article 6 of the law of Georgia on the "Personal Data Protection" (apart from the cases, in which the persons in lists were not officially nominated as the candidates or have not publicized themselves their participation in the campaign).

called upon the Ministry of Internal Affairs (MIA) to conduct timely and effective response to any possible case of violation.

GYLA has submitted **14** statements to the IATF for the purpose of informing and preventing the alleged violation of legislation by the public employees in the pre-election period. Based on the statements submitted, the IATF has elaborated a number of important recommendations and called upon the relevant bodies to respond.<sup>47</sup> **Despite the efforts of the IATF to prevent the pre-election violations, in a number of cases, the recommendations of the IATF were grossly violated, which made the IATF operation ineffective.**<sup>48</sup>

## 6. ELECTION ADMINISTRATION

Despite the amendments, enacted to the Election Code, the rules of composition of the election administration have not changed, which represents one of the significant problems.

The election administration was prepared for the start of the 2014 pre-election period. The CEC was working intensively, was conducting meetings with various stakeholders, among others, with the representatives of media, political parties, local NGOs and international organizations. In addition, the CEC has initiated an active informational campaign. The image and informational advertisements were widespread in media. Under the CEC initiative, the trainings and seminars on the electoral issues were conducted for the lawyers of the local self-governments and regional administration, representatives of the NGOs, students of various higher institutions. The CEC has conducted the work meetings with the judges of the district, city and appellate courts, regarding the procedures of submitting and considering statements/lawsuits on the Election Day, the novelties in the electoral legislation, use of administrative resources. Under the CEC initiative, the trainings on the electoral issues were conducted for the representatives of media and political parties/electoral subjects and for the female candidates, participating in the local self-government elections. The activities were conducted for informing the ethnic minority youth representatives as well.

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<sup>47</sup> For example, GYLA requested to elaborate general recommendation from the outset, prescribing that all of the recommendations, made in 2013 should be applied to the relevant persons and institutions in the 2014 pre-election period as well due to their relevance and importance (the recommendations was shared by the IATF). In addition, after submitting the information on the use of administrative resources by public servants, the IATF requested the department of relations with the regions and local self-governments under the Government's Chamber to issue instructions (interpretations) for the state trustee (Rtsmunebuli) – governor and public servants working with trustee on their rights and obligations/prohibitions in the pre-election period.

<sup>48</sup> For example, despite the recommendation of the IATF, not to dismiss the high-level officials from the local self-governments, in the mentioned period, the deputy Gamgebeli of the Tskaltubo municipality was dismissed and the Kvareli Municipality Gamgebeli was impeached on the allegedly political grounds. The facts of obstructing the pre-election campaign activities and distribution of campaign materials was frequent. In addition, the information on the pressure against various oppositional parties/electoral blocs was aired frequently. According to the mentioned information, as a result of the pressure, many of them have de-registered their candidacies.

The contact-center of the CEC has started operation for the local elections with the new services. It was made possible to obtain the information in Georgian, English, Azerbaijani, Armenian and Russian languages.<sup>49</sup> Under the CEC initiative the informational map was created, allowing users to receive the detailed information on the overall number of voters, registered in the electoral districts, on the composition of the district and precinct election commissions, on the majoritarian districts and on the polling stations, adapted for the persons with a disability.<sup>50</sup>

On May 5/2014, the CEC has signed the Memorandum of Mutual Cooperation with the NGOs (among others, with GYLA and IATF), within which the sides to the Memorandum have agreed to clarify the regulations on the pre-election campaigning and administrative resources and to apply uniform interpretation of the provisions.<sup>51</sup>

Based on the data, existing by the 2014 local elections, the CEC has presented the gender statistics. Despite the fact that the number of females in the general voters' list exceeds the number of males and according to the information as of May 1, out of **3'472'772** voters **1'866'514** are female; the gender balance, both among Mayor/Gamgebeli and Sakrebulo membership candidates is significantly distorted.<sup>52</sup>

Prior to the start of the PEC member selection, the CEC chairperson has addressed the DEC's with an open letter calling upon them to demonstrate maximum responsibility and professionalism in selection of the PEC members.<sup>53</sup> The mentioned statement of the CEC chairperson clearly deserves positive evaluation. It is notable that GYLA has been addressing the electoral administrations with such a recommendation for years, to exclude the possibility of selecting previously fined persons (for the electoral violations) in the election administration.

The representatives of the election administration have signed the Code of Ethics, which defined the basic principles of the election administration operation.<sup>54</sup>

Just as in the previous elections, GYLA conducted monitoring of the PEC composition process.<sup>55</sup> In the districts, in which GYLA conducted its observation, the process was conducted in compliance with the legislation.<sup>56</sup> However, there were tendencies, which might have had a negative impact on the impartial and objective operation of the election administration: the analysis of the FOIA information obtained by GYLA reflects that the persons, selected as the PEC professional members in 2014 local elections, have been representatives of various parties during the 2013 presi-

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<sup>49</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/ceskos-kontaqt-centri-ganaxlebuli-servisebit.page>

<sup>50</sup> [www.map.cec.gov.ge](http://www.map.cec.gov.ge)

<sup>51</sup> <http://www.cec.gov.ge/uploads/other/27/27364.pdf>

<sup>52</sup> <http://www.cec.gov.ge/uploads/other/27/27802.pdf>

<sup>53</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/ceskos-tavmdjdomaris-gia-werili-saolqo-saarchevno-komisiibs.page>

<sup>54</sup> <http://cec.gov.ge/uploads/other/28/28013.pdf>

<sup>55</sup> The selection of the professional members of the PECs out of the individuals that have represented various parties in the election administration (in the near past) was the object of observation.

<sup>56</sup> First intermediate report of the June 15/2014 pre-election environment observation <http://gyla.ge/uploads/2014.pdf>

dential elections. Despite the fact that the election legislation of Georgia does not prohibit the DEC to appoint the professional PEC members from the pool of the party members, we consider that such a tendency represents a risk in terms of public trust towards the election administration. In addition, this puts the impartiality and independence of the PEC members under the question.<sup>57</sup>

The mentioned tendency once again underlines the importance of revision of the election administration composition rule, especially, prior to the upcoming parliamentary elections.

As for the consideration of the pre-election legal disputes, it is notable that the CEC was not only examining the complaints submitted directly, but also pro-actively examined the information on the alleged violations, aired by media, which is a positive fact. It is also a positive development that the majority of the GYLA's complaints on the pre-election violations were upheld by the CEC.<sup>58</sup> However, prior to the second round, the CEC chairperson did not satisfy the request of GYLA and other NGOs,<sup>59</sup> relating to the alleged fact of the Patriarch's Bishop participating in the pre-election campaign illegally.<sup>60</sup> The CEC chairperson considered that neither church, nor Bishop have violated the law.<sup>61</sup>

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<sup>57</sup> Out of **504** members, selected by the Rustavi DEC, **102** were nominated under the party lists in 2013; out of **378** members selected by the Gardabani DEC, **45** were nominated under party lists in 2013; out of **522** members selected by the Marneuli DEC – **27** were nominated under party lists; out of **348** members selected by the Bolnisi DEC – **27** were nominated under the party lists in 2013 presidential elections. Out of the members selected as the professional members by the Dusheti DEC **93** were nominated under the party lists in 2012-2013 presidential and parliamentary elections. Out of **228** members selected by the Kaspi DEC – **28** were nominated under the party list during the past elections. Out of **229** members selected by the Kareli DEC – **42** were nominated under the party lists during the previous elections. Out of 312 members, selected by the Khashuri DEC – **46** were nominated under the party lists during the previous elections. Out of **209** members, selected by the Akhaltsikhe DEC – **49** were nominated under the party lists during the past elections. Out of **96** members selected by the Adigeni DEC – 11 were nominated under the party lists during the past elections. Out of 138 members selected by Aspindza DEC – **27** were nominated during the past elections. Out of **420** members, selected by the Akhalkalaki DEC – **43** were nominated under the party lists during the past elections. Out of **216** members selected by the Ninotsminda DEC – **5** were nominated under the party lists during the past elections.

<sup>58</sup> Within the reporting period, GYLA has submitted 5 statements to the election administration in relation to the electoral violations: 4 to the CEC, 1 to the Ozurgeti DEC. The election administrations have satisfied 4 statements of GYLA. 1 statement was rejected (the statement related to the illegal campaigning by the Kutaisi deputy mayor on May 28 and alleged use of administrative resources by the Kutaisi Mayor).

<sup>59</sup> Human Rights Education and Monitoring Center (EMC), Transparency International – Georgia (TIG) and the International Society for Fair Elections and Democracy (ISFED).

<sup>60</sup> <http://gyla.ge/geo/news?info=2212>

<sup>61</sup> It is notable that according to the same letter, the CEC chairperson did not consider the Bishop to be the representative of the religious organization, “the address of the Bishop, as of an individual spiritual person (prieching) towards the parish did not represent the statement on behalf of the church and according to the content of this statement, such action cannot be considered as the administrative violation prescribed under the Election Code”, since, according to their opinion, “for the purposes of limitation of campaigning under the Election Code, four subjects represent the church as the religious organization – among others, the Patriarch's office that, according to the Constitutional Agreement, is regarded as unity of the bishop and the secretary and not separately from each other.” The letter of the CEC chairperson to the Bishop of the Patriarch of Georgia and to the IATF 15.07.2014 #01-03/1564

One of the problematic issues in the pre-election period was the issue of the election administration registering Mayor/Gamgebeli candidates. We consider that in this regard, the election administration was acting inconsistently.<sup>62</sup>

On almost identical cases, the CEC has applied double standards: it turned out that the ambiguousness of the Article 167 of the Election Code, which requires the Mayor/Gamgebeli candidates to permanently reside in Georgia for two years prior to the elections for being registered, was applied and interpreted against the oppositional political parties and in favor of the governmental unions by the CEC.<sup>63</sup> We consider that such decisions negatively affect the trust towards the CEC and its image of an impartial and objective election administration; this may be damaging for the professional reputation of this institution.

Regardless of which political union was under the question, the CEC should have applied the same standard.

Another problematic issue, identified during the reporting period was the increased number of the cases of alleged pressure upon the electoral candidates of various political unions and blocs. The CEC chairperson has made a statement in this regard and called upon the law-enforcements to immediately examine such cases and respond to them.<sup>64</sup> In order to prevent party list invalidation, the risk of which resulted from the candidate de-registration, the CEC has adopted a special resolution on June 3, 2014 and defined the cases, in which the party list electoral registration would have been invalidated due to the shortage of the law-prescribed minimum number.<sup>65</sup> We consider that the CEC decision has positively affected the electoral environment. The CEC resolution helped all of the parties, which, due to the candidate de-registration, were facing the risks of electoral party list invalidation. However, through adopting this resolution, the CEC has exceeded its mandate, because it introduced the rules, different from the Election Code.<sup>66</sup>

**On the Election Day , the election administration mainly adequately responded to the remarks, made by GYLA observers and corrected the procedural violations under the electoral legislation. When the violations were eliminated, as a rule, GYLA observers did not further submit a complaint. However, in a number of cases, the low level of PEC members' qualification and unprofessional approach towards the work was revealed. The PEC members found it most difficult to fill out the summary protocols of the election results**

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<sup>62</sup> The CEC has invalidated the registration of the Gori Mayor candidate of the "Georgian Party" – Irakli Okruashvili, citing that he did not physically reside in Georgia for the past 2 years. At the same time, the commission did not invalidate the registration of the candidate from the ruling political force; while in this case, the commission did not apply the standard of the physical residence in the country. The CEC also did not satisfy the request of the UNM and has maintained in force the decision of the Marneuli DEC chairperson, according to which the electoral registration of the mentioned electoral subject – Akmamed Imamkuliev was invalidated.

<sup>63</sup> <http://gyla.ge/uploads/2014.pdf>

<sup>64</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/ceskos-tavmdjdomaris-gancxadeba-kandidatebze-zewolis-faqtebtan-dakavshirebit.page>

<sup>65</sup> The resolution #31/2014 of the CEC (June 3, 2014). [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2362713&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2362713&lang=ge)

<sup>66</sup> See the chapter on pressure and threatening for the information on the resolution.

**and to achieve the balance in numbers; the summary protocols were not being sent to the CEC in a timely manner.** In its turn, the CEC did not manage to upload the incoming summary protocols in a timely manner, which resulted in the violation of the provisions under the clauses 4 and 8 of the Article 76 of the Election Code.

Following the Election Day , the observation of DEC operation has revealed that the DEC's were not willing to examine GYLA complaints in detail, to examine the circumstances that were important to the case and to examine/ evaluate the evidences properly (apart from the few exceptions). Despite the fact that in specific cases the violations were supported by the relevant evidences, the DEC's were not satisfying the requests under the complaints. Despite the gravity of the violations, the DEC's favored imposing the less strict disciplinary responsibility measures and did not apply more adequate measures prescribed under the law (for example, drafting the administrative violations' protocol). The process of delivering the sealed documentation from the PEC's to DEC's was not so organized.

The issue of scheduling the second round of the elections on July 3 by the CEC has caused the divergence in the opinions. Specifically, one of the voiced opinions was that the CEC has violated the rules of appointing the second round, because it did not wait for the expiration of the period for the appeals. GYLA considered that the CEC decision on appointing the second round was legal, because the DEC's and the CEC (in case of Tbilisi mayor) have drafted the summary protocols independently from each other, in compliance with the legislation on June 26-27, which was appealed and the court's decision has entered its force.

## 7. VOTERS' LISTS

The amendments relating to the voters' lists were enacted to the Election Code twice – on March 7 and April 17. Under the mentioned amendments, the biometric registration of voters will no longer be conducted. The biometric registration would have ensured establishing an exact number of voters and correcting the inaccuracies existing in the voters' lists, which was one of the significant achievements of the 2013 Inter-Faction Group work. Instead of this, it has been decided that the latest photograph of each voter would be compared to all other photographs in the database of the State Service Development Agency and in case of the duplications, they would have been corrected. It has been decided to print the table lists of voters with photographs, to be used on the Election Day ; on the Election Day , the visiting voters were compared with the photograph in the list, which, of course, did not represent the biometric registration and in our opinion, could not have ensured creation of the highly-credible voters' list.<sup>67</sup> It is notable, that the second round of amendments to the Election Code, enacted on April 17 have prescribed that the de-registered and the persons without an address would be able to participate in the elections based on their factual addresses, which created certain risks in terms of manipulating with votes of those voters. Under the enacted amendments, the issue of voting by the MIA was also specified. Specifically, those employees of the MIA, which were dislocated in the places, different from the places of their registration, were given the possibility to participate in the Sakrebulo proportional elections only. Such persons could only have participated in the majoritarian system and

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<sup>67</sup> <http://gyla.ge/uploads/444444.pdf>

Mayor/Gamgebeli elections if the place of their dislocation and registration coincided. It should be noted that the enacted amendments represents a positive step. However, we consider that the MIA employees whose dislocation place did not coincide with their registration location, should not have participated in the Sakrebulo proportional elections either, if they did not reside on that territory. Our recommendation is for those persons to participate in the elections according to their registration place.

It should be noted that in difference with the parliamentary and presidential elections, the number of the special precincts has significantly decreased in the 2014 local elections, which is undoubtedly a positive step.<sup>68</sup>

It should be noted that under the initiative of the Defense Ministry of Georgia, the number of the special precincts for the 2014 local elections has significantly decreased, to 9. In major cases, the military servants had to vote according to their residence place. Such initiative is a positive step and differs from the prior practice, in which the military servants mainly had voted according to the dislocation place.<sup>69</sup>

As for the work in terms of the voters' list, it should be noted that the data, necessary for conducting the June 15 elections, was obtained by the CEC twice from the Service Development Agency: on May 1 and June 1. The May 31 CEC resolution, serving the purpose of supporting participation in the elections, must be evaluated positively. With the current resolution, the CEC has established a special format of the voters' lists, which established that next to a name of voter, registered in the special list, there would have been an indication of the type of ballot to be received by that person (proportional, majoritarian and Mayor/Gamgebeli ballot).<sup>70</sup>

The process of improving the data, necessary for creation of the voters' general list in the Service Development Agency has lasted for a couple of months.<sup>71</sup> For this purpose, the special photo-search system was procured, with the help of which the Agency employees have examined **4'348'919** various pieces of data and/or data combinations. As a result, the duplications were eliminated in **3'271** cases.<sup>72</sup>

According to the information provided by the State Service Development Agency, total of **90'787** photographs, incorrectly attached to the different citizens in the electronic database were corrected. It is also notable that for the purpose of improvement of the voters' general list, under the various decrees of the Minister of Justice, the persons registered without an address, de-registered, or persons with low quality photographs/without photographs in the database were exempted from the ID card or photograph fees. **12'048** citizens have used this possibility, among others, **3'353** persons registered without an address, **7'757** de-registered persons and **875** persons who had a problem with a photograph.

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<sup>68</sup> 20 on the first tour on June 15 elections, and total of 4 special precincts on the second round (July 12) were created.

<sup>69</sup> The Ministry of Defense conducted the electoral awareness raising campaign with the engagement of the NGOs, for the military servants prior to the 2014 local elections; GYLA participated in this initiative and we positively evaluate this initiative.

<sup>70</sup> The decree #185/2014 of the CEC (May 31, 2014). <http://www.cec.gov.ge/uploads/other/28/28021.pdf>

<sup>71</sup> <http://www.justice.gov.ge/News/Detail?newsId=4567>

<sup>72</sup> <http://www.justice.gov.ge/News/Detail?newsId=4567>



According to the information provided by the Ministry of Justice, part of the citizens, who had more than one ID card, have enjoyed the amnesty, announced by the parliament, relating to falsification of the personal data and which is in force until the end of the 2014.<sup>73</sup>

The citizens, whose identity confirmation documents were no longer valid due to the falsification or recognition of invalidation, or who have not obtained legally valid ID card or passport of a citizen of Georgia by the 2014 local elections, were exempted from the ID card issuance fees under the decree of the Justice Minister, in case if they have addressed the Service Development Agency with a request to obtain the ID card by June 1/2014. According to the information provided by the Ministry, **25'918** out of **60'000** citizens have used this possibility to obtain ID cards and therefore, were included in the voters' lists.<sup>74</sup>

According to the information, provided by the Service Development Agency, starting from April 1 and until July 1, 2014, total of **30'719** citizens have undergone the registration on address.<sup>75</sup> Total of **7'770** de-registered and **3'380** persons registered without an address have undergone registration according to their place of residence and within the frames of the action, have received the ID cards for free. The information on the factual address was indicated by 8 citizens, registered without an address; one person out of those, whose registration was invalidated by the Agency has undergone the registration according to the residence place and in case of the de-registered persons, no-one has indicated the information about the factual address.

## **8. REGISTRATION OF THE ELECTORAL SUBJECTS**

The prohibition to nominate the candidate by the initiative group was appealed by GYLA and ISFED at the Constitutional Court within the reporting period; the claimants requested to recognize unconstitutionality of the provisions, which allowed only parties and electoral blocs to nominate a Mayor/Gamgebeli candidate. In our opinion, by creating unequal conditions for the party and independent candidates, the disputed provisions violate the right to prohibition of the discrimination, guaranteed under the Article 14 of the Constitution of Georgia, in addition to violating the clause 2 of the Article 26 of the Constitution, which guarantees a right of a citizen to refuse to participate in party activities, as well as the Articles 28 and 29 of the Constitution of Georgia.<sup>76</sup>

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<sup>73</sup> <http://www.justice.gov.ge/News/Detail?newsId=4556>

<sup>74</sup> <http://www.justice.gov.ge/News/Detail?newsId=4553>

<sup>75</sup> The mentioned data includes the number of those persons who visited the State Service Development Agency prior to May 28, 2014, underwent the registration by their residence place and were released from the fee for issuance of the electronic ID card and taking the photo (apart from the accelerated service fees); in addition, the number of those persons that have enjoyed the benefits, prescribed under the decree #299 (March 17, 2014) of the Justice Minister (on the additional cases of releasing from the fees of the Service Development Agency) which was introduced for the purpose of improvement of the general voters' list (individuals, who were de-registered from the residence addresses or whose registration was invalidated by the Agency, as well as the persons registered without an address that have submitted the request to register on the address and receive the electronic ID card up to June 1, 2014. August 20, 2014, letter of the Service Development Agency #01/169032.

<sup>76</sup> <http://gyla.ge/geo/news?info=2083>

Within the electoral period the provision of the Article 167 of the Election Code of Georgia became disputable; the mentioned article requires Mayor/Gamgebeli candidates to permanently reside in Georgia for two years prior to the elections to be registered as a candidate. The authors of the complaint that submitted in the pre-election period, requesting invalidation of the registration of various subjects have argued that in both cases, the Mayor candidates have not resided in Georgia for two years prior to appointing the elections and, because of that, they should not have been given a right to participate in the elections.<sup>77</sup> On April 22 the electoral registration of the Gori Mayor candidate – Irakli Okruashvili was invalidated under the decision of the CEC. On May 20, 2014 the CEC did not invalidate the electoral registration of the Poti Mayor candidate– Irakli Kakulia and Rustavi Mayor candidate – Davit Jikia from the bloc “Georgian Dream”.<sup>78</sup> On June 7, 2014 the CEC has maintained in force the decision of the Marneuli DEC chairperson, which invalidated the electoral registration of the UNM Gamgebeli candidate in this district - Ak-mamed Imamkuliev. However, it turned out, that the ambiguousness of the Article 167 of the Election Code, which requires Gamgebeli/Mayor candidates to permanently reside in Georgia for the past two years, was interpreted by the CEC against the oppositional political party candidates and in favor of the governmental political unions.<sup>79</sup> We consider that while making this decision the election administration was biased and inconsistent, while such decisions negatively affect the trust towards the CEC as an unbiased and objective institution and might be damaging for its professional reputation.

Since the legislation does not define the term of “permanent residence” and the provision in the law is ambiguous, we think that in such case it should have been interpreted in favor of the human rights. Therefore, all of the candidates should have been given a right to participate in the elections; regardless of which political union’s candidate was under the question, the CEC should have applied the same standard.

In the pre-election period, GYLA has prepared the lawsuit of the former candidate for the post of the Tbilisi Mayor – Kakha Kukava, under which the 2-year permanent residence request was appealed in the Constitutional Court of Georgia.

Based on the practice of the general courts, the constitutional lawsuit argues that the disputed provision does not satisfy the foreseeability requirement, which results in violation of the passive electoral right.

In the pre-election period, the information was aired a number of times, according to which the candidates of various oppositional parties/electoral blocs were refusing to participate in the elections, allegedly, due to the pressure and were de-registering their candidacies. This information was provided to the NGOs by the political parties. According to GYLA’s information, as of June 2, up to 50 candidates from the 6 oppositional parties in 15 districts of the 9 regions have de-registered themselves – allegedly, due to the pressure.<sup>80</sup> The victims mainly did not specify

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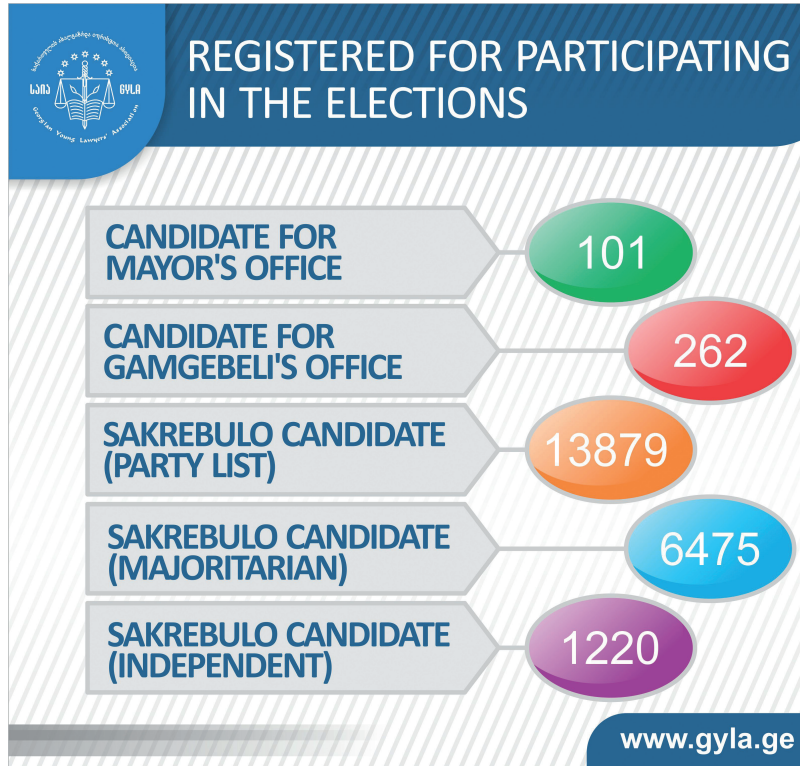
<sup>77</sup> <http://www.cec.gov.ge/uploads/other/27/27791.pdf>; <http://www.cec.gov.ge/uploads/other/27/27792.pdf>

<sup>78</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/20-maisis-sxdomis-shedegebi.page>

<sup>79</sup> <http://gyla.ge/uploads/2014.pdf>

<sup>80</sup> <http://gyla.ge/geo/news?info=2131>

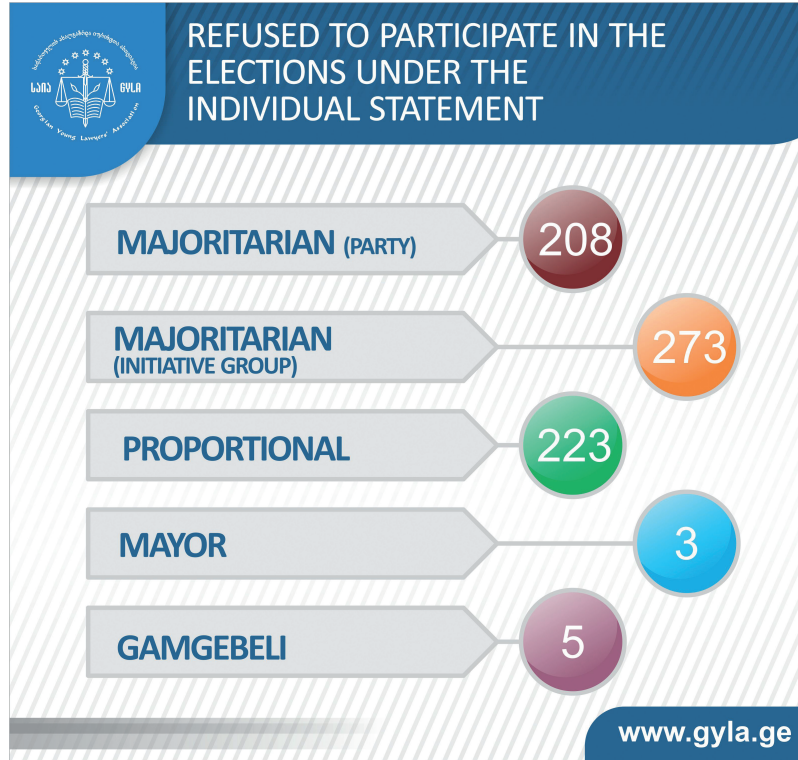
the identity of those pressuring them. According to parties or their candidates, they were being threatened through phone calls; there were cases of dismissing ones' relatives or threatening to "create problems" as well as threatening through the relatives. Simultaneously with this, there was a large number of electoral candidates de-registering themselves from the candidacies on their own initiative throughout the country.



According to the CEC, total of 101 Mayor, 262 Gamgebeli and 21'574<sup>81</sup> Sakrebulo membership candidates were registered at first; among others, 1'220 independent candidates. However, at the following stage, more than 600 candidates have refused to participate in the elections through submitting individual statements.<sup>82</sup>

<sup>81</sup> Party Sakrebulo – 13'879, majoritarian party list – 6'475, independent candidates -1'220.

<sup>82</sup> CEC response #02-04/1792 (August 21, 2014). 481 nominated under the majoritarian lists, 223 nominated under the proportional list, 3



The mentioned, of course, does not mean that in each case the candidates de-registered themselves due to the pressure. Finally, as a result of the de-registrations, total of **20** political parties, **4** electoral blocs and **821** initiative groups have participated in the elections.<sup>83</sup>

nominated for Mayor and 5 nominated for the Gamgebeli candidacy. Out of the candidates, registered under the majoritarian lists, 208 party-nominated and 273 initiative group-nominated persons have refused to participate in the elections.

<sup>83</sup> <http://www.cesko.ge/uploads/other/29/29027.pdf>

## 9. PRE-ELECTION CAMPAIGN FINANCING

According to the State Audit Service information, the expenditures of the electoral subjects during the electoral period have totaled **11'860'771 GEL**.<sup>84</sup> The expenditures for the advertisement totaled **5'236'083 GEL**;<sup>85</sup> the donations received totaled **6'578'822 GEL**<sup>86</sup>, while targeted financing (including the second round) totaled **3'801'850 GEL**<sup>87</sup> and the budgetary income totaled **1'578'830 GEL**.<sup>88</sup>

Within the electoral period, the State Audit Services has drafted 3 legal violations' protocols against the political unions, 3 legal violations' protocols against the donating legal persons and up to 160 – against the independent candidates.<sup>89</sup> In addition, 3 protocols were drafted against the donors of the Christian-Democratic Movement.<sup>90</sup>

Within the electoral period, GYLA submitted 3 statements on the alleged violation of the political finance regulations to the State Audit Services.<sup>91</sup> In relation to those statements, the State Audit Services have initiated an administrative proceedings on one of the cases, relating to the Kutaisi Sakrebulo candidate distributing presents to the citizens through its own company – LTD. "Maknatuna". The State Audit Services have drafted the legal violations' protocol and forwarded the case to the court. The court has fined the candidate with 4'140 GEL for not revealing the donation to the Audit Services. The Audit Services are currently examining two more cases.<sup>92</sup> While working on those cases the monitoring services requested additional information, summoned individuals, however, by the time of preparation of the report the Audit has not yet made a final decision on those cases.

One of the problematic issues in the pre-election period was informing the independent candidates and their obligation to submit an information to the Audit Services. For example, according to the information of the State Audit Services, only **487** out of **1'101** candidates have presented the information in the first phase. The State Audit Services have taken into consideration the circumstance, that the nuances of the electoral legislation were a novelty for

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<sup>84</sup> Among others: bloc Georgian Dream – 6'318'735 GEL, UNM - 2'435'792 GEL and Christian-Democratic Movement - 796'431 GEL.

<sup>85</sup> Among others: bloc Georgian Dream – 3'202'445 GEL, UNM – 1'289'196 GEL and the Georgia's Patriots' Alliance -352'855 GEL.

<sup>86</sup> Among others: bloc Georgian Dream – 5'266'701 GEL, UNM – 299'383 GEL and Christian Democratic Movement – 335'802 GEL.

<sup>87</sup> Among others: bloc Georgian Dream – 796'000 GEL, UNM - 532'350 GEL and Christian Democratic Movement – 532'350 GEL.

<sup>88</sup> Among others: bloc Georgian Dream – 629'507 GEL, UNM -584'511 GEL and Christian Democratic Movement – 82'809 GEL.

<sup>89</sup> Out of 160 independent candidates, 88 cases were forwarded to the court by the time of preparing the report; the reprimands were issued against 46 persons, 1'000 GEL fine was imposed upon the 2 physical persons; 24 cases were terminated.

<sup>90</sup> [http://www.sao.ge/files/finansuri%20monitoringi/2014\\_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf](http://www.sao.ge/files/finansuri%20monitoringi/2014_archevnebi/2014-clis-archevnebis-shualeduri-angarishi.pdf)

<sup>91</sup> 1) on the fact of giving the gifts to the citizens by the independent candidate of the Kutaisi Sakrebulo; 2) regarding the expenditures of transportation of the local self-government employees from Shida Kartli municipalities to the meeting with the prime minister in Gori on May 12; 3) on the expenditures of the individuals, who were present at the polling stations on June 15 and who were counting the visiting voters.

<sup>92</sup> Regarding the expenditures of transportation of the local self-government employees from Shida Kartli municipalities to the meeting with the prime minister in Gori on May 12 and on the expenditures of the individuals, who were present at the polling stations on June 15 and who were counting the visiting voters.

the independent candidates and that they required more time and resources for submitting the information. Due to this circumstance, the State Audit Services have not fined the candidates during the first phase and gave them an additional information for presenting the information. In addition, the Audit Services have distributed the information through the DECs. For this purpose, special trainings were conducted in the regions.<sup>93</sup>

The initiative of the State Audit Services on creating the Consultation Commission under its auspices, composed of the NGOs for the 2014 local elections requires a positive evaluation. We consider that such an initiative has supported the increase of the transparency of the State Audit Service activities in terms of political party monitoring in 2014 local elections. At the same time, the creation of the Commission allowed the observer organizations to get acquainted with the activities of the State Audit Activities better, to consider the facts of violations or other problems in detail and to provide the relevant recommendations to the Audit Services.<sup>94</sup> Based on consultations with the NGO sector, the decree of the Auditor General was prepared “On Regulating Some of the Issues for the 2014 Local Self-Government Elections”.<sup>95</sup>

Apart from the mentioned decree, as a result of the consultations with the NGO sector, the amendment package to a number of the incumbent decrees of the Auditor General was prepared. The amendment package aimed at clarification of the existing norms, their simplification and elimination of the barriers in favor of political subjects in the electoral period.

## **10. PRE-ELECTION CAMPAIGN MONITORING**

### **10.1. Use of State Resources for the Electoral Purposes**

- **The problem of separation of the administrative and governmental resources**

Within the pre-election period the facts of campaigning by then incumbent Gamgebelis/Mayors during performance of their work duties have become problematic.

It was revealed that there is a shortcoming in the electoral legislation; specifically, under the law, the incumbent Gamgebelis that participated in the local elections did not have an obligation to leave their posts. In this context, there were a number of cases, in which the municipality Gamgebeli or Mayor of a self-governing city were conducting the campaign from their current posts.<sup>96</sup> During campaigning, the mentioned persons made electoral promises using the information available to them on the ongoing programs or the upcoming programs (for example, an information on the ongoing and planned infrastructural projects).

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<sup>93</sup> <http://www.sao.ge/news/345>

<sup>94</sup> <http://www.sao.ge/news/347>

<sup>95</sup> <http://www.sao.ge/news/343>

<sup>96</sup> Batumi Mayor, Gurjaani and Tskaltubo Gamgebelis, deputy Gamgebeli of Chokhatauri and others.

Although according to the Election Code, a Mayor/Gamgebeli did not have a right to campaign, the use of resources that those persons had (technical, informationa, human) clearly violated the principle of equal access to the resources for other candidates and the principle of the fair pre-election environment.

We consider that in the mentioned cases the existing legislative shortcoming has caused the problem of separating state and party resources, which erases the line among party and state activities and causes confusion of the state and party activities. Such actions contradict the Article 5 of the 1990 Copenhagen conference document, which obliges the state to make clear separation among the sate and political party activities to exclude the possibility of their confusion.<sup>97</sup>

- **Initiatives of Social Nature**

As the local self-government elections were approaching, the initiation of various projects has become more frequent. Start of those projects has coincided with the pre-election campaign period. The initiatives had social nature and mainly targeted the broad public. It is notable that the legislation of Georgia does not prohibit such activities in the pre-election period (apart from the exceptions); however, such initiatives created the risks of use of administrative resources.

The prime minister of Georgia has announced a number of such initiatives in the pre-election period, which, allegedly, aimed at increasing the content of voters.<sup>98</sup>

- **Increase of the Local Budget**

On April 14, 2014, couple of hours prior to the official start of the pre-election campaign, a number of local budgets have increased.<sup>99</sup> Despite the fact that those decisions of the Sakrebulo were not in contradiction of the law, the significant increase of the local budgets prior to the local elections created logical questions in terms of making electorally-motivated expenditures from the budgetary means.

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<sup>97</sup> The documents received within the OSCE.

<sup>98</sup> For example, the program of assistance for the large families in the high-mountainous regions; the initiative of granting the status of a teacher to the kindergarten tutors; one-time financial assistance for the participants of the WW2 (and for those who lost the breadwinner in the family); the new social program of the Government "Produce in Georgia"; introducing the bonus for the state trustee – Governor in the amount of the 2'950 GEL, which has applied to the cases arising after the April 1, 2014; the initiative of increasing the salary of the doctors by 30%.

<sup>99</sup> For example, the Kutaisi and Batumi budgets have increased significantly. The budgets of both cities have increased by couple of million GEL: Batumi budget was increased with up to 10 million GEL while Kutaisi budget was increased with more than 2 million GEL. According to the information available to GYLA, these sums were mainly prescribed for the infrastructural and social assistance programs.

- **Joint charity projects of the local government and businesses in the pre-election period**

A number of facts were revealed in the pre-election period, in which the local self-government has conducted the charity projects together with business representatives. Specifically, the project was conducted together with “Liberty Bank”, which allegedly aimed at increasing the satisfaction of voters prior to the elections. Such charity projects were conducted by Rustavi Mayors’ office and the government of Adjara in the pre-election period.<sup>100</sup>

- **Cases of administrative resource use and violation of the campaigning rules**

In the pre-election period GYLA has revealed **9 facts** of administrative resource use and violation of the pre-election campaign regulations. Among others, 4 cases of resource usage and 5 cases of violating pre-election campaign regulations. The mentioned number is significantly less than the violations revealed in the past elections. We consider that decrease of such facts is partially an outcome of the IATF decision, according to which the 2014 IATF member and non-member ministries have approved mandatory guidelines for their respective employees to ensure compliance with the Election Code obligations in the election period.

GYLA has forwarded the information on the revealed alleged violations<sup>101</sup> to both the CEC and the IATF and in separate cases – to the State Audit Services and the National Commission of Communications of Georgia. In most of the cases, the legal violations’ protocols were drafted on those facts and were forwarded to the courts for examination.<sup>102</sup>

## **10.2. Voter Bribery Cases**

In the pre-election period there was only one case of voter bribery, which is clearly a positive development. The independent majoritarian candidate of the Dzilqiviani majoritarian district of Kutaisi<sup>103</sup> - Grigol Gumberidze, together with the Deputy Mayor and acting Sakrebulo Chairperson have given the 14-15 year-old water polo players valuable sports’ gifts. Those valuable gifts (sports’ T-shirts, balls) were procured by the company “Maknatuna”, 25% shareholder of which was the majoritarian candidate.<sup>104</sup>

Based on GYLA’s statement the State Audit Services has drafted the legal violations’ protocol against the LTD “Maknatuna”; however, the court has fined the former majoritarian candidate (instead of the company) with 4’140 GEL.

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<sup>100</sup> [http://gyla.ge/uploads/meoreshualeduri2014\\_ge.pdf](http://gyla.ge/uploads/meoreshualeduri2014_ge.pdf) the second intermediate report of the pre-election monitoring, June 11, 2014, page 11.

<sup>101</sup> See the appendix 1 for the specific facts;

<sup>102</sup> <http://gyla.ge/geo/news?info=2119>

<sup>103</sup> <http://www.facebook.com/pages/>

<sup>104</sup> [www.facebook.com/pages/გრიგოლ-გუმბერიძე](http://www.facebook.com/pages/გრიგოლ-გუმბერიძე)



### 10.3. Criminal Persecution Cases

In accordance with the periodic reports, media coverages and the general public attitude on the elections, GYLA took an interest in facts that have the signs of violation and are related to the elections.<sup>105</sup> Working in this specific direction was considered a priority; the organization has prepared a relevant research “Elections and the Criminal Law”. Through the research, the organization made efforts to respond to the questions circulating in public – whether the state has applied the investigation and other criminal law response mechanisms to combat the crime or to serve some other interests beyond the law. In its research, the organization has focused on the facts that took place within the period from January 1 to August 1, 2014.

As the 2014 local pre-election period started, the government has announced the Moratorium on conducting the legal procedures, which covered the persons, engaged in the electoral campaign. According to the statement of the Prime Minister, the announcement of the Moratorium would have ensured the possibility of conducting comprehensive electoral campaign for all parties. Within the frames of the Moratorium, the Prime Minister has called upon the law-enforcements to refrain from legal limitation of rights or from detention of persons, actively engaged in the electoral campaign.<sup>106</sup> According to the Prime Minister, detention should have been an extreme measure and could only have been applied in case if there was clearly justified, urgent need. The Moratorium would not have covered the cases in which the court processes have already been started and the case related to the grave offence. The IATF has also called upon the prosecution to refrain from summoning such persons within the investigation prior to the Election Day (apart from the cases, in which the urgent need was evident or there was a risk of missing the procedural deadlines).<sup>107</sup>

It should be noted that the incumbent legislation does not prescribe a possibility to announce a Moratorium on the legal procedures in the pre-election period. Announcement of the Moratorium represented the political will of the Government to ensure the possibility for politically active individuals to conduct comprehensive campaigns and to exclude the possibility of questioning detentions of politically active persons. Therefore, such an initiative deserves positive evaluation.

In this context it is notable that prior to the announcement of the Moratorium – that is, prior to April 14, 2014, a number of politically active persons have been summoned, detained or charged in the investigation.<sup>108</sup> Mentioned persons mainly represented the UNM and, according to the statement of the party, they should have been nominated as the candidates in the local self-government elections. The imprisonment was imposed upon part of the detained as the preventive mechanism, which has obstructed them from direct and active participation in the pre-election

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<sup>105</sup> As it is known, other types of violations have already become an object of observation and reporting of the organization.

<sup>106</sup> [http://www.government.gov.ge/index.php?lang\\_id=GEO&sec\\_id=380&info\\_id=41753](http://www.government.gov.ge/index.php?lang_id=GEO&sec_id=380&info_id=41753)

<sup>107</sup> See the recommendation of the IATF (April 14, 2014): <http://www.justice.gov.ge/Ministry/Index/375> :

<sup>108</sup> <http://gyla.ge/geo/news?info=2050>

campaign as the candidates.<sup>109</sup>

According to the information of GYLA observers, the examination of such cases<sup>110</sup> has created certain doubts – whether the initiation of the criminal persecutions related to the political activism of the accused.

Everyone is equal before the law and in case of confirmation of the accusation (conviction), the responsibility must be imposed upon any person, regardless of their political affiliation.<sup>111</sup> However, it should be taken into consideration that detention of the active members of the oppositional parties prior to the elections for the offences, committed couple of years ago and the law-enforcements requesting imprisonment as the preventive mechanism has raised additional questions, especially in the context in which the prosecution of Georgia has officially declared the new approach, meaning non-application of the imprisonment on the so-called “white collar” offences. In our opinion, the law-enforcements must have exhibited maximum refraining from detention of the oppositional party members if, of course, this has not represented an urgent need.<sup>112</sup>

Following the announcement of the Moratorium, the cases of summoning, detention or charging politically active persons in the course of investigation were minimized. However, separate cases of criminal persecution of this category of persons still took place, which was explained by the law-enforcements by the urgent need. For example, on July 3, 2014, following the official announcement of the second round of the Mayor/Gamgebeli elections, the head of the electoral office of the UNM – Giorgi Ugulava was detained.<sup>113</sup> Our evaluation is that the investigation activities conducted upon Giorgi Ugulava create reasonable doubts in terms of impartiality of the investigation.<sup>114</sup>

According to the explanation of the government, the law-enforcements acted based on the urgent needs while applying criminal law mechanisms against the politically active persons, which did not violate the conditions of the

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<sup>109</sup> For example, Zurab Jibukhia, Zurab Otiashvili. In relation to these cases, GYLA has presented the information in its first and second intermediate reports of the pre-election observation.

<sup>110</sup> The detention of the Khoni municipaloty Gamgebeli – Zurab Jibukhia and his deputy – Besarion Chelidze; the detention of the Khoni Sakrebulo member – Levan Bobokhidze; the detention of the Dusheti Municipality Sakrebulo chairperson – Zurab Otiashvili; the case of the majoritarian candidate of the Tbilisi Sakrebulo – Giorgi Oniani; the detention of the Kobuleti Municipality Rtsmunebuli – Malkhaz Diasamidze; the detention of the Chiatura municipality Sakrebulo chairperson – Iason Chumburidze and bringing the charges against.

<sup>111</sup> <http://gyla.ge/geo/news?info=1980>

<sup>112</sup> <http://gyla.ge/geo/news?info=1980>

<sup>113</sup> A) procrastination of the process – the criminal case of the so-called “foundations”, in which Gigi Ugulava is charged with the fraud through abusing the official authority. The consideration of the issue of whether to return him to the Mayor’s post and the making of the decision by the court were unreasonably procrastinated. B) illegal detention – so-called “city park” criminal case, in which he is charged with the fraud through abusing the official authority. In this case, he was detained at the airport, citing the urgent necessity (he was crossing the border while being warned by the investigator not to leave the territory of Georgia). In this case the preventive measures were not applied against him. C) incorrect qualification of the offense – so-called “money laundering and pressure” case, in which he is accused of the legalization of the illegal income as well as committing coercion and other violence against the Marneuli DEC chairperson.

<sup>114</sup> <http://gyla.ge/geo/news?info=2206>

Moratorium. However, in our opinion, **the limitation of rights of the politically active persons, justified as the urgent need by the law-enforcements, was not credible enough and raised a number of questions.**

#### **10.4. Cases of threatening, pressure and physical violence**

Within the pre-electoral period, the information was aired a number of times, according to which the candidates of various oppositional parties or electoral blocs were refusing to participate in the elections – allegedly, due to the pressure, and were de-registering themselves from candidacies. The oppositional parties were discussing such facts and were providing the information to us (the NGOs).<sup>115</sup>

The information on such cases was provided to us by the representatives of the “United National Movement”, “Christian-Democratic Party”, “Christian-Democratic Movement” (Nino Burjanadze – United Opposition), “The Way of Georgia” (the political party of Salome Zourabichvili, by the bloc “Non-Parliamentary Opposition” and the “Peoples’ Party”.

The victims mainly did not specify the identity of persons that were threatening them.<sup>116</sup> The parties or the candidates themselves have mentioned that they were threatened through the phone calls, threatened that their relatives would have been dismissed from work, that the “problems will be created”, threatened or “advised” through their acquaintances. According to our information, as of June 2, up to 50 candidates of the 6 oppositional parties from the 15 districts of the 9 regions have de-registered their candidacies allegedly, due to the pressure.<sup>117</sup>

On May 31 the statement was made by the CEC chairperson on the alleged facts of pressure upon the candidates. According to the chairperson, such actions directly created the risks of creating unequal electoral environment, as well as might have been damaging for the electoral processes.<sup>118</sup>

It was also notable that apart from the information, received from the parties, there was a large number of de-regis-

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<sup>115</sup> <http://gyla.ge/geo/news?info=2131> GYLA, together with its partner organizations, made statements on May 30 and June 2, in which it called upon the MIA and the Chief Prosecutor’s Office to examine the mentioned facts and to eliminate any pressure upon parties or electoral subjects. Upon the IATF – to examine the alleged facts of pressure upon the candidates and to provide relevant recommendations to the law-enforcements and to the local self-government bodies; to the public servants of the local self-government – to not exceed their legal authorities (which could have resulted in the criminal responsibility); political party representatives – to address the law-enforcements in all such cases and to publicize the information through the media and NGOs.

<sup>116</sup> <http://gyla.ge/geo/news?info=2131> and <http://gyla.ge/geo/news?info=2135>

<sup>117</sup> <http://gyla.ge/geo/news?page=6>

<sup>118</sup> <http://www.cec.gov.ge/mediisatvis-4-ge/pres-relizebi-13-ge/ceskos-tavmdjdomaris-gancxadeba-kandidatebze-zewolis-faqtebtan-dakavshirebit.page>

tration from the candidacies throughout the country: according to the CEC information,<sup>119</sup> more than 600 candidates have refused to participate in the local elections through submitting individual statements.<sup>120</sup> The high number of de-registration through individual statements of course, does not mean that in all of the cases, the de-registrations were caused by pressure. However, large number of such cases caused concerns.

Apart from the fact that the threatening and coercion represent the criminal offences, it is important to consider that in cases when the number of nominated candidates in the party lists was less than the law-established minimum, the issue of invalidation of the entire party list registration has arisen. Specifically, because of the lack of the party candidates in the party lists, the DEC chairpersons might have invalidated entire party lists.<sup>121</sup>

On June 3, the CEC has adopted the special resolution<sup>122</sup> which defined the cases, in which the party list electoral registration would have been invalidated due to falling short of the minimum prescribed under the Election Code.<sup>123</sup> In case if the number of candidates in the party lists was less than the law-prescribed minimum because the candidate has de-registered their candidacy on their own initiative, this would not have become the grounds for invalidation of the party list registration.<sup>124</sup> At the same time, the resolution covered the cases that emerged prior to its enactment as well. The CEC resolution helped all of the parties, who faced invalidation of the electoral party lists due to the candidate de-registration. However, through adoption of this resolution, the CEC has exceeded its competences and introduced the rules different from the legislation.<sup>125</sup>

In the pre-election period the information of **14** facts of physical violence and assault against politically active per-

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<sup>119</sup> CEC letter to GYLA,03-02/1092. June 4, 2014.

<sup>120</sup> The response #02-04/1792 of the CEC (August 21, 2014). 481 majoritarian nominees, 223 proportional list nominees, 3 Mayor and 5 Gamgebeli nominees. Out of the majoritarian list nominees, 208 party-nominated and 273 initiative-group nominated candidates have refused to participate in the elections.

<sup>121</sup> According to the Election Code, if the number of voters in an electoral district exceeds 75'000, there must be minimum of 15 candidates in the proportional list; if the number of voters is less than 75'000 then there must be minimum of 10 candidates. In addition, according to the Election Code, if no later than two days prior to the elections, the number of candidates registered under the party lists is less than the above minimum the electoral registration of a party is invalidated, which means that a party will not be able to participate in this district under the proportional system (in the Sakrebulo elections).

<sup>122</sup> [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2362713&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2362713&lang=ge)

<sup>123</sup> The resolution of the CEC #31/2014 (June 3, 2014). [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2362713&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2362713&lang=ge)

<sup>124</sup> On June 2, 2014, the electoral bloc "Georgian Dream" has addressed the CEC to initiate the amendments to the incumbent provision, according to which the entire list would be invalidated if part of the party list members have refused to participate in the elections. According to the "Georgian Dream", this was their good will to support other parties and giving them possibility to fully represent themselves at the elections.

<sup>125</sup> See the chapter on election administration for an additional information.

sons has been revealed. The victims correlated the physical violence against them with their political activism.<sup>126</sup>

In relation to the alleged facts of pressure upon the candidates, we consider that the response of the relevant state bodies was not enough and was ineffective. The Ministry of Internal Affairs of Georgia has denied the cases of pressure upon the electoral candidates and engagement of the police in such actions, without any prior investigation.<sup>127</sup> In this context, instead of unconditional condemnation of the violence and pressure and instead of underlying the necessity of an effective investigation, the Prime Minister has made the statement that the “Georgian Dream” would not allow victory of another political force in any region or city; such a statement was unacceptable.<sup>128</sup>

According to the official information, the prosecution has examined 80 cases of alleged pressure against the electoral subjects, has summoned more than 100 persons,<sup>129</sup> of which the investigation was initiated in 4 cases.<sup>130</sup> Due to the high public interest, the prosecution has only publicized 6 questioning protocols.<sup>131</sup>

The cases, examined by GYLA reflect that the legal response of the prosecution on the alleged offences was not adequate. The fact that the prosecution has limited itself to only questioning, reflects that despite the requirements of the Criminal Law procedural legislation, the investigation in most of the cases was not initiated or was not complete or comprehensive.<sup>132</sup>

The cases examined by GYLA have reflected that the investigation in many cases was initiated only formally and did not yield any results. In relation to many cases there are no final decisions as of now. The public was not convinced that the measures, applied by the investigative bodies have ensured safety and free, competitive electoral environment for the electoral subjects and related candidates. Conducting fast and effective investigation would have been the factor, preventing the repeat of further cases of threatening, which in its turn, would have supported maintaining the competitive electoral environment. Due to the above, we consider it that the responsibility of the investigative bodies to ensure fast, effective and objective investigation is important to ensure prevention of politically motivated violence.

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<sup>126</sup> See Appendix 2 on the facts of physical assault and violence for the detailed information.

<sup>127</sup> <http://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/6671>

<sup>128</sup> <http://gyla.ge/geo/news?info=2135>

<sup>129</sup> [http://pog.gov.ge/geo/news?info\\_id=501](http://pog.gov.ge/geo/news?info_id=501) – “for the purpose of verification of the information, provided by the political parties and NGOs, as well as the information aired by media outlets, more than 100 persons were questioned”.

<sup>130</sup> [http://pog.gov.ge/geo/news?info\\_id=501](http://pog.gov.ge/geo/news?info_id=501)

<sup>131</sup> It is notable, that GYLA addressed the prosecution on the same grounds (high level of public interest) and requested all of the protocols, however, the prosecution did not provide any response.

<sup>132</sup> [http://pog.gov.ge/res/docs/gamokitxbisoqmebi\\_3.pdf](http://pog.gov.ge/res/docs/gamokitxbisoqmebi_3.pdf)

## 10.5. Cases of Obstruction of the Pre-Election Campaign

- **Obstruction of conducting the pre-election meetings**

Up to **20 facts** of obstructing the oppositional pre-election campaign implementation were revealed in the pre-election period. The cases of obstruction were mainly directed against the “United National Movement” (UNM). There were cases in which the confrontation among the campaign participants and counter-demonstrators has exceeded the verbal confrontation and has evolved into physical violence. Eggs, brooms, and sometimes even stones were being thrown. According to the UNM, not only the “Georgian Dream” activists and their candidates, but also the local self-government public servants have participated in the incidents.

The mentioned facts damaged the pre-election environment and created threat to conducting electoral campaigns in a free, competitive environment; such facts further deepened the tension and inflamed the aggression among the parties engaged in the political processes.

In relation to such facts, the IATF has elaborated the relevant recommendations. The IATF has called upon the political parties and electoral subjects, participating in the elections to comply with the intra-party discipline and with the law, for party members and activists to refrain from obstructing pre-election activities of other parties.<sup>133</sup> The IATF has called upon the MIA and the courts to request and apply proportional sanctions in cases of the administrative law violations in the context of the electoral processes to prevent such violations in the future.

According to the information available to GYLA observers, in separate cases, the police did not ensure avoidance of the confrontation or did not apply the legally prescribed measures for the elimination of the violations. **Despite a number of measures, implemented for the prevention of the tension, the aggression towards the political opponents was not prevented in the pre-election period.**<sup>134</sup>

- **Obstruction of the distribution of the campaign materials**

Electoral subjects in both Tbilisi and in regions were talking about the facts of obstruction of the distribution of the campaign materials in the pre-election period.<sup>135</sup> GYLA observers have revealed 6 facts of obstruction of the pre-election materials’ distribution.<sup>136</sup> The facts mainly related to tearing down and damaging the pre-election posters

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<sup>133</sup> <http://www.justice.gov.ge/Multimedia%2FFiles%2Fel2014%2F11012014.pdf>

<sup>134</sup> See Appendix #3 for the detailed information on the specific facts of obstruction.

<sup>135</sup> For example, according to the Tbilisi Mayor’s Office information, within the period of May 20 to June 13 (2014), total of 97 administrative violations’ acts were drafted in the capital against the electoral subjects (and were forwarded to the court). 22.08.2014, #11/14220759-17, the legal services of the Tbilisi municipality Mayor’s office.

<sup>136</sup> See the detailed information in the Appendix 4.

or placing posters over other candidates' posters. Separate electoral subjects expressed dissatisfaction of not being given the space for placing their posters.

The IATF has issued a number of recommendations on the facts of obstruction of the campaign material distribution. The IATF has called upon political parties to clearly instruct their activists and representatives that they were categorically prohibited to damage or obstruct the distribution of the campaign materials of their competitors or other parties. The IATF has called upon the local self-government bodies to apply the law-prescribed measures in a timely and proper manner if such cases were revealed. The IATF has called upon the MIA and local self-government bodies to ensure coordinated cooperation to prevent illegal damaging/covering/taking down the electoral posters as well as to provide effective and timely response to the pre-existing cases.<sup>137</sup> The local self-governing bodies, especially in Tbilisi, were asked to ensure proper amount of objects (places) for placing the campaign materials.<sup>138</sup>

### **10.6. Facts of dismissing from the office**

Several months before the local self-government elections, GYLA observed facts of dismissing individuals from local self-government bodies who allegedly were supporters of the oppositional political party "United National Movement."

Dismissing high-level officials of local self-government bodies represented violation of the recommendation of the IATF, that has called upon the local self-government bodies to refrain from implementing any key changes in human resources during pre-election period.

In the pre-election period GYLA observed 11 facts of dismissing public servants from the public service. In communication with GYLA, former public servants reported that their dismissal was linked to the upcoming local-self-government elections. Released individuals applied to GYLA's office for legal aid and appealed the facts in courts. While examining the cases of public servants GYLA revealed some irregularities. Simultaneously, GYLA has submitted the information to the IATF: These facts are:

- Dismissal of the 7 envoys (Rtsmunebulis) from the Tskaltubo municipality.<sup>139</sup>
- Dismissal of Kutaisi envoy from the office.<sup>140</sup>

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<sup>137</sup> <http://www.justice.gov.ge/aboutus/Council/375> May 19, 2014.

<sup>138</sup> <http://www.justice.gov.ge/Multimedia%2FFiles%2F rekomendaciebi%2FIATF%2019.05.2014.pdf>

<sup>139</sup> On April 1, 2014 upon order of Tskaltubo municipality, 7 envoys of Tskaltubo municipality community were dismissed from the office. As they report, they were supporters of the UNM and this was the reason for their dismissal. For additional information, please see GYLA's mid-term monitoring report of pre-election environment. <http://gyla.ge/uploads/2014.pdf>. Page 16.

<sup>140</sup> On April 14, 2014 Piruz Benidze, envoy of the territorial agency of Kutaisi City Hall, who was supporter of the UNM was dismissed from the position.

- Dismissal of Gagmebeli of Kvareli municipality from the office.<sup>141</sup>
- Dismissal of deputy Gamgebeli of Tskaltubo municipality.<sup>142</sup>
- Dismissal of a specialist in Tskaltubo municipality.<sup>143</sup>

## 11. MEDIA ENVIRONMENT

Media was generally free in covering election campaign events in the pre-election period and during the Election Day. Although there were several cases of interference with journalists' professional activities, no large-scale or systematic interventions were observed.

In the election period, GYLA initiated the issue of revising CEC resolution #42 of September 24, 2012 that regulates the rule of photo-video recording at the polling stations and creates unequal conditions for mass media representatives in comparison to other individuals entitled to be in the polling station and that restricts media's right to photo-video recording even more. Further, the resolution allows diverse interpretations which leads to its inconsistent application by election commissions. GYLA sent the letter to the IATF and requested, within the competence of the Commission, to issue the recommendation to the CEC with a view to bring the resolution in line with the universally recognized principles of freedom of media and to prevent gaps in the course of application of the resolution by members of an election commission. No response followed from the IATF.

In the pre-election period, various oppositional political parties expressed their dissatisfaction about the access to media. As they report, applied method of distribution of the TV election advertisement is discriminative and creates unequal election environment which ultimately questions the legitimacy of elections.<sup>144</sup>

The joint statement of the National Communications Commission and the CEC about covering election campaign and necessity of access to the media for the election subjects in case of holding the second round of the elections, should be assessed positively.<sup>145</sup> Accordingly, there is the need to ensure legislative regulation of news coverage of the second round of the elections.

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<sup>141</sup> <http://gyla.ge/geo/news?info=20790> On April 25, 2014 David Kevkhashvili, Gemgebeli of Kvareli municipality was dismissed from the office on the closed session of the city council (Sakrebulo).

<sup>142</sup> On May 2, 2014, Avtandil Motsonelidze, deputy Gamgebeli of Tskaltubo municipality was subject to disciplinary measure and was dismissed from the office. As he reports, his dismissal was politically motivated, since he was appointed to the position by the former government and was associated with the UNM.

<sup>143</sup> <http://ick.ge/articles/18158-i.html> On May 15, 2014 Emzar Jikurashvili, Gamgebeli of the Gurjani municipality dismissed Otar Amiranashvili, the specialist of the territorial unit of the village Kachreti, of Gurjani municipality from the office. The dismissed individual supported in municipal elections Givi Ramazashvili, the candidate nominated by the initiative group.

<sup>144</sup> It should be noted that "non-parliamentary opposition" filed a lawsuit in the Constitutional Court about allocation of free advertisement.

<sup>145</sup> [http://gncc.ge/index.php?lang\\_id=GEO&sec\\_id=110&info\\_id=115507](http://gncc.ge/index.php?lang_id=GEO&sec_id=110&info_id=115507)



Independence of **Public Broadcaster** remains to be a problem. It was revealed in the course of electing Board of Trustees of the Public Broadcaster and Advisory Board of Adjara TV and Radio of public broadcaster.<sup>146</sup> Further, in terms of independence, we should note the violation of coverage rules in the election period by Adjara TV and radio.<sup>147</sup>

GNCC filed administrative cases against 13 local broadcasters for failure to submit necessary information specified by law to CEC and GNCC within established terms in the pre-election period. GYLA provided legal aid to 7 local broadcasters. As a result, 6 broadcasters were relieved from payment of administrative penalty, 1 broadcaster was penalized, while administrative case was terminated against 1 broadcaster for absence of the fact of administrative offence.<sup>148</sup>

As for covering election campaign in free environment by journalists, it should be noted that offences committed against media prior to 2012 Parliamentary elections remain uninvestigated.<sup>149</sup>

GYLA observed 3 cases<sup>150</sup> of illegal interference with journalists' professional activities and 1 fact<sup>151</sup> of pressure and applied to the law-enforcement agencies and to the Interagency Task Force about these cases. However, as GYLA was informed, investigation started only on two cases and they have not been finished yet.

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<sup>146</sup> On the basis of GYLA's complaint, Kutaisi Appellate Court found illegal elections of the members of Board of Trustees of Adjara TV and Radio of public broadcaster. The decision is final. Consequently, according to the court, ruling candidates nominated by the factions of the national movement who were not elected in line with legislative requirements were considered elected.

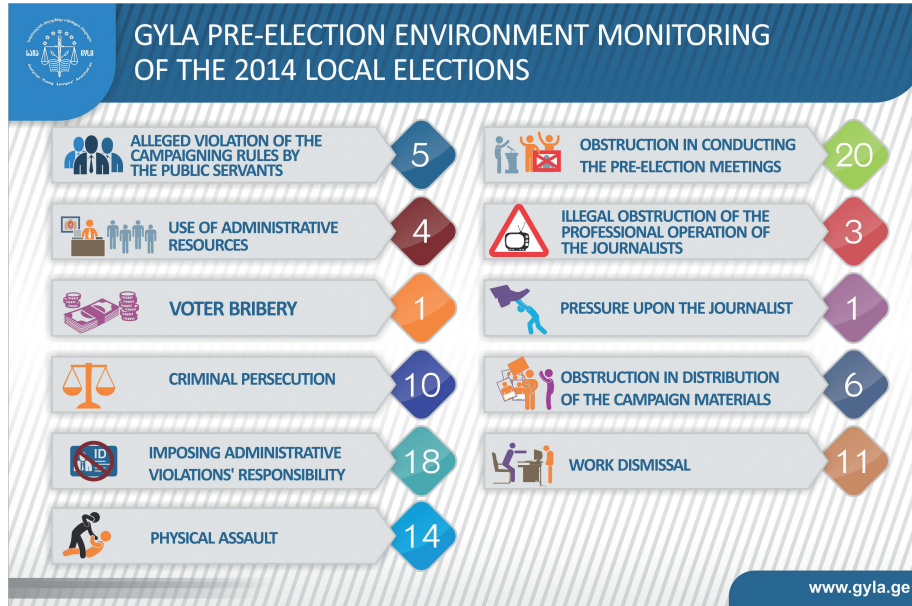
<sup>147</sup> On May 19-20 Tengiz Abkhazava's program was broadcast on TV. Tengiz Abkhazava was a candidate nominated by the election block "Georgian Dream" for membership in a city council. Journalists of the same Television Natia Tavdgiridze was also nominated as a candidate for membership in a city council both by majoritarian and proportional list by the political party "Ertianobis Darbazi". GYLA considered the facts violation of the Election Code, Law on Broadcasting and Broadcasters Code of Conduct. These normative acts determine obligation of the broadcaster to cover election period in an unbiased and fair manner, with observance of equality principles and free from political influence. Whilst the Broadcasters' Code of Conduct provides that, a journalist should avoid conflict of interest. After broadcasting Tengiz Abkhazava's program in election period, the Advisory Board of AdjaraTV and radio of public broadcaster applied with recommendation to the director of the television requesting to eliminate the conflict of interest. As reported, Tengiz Abkhazava was dismissed from the television, while Natia Tavdgiridze took her annual leave.

<sup>148</sup> <http://gyla.ge/uploads/publications/7.pdf> It should be noted that in July, 2014 GYLA released a research about media monitoring of election campaign covering analysis of media monitoring carried out by GNCC in 2012, 2013 and 2014. The research revealed that media monitoring of GNCC is ineffective and fails to meet the real objective of covering election subjects in an equal, balanced, non-discriminative and fair manner which does not ensure proper informing of electorate in election period.

<sup>149</sup> Following the 2012 Parliamentary Elections, GYLA applied to law-enforcement agencies and demanded investigation of 38 cases of illegal interference with journalists' professional activities. As provided in the letter of the General Prosecutor's Office, according to the September 2013 data investigation was not finalized on 21 cases out of 38. Out of 38 cases, investigation stopped on 5 cases for absence of the signs of offence, whilst investigation finished and final decision was delivered only on three cases. In February, 2014 GYLA applied to the General Prosecutor's Office again and requested information about the status of these cases, thought the prosecutor's office refrained to publicize the information.

<sup>150</sup> <http://gyla.ge/geo/news?info=2145>; <http://gyla.ge/uploads/4.PDF>;

<sup>151</sup> <http://gyla.ge/geo/news?info=2153>



GYLA observed number of cases when high state officials criticized media/journalists publicly in election period, which caused negative assessment of media representatives and may be perceived as government's attempt to influence media activities.<sup>152</sup>

<sup>152</sup> In May 2014, in its special statement, the government of Georgia expressed dissatisfaction about critical journalistic material prepared and released by Vakho Sanaia, the journalist of the TV Company Maestro. It concerned government's failure to fulfill its pre-election promises. According to government's statement the program was unprofessional though it did not stress the necessity of correcting the erroneous facts. Meanwhile, the deputy Prime Minister and the Energy Minister Kakha Kaladze has publicly criticized TV Company Rustavi 2 about reported story related to the increase in the price of electricity, which presented radically different answers of the Minister and his deputy.



## 12. ELECTION DAY

### Election Day violations/ law-suits

Under decision of GYLA's Board, the organization carried out election monitoring with election observers and mobile teams in precinct and district election commissions in 10 regions and 40 election districts.<sup>153</sup>

As opposed to the 2013 Presidential Elections, the June 15, 2014 elections were distinguished for high competitiveness and were more problematic in comparison with the 2013 presidential elections. However, it should be noted that gross violations were not recorded massively. Some key incidents were observed in Martvili, Zugdidi, Khoni, Telavi, Samgori and Khulo districts.<sup>154</sup> This caused conduct of repeated election in some precincts.<sup>155</sup>

Majority of the polling stations monitored by GYLA were ready to receive the first voter on time. Precinct election commissions were equipped with relevant election materials. According to GYLA's observations, balloting process was peaceful and voters were able to freely express their choice.

At the Election Day, GYLA's observers filed 150 pieces of complaints with precinct and district election commissions and made 127 remarks in the logbooks.

The complaints and remarks covered the following irregularities:

- ✓ Interference in observer's duties;
- ✓ Irregularities with procedure of casting lots;
- ✓ Problems with filling out control sheets;
- ✓ Presence of unauthorized persons in precinct election commissions;
- ✓ Problems with voters' lists and election documentation;

<sup>153</sup> GYLA implemented monitoring of the June 15, 2014 local self government elections in Adjara, Imereti, Guria, Samegrelo-Zemo Svaneti, Shida Kartli, Samtskhe-Javakheti, Kvemo Kartli, Kakheti, Mtskheta, Mtskheta-Mtianeti, Racha-Lechkhumi-Kvemo Svaneti regions and in following election districts: 10 districts in Tbilisi as well as Batumi, Kobuleti, Khelvachauri, Khulo, Kutaisi, Tskaltubo, Terjola, Khoni, Ambrolauri, Ozurgeti, Lanchkhuti, Chokhatauri, Zugdidi, Tsalenjikha, Khobi, Gori, Kareli, Kaspi, Khashuri, Akhaltsikhe, Adigeni, Aspindza, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Signagi, Akhmeta and Dusheti.

<sup>154</sup> Martvili#16 (ballot papers were stolen), Zugdidi polling station #32 (balloting process failed), Khoni polling station #22 (the raiding), Khoni polling station #19 (raiding and attempt to break into the polling station, Telavi #14 polling station (falsification of signatures), pressure on election observer (Samgori #32 and Khulo 27 polling stations).

<sup>155</sup> See the chapter of repeated elections.

- ✓ Indirect influence on the voters' will;
- ✓ Voting with improper documents;
- ✓ Participation of unauthorized individuals in elections;
- ✓ Campaigning at the polling stations;
- ✓ Voting without marking (inking) procedure;
- ✓ Problems with voting through mobile ballot box;
- ✓ Improper exercise of authorities by PEC member;
- ✓ Interference with activities of PEC member;
- ✓ Destroying election inventory and documentation and raid of polling stations;
- ✓ Violating the rules of delivery of the electoral documentation to DEC.



### 13. POST-ELECTION PERIOD

#### Cases submitted to district election commissions

GYLA carried out monitoring of post-election period throughout Georgia in 38 districts through 72 observers in DEC and 3 observers in CEC.

In post-election period, the target of monitoring was activity of election administration, revision of complaints in DEC and calculation of election results.

Post-Election Day complaints generally concerned irregularities in summary protocols filled out by PEC members, namely:

- ✓ **No balance was attained in summary protocols in some polling stations. The number of votes received by election subjects and the number of invalid ballots were more than number of persons participating in the elections;**
- ✓ **The high indicator of invalid ballot papers was recorded in number of districts;**
- ✓ **Further, in some cases, summary protocols recorded more invalid ballot papers than the number of voters participating in the same election precinct;**
- ✓ **It turned out that in some polling stations number of ballot papers was considerably higher than the number of voters in the general list;**
- ✓ **In many cases, data of summary protocols proved to be amended and no correction protocols filled out by the relevant election commissions;**
- ✓ **In some cases, copies of summary protocols obtained by election observers from election precincts and election districts were inconsistent. Summary protocols retrieved from the DEC had correction protocols unlike the summary protocols obtained from the precincts.<sup>156</sup>Accordingly, there were questions about the authenticity of the protocols. It was unclear how DEC managed to correct data in summary protocols without proper examination of irregularities;**
- ✓ **In some cases, summary protocols missed obligatory data and necessary fields were left vacant. Though later, necessary information was included in the same summary protocols acquired from District Election Commissions, which obviously raises questions about accuracy and impartiality of added information;**

Following the polling day, GYLA filed 262 pieces of complaints with DEC and 58 pieces of lawsuits in courts. In addition, 21 cases were challenged in the Appellate Court.

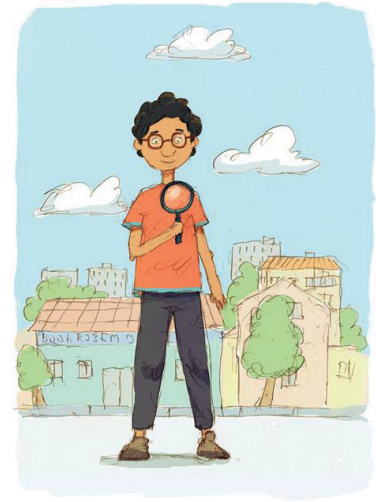
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<sup>156</sup> Gardabani, Gldani, Bolnisi

Out of complaints filed with DEC 95 were satisfied totally, 68 – partially and 75 were rejected. Out of lawsuits submitted in the first instance court, 4 were satisfied completely and 20 partially. The Appeal Court satisfied completely 2 lawsuits and partially 3 lawsuits.

**GYLA filed lawsuits in DECs' on the following irregularities:**

- **Irregularities in the procedure of casting lots:** Ozurgeti #61, Zugdidi #76 and Marneuli #69, Isani #66 and #9, Batumi #11, Kobuleti #48 election precincts;
- **Irregularities with filling out summary protocols:** Terjola #6, 7, 17, 10,22, Khoni #9, Telavi #27,48,18,41,35,54,12,2, Gori #46,48,11,10,74,100,23,32,0 43,47,68,104,3, Kaspi #17, 35, Khashuri#26, Akhaltsikhe #3,28,29,20,2, Adigeni#2, 12 Aspindza#15 , Krtsanisi # 24,20,28,32,14,2,13,1,8,21,19,18,2,4, 9,30, Chokhatauri #10 and 20, Ozurgeti #2 and 12, Lanchkhuti #17 and 35, Zugdidi #11, Dusheti #47, 17, 25, Gardabani #26, 61, 56, 9, 14, 69, Marneuli #13, 33, 35, 38 election precincts; Vake # 34, 38, 50,65, 80, 31, 44, 10, 12, 27, 39, 42, 46, 48, 49, 57, 76, Saburtalo # 81,61,67,72,75,56,49,14,18,19,2 5,02,10,13,14,36,76,79,26,26,28,57,33,40,6,11,47,68. Batumi #103, Didube #52, Chugureti #1, 43, 25, 3, 11, Mtatsminda #37, 8, 7, 12, 14, 24; Gldani #16, 91, 37, 39, 56, 59, 70, 92, 19, 51; Nadzaladevi #64 election precincts.
- **Cases of voting with improper documentation:** Vake #19, Batumi #79, 77, Khelvachauri #13, Chughureti #14 election precincts;
- **Restriction of observer's right:**Kutaisi #17, Marneuli #69 and 26, Samgori #32, Saburtalo #48, Didube #2, Gldani #16 election precincts;
- **Violation of the rule of transferring documentation to the DEC:** Kutaisi №4,6,22,45,56,60,68,62,82,83,92,97,99,102,115,123,11Tskaltubo#18,24,62,22,53,25,35 Telavi #4, 50, 37, Akhaltsikhe 32, Zugdidi #3 election precincts.
- **Advance signatures in voter's lists:** Zugdidi #15 election precinct;
- **Irregularities with ballot papers:**Ozurgeti #58, Rustavi #32, Batumi #15, 77, 103, 59, Kobuleti #24, 48, Gldani #16 election precincts;
- **Improper exercise of authorities by members of the commission:** Marneuli #69, Batumi #3, 2, 30, 41, Khelvachauri #12, 27, Didube#26, Mtatsminda #2 and 25, Gldani #11 election precincts;
- **Voting by unauthorized individuals:**Khoni #24, Gori #2, Krtsanisi #8, Rustavi #26 election precincts;
- **Improper arrangement of polling stations:**Rustavi #27 polling station;
- **Irregularities related to control paper:** Kutaisi #50, 25, 55, 57, 62, 52, 53 polling stations. Tskaltubo #56, 1,



11, Khoni #12, Zugdidi #89, 16, Marneuli #50, Tsalenjikha #20, 10, 26, Nadzaladevi #66, 79, 96, 18, 48 election precincts;

- **Restrictions of suffrage to voters:** Kutaisi #45, Ozurgeti #8 election precincts;
- **Violation of voting procedure through mobile ballot box:** Vake #2 polling station.

#### **Number of complaints drafted by GYLA observers:**

- Election districts -**262**
- The first instance court -**58**
- Appellate court -**21**

#### **Claims in lawsuits**

In its lawsuits GYLA mostly requested disciplinary and administrative liability of commission members. GYLA filed 216 pieces of complaints with DEC claiming disciplinary responsibility for commission members. As a result 390 commission members were subjected to disciplinary liability, including: 133 heads of precinct election commissions, 107 secretaries of precinct election commissions, 3 deputy heads of precinct election commission and 147 commission members.

#### **Types of disciplinary liability:**

- Reprimand: **238**
- Warning: **104**
- Salary cut: **47**
- Termination of authority: **1**

Administrative liability was requested in 15 complaints and none of them were satisfied;

Invalidation of the summary protocol was requested in 64 complaints, 3 claims were granted completely and 2 were granted partially;

Invalidation of election results was requested in 26 complaints and none of them were granted.

Recalculation of election results was requested in 80 complaints. Among them 6 were granted completely and 2 partially;

In 58 cases, GYLA appealed unfavorable decision of DEC in the court. From the filed lawsuits, court granted completely 4 and partially 20;

21 complaints were filed in the Appellate court. Among them 2 were granted completely and 3 were granted partially;

From the lawsuits filed in the first instance court, in 27 cases, GYLA requested invalidation of the summary protocol and recalculation of results, disciplinary liability was requested in 23 cases, invalidation of results was requested in one case, while administrative liability was requested in 9 cases.

Findings:

**Precinct Election Commissions:**

- In some cases GYLA's observers revealed poor qualification and unprofessionalism among PEC members;
- Mostly, PEC members had difficulty with filling out summary protocol and with balancing out final results;
- PECs lacked sufficient techniques and they fell short to send summary protocols in the CEC on time.

**District Election Commissions:**

- District Election Commissions were mostly reluctant to examine, without complaints of interested individuals, upon their own initiative, alleged irregularities proactively and to respond adequately;
- Save for some exceptions DEC's were reluctant to learn details of GYLA's complaints and to examine circumstances and evidences of the case with due diligence;
- Though in specific cases detected irregularities were supported with relevant evidences, DEC's failed to meet the claim;
- In certain cases DEC's refused to accept evidences;
- DEC's used to correct substantial irregularities of summary protocols filled out by PEC and attached correction protocols later in District Election Commissions. As a result, summary protocols issued by DEC were inconsistent with summary protocols of PEC;
- DEC's found explanations of PEC members as undisputed and only evidence;
- In spite of gravity of violations, DEC's prioritized use of light disciplinary measures and were reluctant to apply more adequate ones (for instance drafting of protocols of administrative offence);
- The process of receiving sealed election documentation from PEC's and DEC's was not coordinated and was not well organized;
- GYLA observed facts of receiving election documentation without acceptance-delivery acts or cases of drafting the act later.



### **Central Election Commission:**

- CECs failed to ensure pro-active publication of copies of PECs' summary protocols on its official web-page and thus violated requirement of Para 4 and 8 of Article 76 of the Election Code;
- In some cases, GYLA found inconsistency between summary protocols issued by CEC and results chart displayed on CEC web-page, which allegedly was a technical gap.

### **Repeated Elections**

Upon decision of the CEC <sup>157</sup> repeated elections were appointed on June 29, 2014 in PECs, where gross irregularities were observed at the June 15, 2014 local self-government elections that might have influenced polling results.

Out of 14 precincts where repeated voting process was held, in 6 elections were appointed after granting claims of GYLA's observers.

GYLA's observers implemented election observation of repeated elections in relevant polling stations of Marneuli, Akhalkalaki, Khoni, Tkibuli, Zugdidi, Batumi and Kobuleti election districts.<sup>158</sup>

It should be noted that balloting, vote tabulation and results calculation process was implemented peacefully and with no substantial violations. GYLA's observers mainly reported about technical irregularities. As a result, GYLA's observers drafted 2 complaints and registered 8 remarks in the logbook. Election administration was keen to consider remarks of GYLA's observers and no complaints were drafted for this reason.

Complaints and remarks mainly concerned following violations:

- ✓ Improper arrangement of a polling station - (4 cases);
- ✓ Violation of procedures of casting lots - (1 case);
- ✓ Unauthorized individuals at the polling station - (1 case);
- ✓ Problems of voting through mobile ballot box - (1 case);
- ✓ Improper fulfillment of authorities by commission members -(2 cases)

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<sup>157</sup> <http://www.cesko.ge/uploads/other/28/28696.pdf>

<sup>158</sup> Marneuli election district #25 and #57, Dusheti election district, polling stations #4, 6, 47 and 52, Akhalkalaki election district, polling station #1, Khoni election district, polling station #22, Tkhibuli election district, polling station #2 and 5, Zugdidi election district, polling station #32, Batumi election district, polling station #103, Kobuleti election district, polling station #34.



## 2014 LOCAL ELECTIONS – VIOLATIONS REVEALED BY GYLA DURING THE REPEAT ELECTIONS



IMPROPER SET-UP OF THE POLLING STATION

4



PROBLEMS RELATING TO THE MOBILE BALLOT BOX VOTING

1



VIOLATING THE PROCEDURE OF THE CASTING OF LOTS

1



IMPROPER IMPLEMENTATION OF THE DUTIES BY THE COMMISSION MEMBER

3



PRESENCE OF UNAUTHORIZED PERSON AT THE POLLING STATION

1

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### The Second round of Mayors' / Gamgebelis' Elections

On July 3, 2014 the Central Election Commission summed up election results<sup>159</sup> and set July 12, 2014 as the date for holding the second round of Mayors' / Gamgebelis' elections.<sup>160</sup> The second round was scheduled in the districts, where after the July 12, 2014 elections of representative and executive bodies of local self-government, election subjects failed to overcome (50%+1) barrier set for Mayors / Gamgebelis' elections. The fact that the second tour of the Mayor's / Gamgebeli's elections was appointed is a very important development in the history of Georgia.<sup>161</sup> Further,

<sup>159</sup> <http://www.cesko.ge/ge/tvitmmartvelobis-archevnebi/shemadjamebeli-oqmebi>

<sup>160</sup> <http://www.cesko.ge/uploads/other/28/28785.pdf>

<sup>161</sup> According to amendment introduced to Georgian legislation direct election of Mayors and Gamgebelis in 12 self-governing cities and 59 self-governing communities was carried out with absolute majority of participants.

**conduct of the second round of elections in a competitive and equal election environment was a significant pre-condition for promotion of democratic process in the country.**

The second round of elections was held in 8 self-governing cities and 13 self-governing communities.<sup>162</sup> GYLA carried out election monitoring of the second round in **Tbilisi and 13 election districts**.<sup>163</sup>

It should be noted that in view of small percentage of difference among the candidates' results there was an expectation to conduct the second round of elections in highly competitive and tense environment.

Problems and irregularities observed during the June 15, 2014 local self-government elections were still topical on the polling day of the second round of Mayors' and Gamgebelis' elections. However, unlike June 15 election, during the second round precinct election commissions responded mostly effectively on remarks of GYLA's observers and corrected procedural violations of election legislation immediately. As a result, GYLA's observers did not have to file complaints.

As reported by GYLA's observers, in number of cases both in Tbilisi and in regions, they have observed representatives of election subjects on the territory, adjacent to the polling stations, who recorded voters.<sup>164</sup> In addition, representatives of election subjects also ensured transportation of election observers to the polling stations. Further, GYLA's observers reported some facts of physical confrontation between supporters of election subjects on the territory, adjacent to the polling station.

Nevertheless, balloting was mostly conducted in peaceful environment. During the second round of elections GYLA's observers drafted 43 complaints and recorded 34 remarks in the logbook. Following irregularities were observed mainly:

- ✓ Violation of the procedure of casting lots – 3 cases;
- ✓ Problems with filling out the control sheet- 18 cases;
- ✓ Restriction of observers' rights – 2 cases;
- ✓ Improper fulfillment of duties of the commission member – 4 cases;
- ✓ Voting with improper documentation – 2 cases;

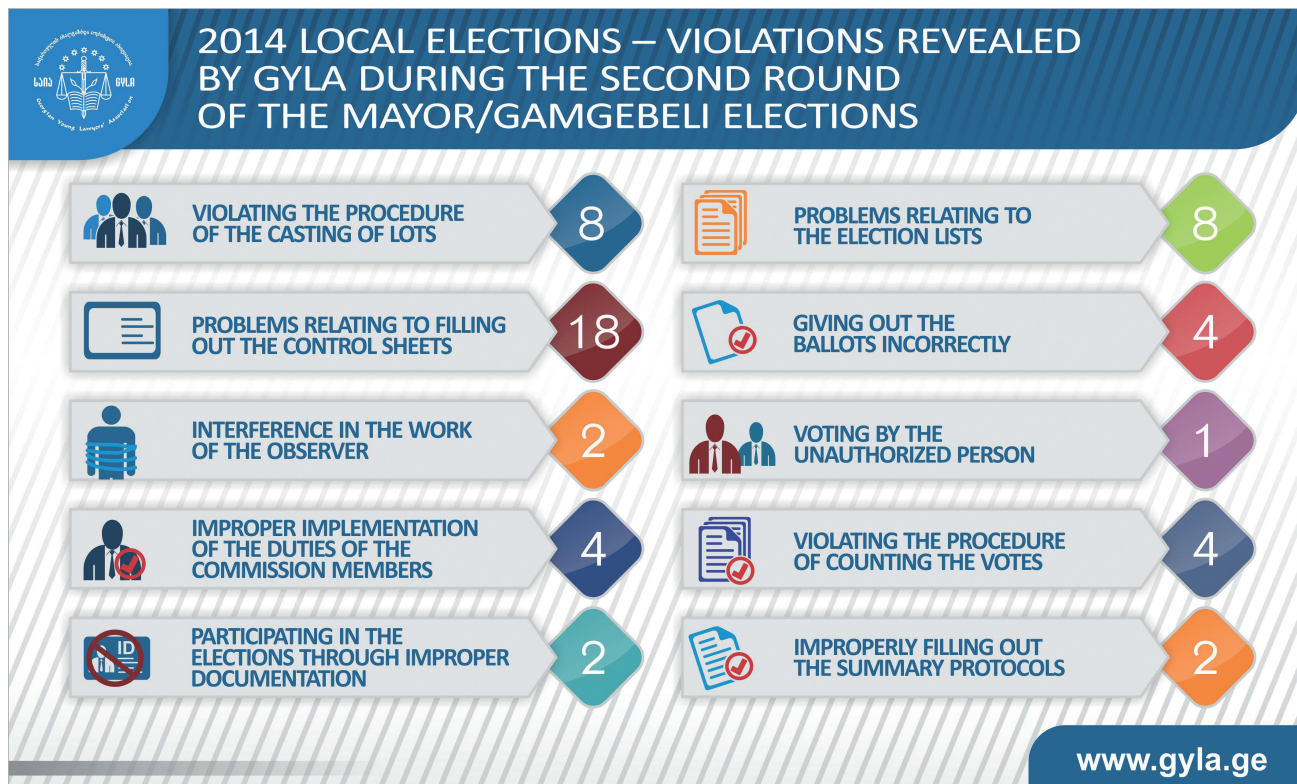
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<sup>162</sup> Self-governing cities: Tbilisi, Batumi, Rustavi, Poti, Gori, Mtskheta, Ozurgeti and Telavi. Self-governing communities: Akhmeta, Kvareli, Gori, Tianeti, Martvili, Kobuleti, Baghdati, Khoni, Tkhibuli, Kanchkhuti, Terjola, Telavi and Khulo.

<sup>163</sup> GYLA's observers carried out election observation mission in 10 districts of Tbilisi and in Batumi, Kobuleti, Terjola, Khoni, Baghdati, Tkhibuli, Ozurgeti, Martvili, Gori, Rustavi, Telavi, Kvareli, Mtskheta election districts.

<sup>164</sup> The law does not prohibit registration of voters at the polling station, though such conduct may be identified as indirect control over the voter's will. According to legislation, voters are entitled to exercise his/her suffrage in an environment free from any direct or indirect influence. GYLA stressed the problem throughout the years and we remain hopeful that future legislative amendments will consider the issue along with other problems of electoral system.

- ✓ Problems with voters' lists – 3 cases;
- ✓ Improper use of ballot papers (release of extra ballots, ballot papers without signature in the list, ballots without seal and signature) – 4 cases;
- ✓ Voting by unauthorized persons – 1 case;
- ✓ Violation of vote counting procedures – 4 cases;
- ✓ Filling out summary protocols improperly – 2 cases.



#### 14. POST-ELECTION PERIOD OF THE SECOND ROUND

GYLA observers filed 68 pieces of complaints with DEC's over the following violations:

- Summary protocols missed obligatory data and necessary fields were left vacant;
- Despite gravity of the violation, district election commissions prioritized use of light responsibility measures and were reluctant to draft a protocol of administrative offence (for example restriction of observer's right);
- PEC members lacked qualification in electoral procedures;
- GYLA observed procedural gaps in examination of complaints by DEC's;
- No procedural issues were observed in DEC's while bringing election documentation, namely: election documentation was not sealed, acceptance-delivery acts were not drafted on time since election inventory was supposed to be transferred later.
- Irregularities with summary protocols and misbalance;
- Improper fulfillment of duties by the members of election commission;
- Violations with transfer/sealing of documentation in election commissions;
- Irregularities with vote counting procedure;
- Restriction of election observers' rights.

Out of the complaints, submitted to the election commissions, in 65 cases the disciplinary responsibility of the commission members was requested, in 3 cases – the administrative responsibility, in 2 cases – invalidation of the mobile box results and in 1 case – invalidation of the precinct results, in one case – re-count of results and in one case – invalidation of the PEC summary protocol. Out of the submitted complaints 34 were fully upheld, 24 – partially, while 10 were rejected.

GYLA has appealed the DEC decisions in 2 cases. Out of the submitted complaints 1 was upheld and 1 was rejected.

GYLA has submitted the complaints to the DEC's on the following violations:

- Violations relating to the casting of lots: Saburtalo #68, Gldani #77, Telavi #20;
- Violations relating to creation of the summary protocols: Saburtalo #11, 35, Krtsanisi #5, 32, Gldani #16, 34, 67, 71, 82, Telavi #5, 34, 41, 43, 50, Baghdati #16, 26, Gori #82, Tkibuli #3;
- Limitation of observers' rights: Isani #6, Terjola #4, Rustavi #30;
- Violation of the rules of delivery of the materials to the DEC: Telavi #23, 40, 51, Khoni #6;



- Violations relating to ballots: Isani #11, Batumi #35, Mtskheta #2, Tkibuli #9;
- Improper implementation of the duties by the commission members: Vake #69, Saburtalo #50, 60, Krtsanisi #11, 22;
- Voting by the unauthorized persons: Saburtalo #60, Ozurgeti #10;
- Violations relating to the control sheets: Telavi, #15, 49, Terjola #10, 31, Baghdati #2, 18, Khoni #16, 17, 25, Tkibuli #19, 24, 26, 27, 30, 31, Martvili #21, Gori #96;
- Violating the secrecy of ballot: Kobuleti #34;
- Violating the rules of mobile ballot box voting: Batumi #99, Terjola #90, Martvili #21;
- Violating the rules of voting: Gori #16;
- Shortcomings in the voters' lists: Gldani #77;

The number of complaints, submitted by GYLA:

- In the districts – 68;
- At the first instance courts – 2;

The requests, under the complaints:

In most of the cases, GYLA requested imposing disciplinary responsibility upon the PEC members. GYLA made these requests in 66 complaints, submitted to the DEC.

Out of those cases, the disciplinary responsibility was imposed upon 88 commission members:

31 – the PEC chairperson, 33 – PEC secretary, 4 – PEC deputy chairperson; and 20 commission members.

The types of the disciplinary responsibility measures:

- Remark – 64;
- Warning – 20;
- Salary cut – 4;

The administrative responsibility was requested in 2 complaints, out of which none were satisfied. The request of the summary protocol invalidation was requested in 1 complaint, which was not satisfied. The invalidation of the voting results was requested in 1 complaint, which was not satisfied. The re-count of the voting results was requested in 1 complaint, which was upheld. In 3 cases GYLA has appealed the rejection decisions of the DEC in the courts, of which none were satisfied. Out of the lawsuits, submitted to the court of the first instance, GYLA requested administrative responsibility in 2 cases and in 1 case – disciplinary responsibility.

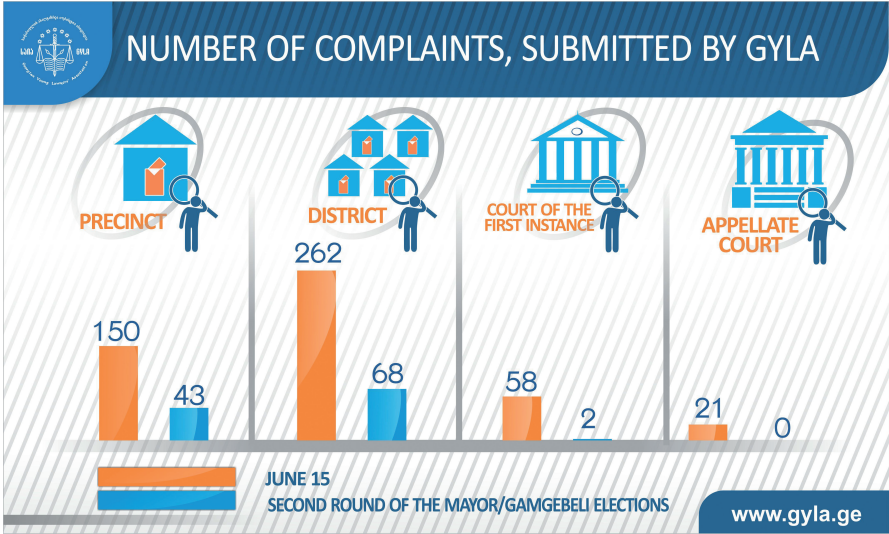
The following problems were revealed during the Second Rounds:

- The mandatory graphs were not filled in the summary protocols, some of the graphs were left out;
- Despite the gravity of the violations, the DEC's favored application of the lighter measures of the disciplinary responsibility and were not drafting the administrative violations' protocol (for example, limitation of the observers' rights);
- The PEC members had difficulty with the electoral procedures;
- In separate cases, the DEC's have revealed the shortcomings in the procedure of complaint consideration;
- During the delivery of the electoral documentation to the DEC's, the procedural aspects were not followed, specifically: the electoral documentation was not sealed, the delivery-receipt acts were not created in a timely manner, because the electoral materials were delivered late.

In the complaints filed with DEC's in 65 cases members of the commission requested disciplinary liability, in 3 cases administrative liability, in 2 cases invalidation of the results of mobile ballot box and in 1 case invalidation of the results of polling station. Further, in one case GYLA requested revision of election results and in one case - invalidation of summary protocol of precinct election commission.

From the submitted complaints, 34 were granted fully, 24 partially and 10 were rejected.

GYLA challenged decisions of DEC in two cases. One was granted partially and another was rejected.



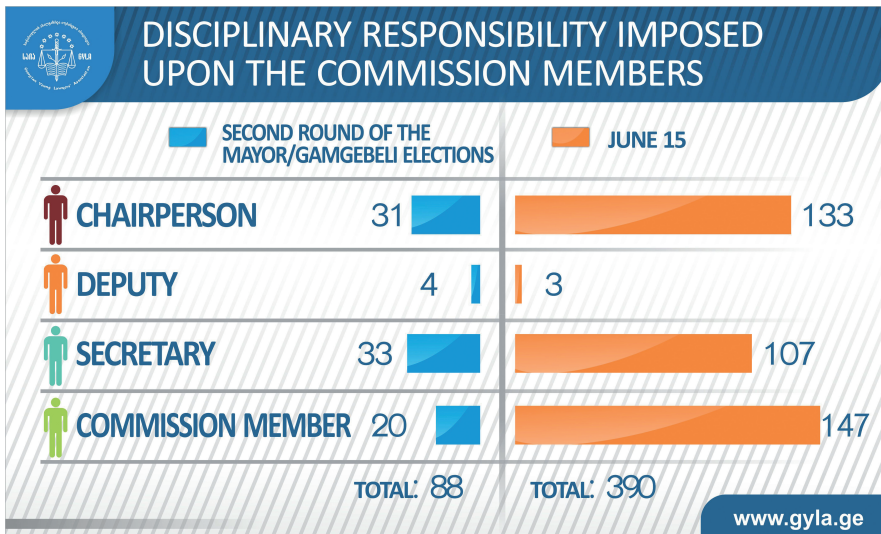
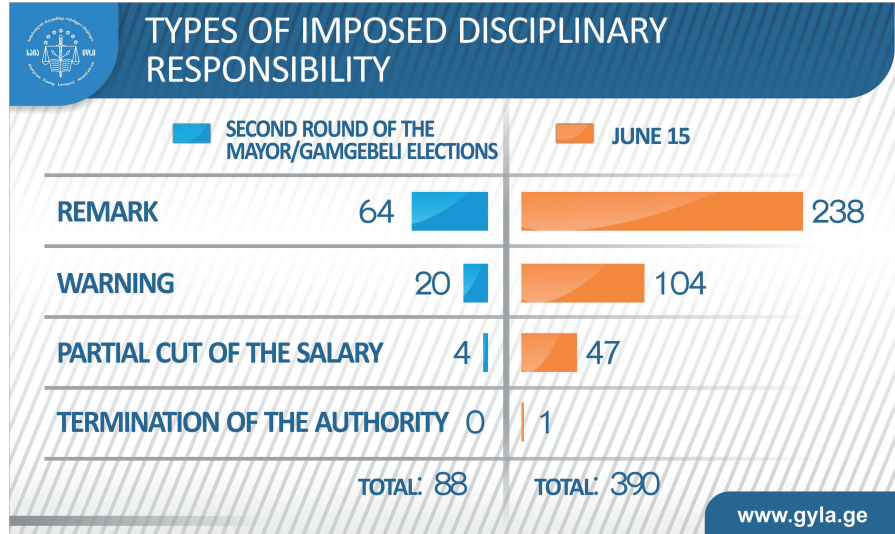
**COMPLAINTS, SUBMITTED TO THE COURT AND TO THE ELECTION ADMINISTRATION**

	DISTRICT		COURT OF THE FIRST INSTANCE		APPELLATE COURT	
SATISFIED	95	34	4		2	
PARTIALLY SATISFIED	68	24	20	1	3	
REJECTED	99	10	34	1	16	

JUNE 15  
SECOND ROUND OF THE MAYOR/GAMGEBELI ELECTIONS

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## 15. ELECTION DISPUTES AND ANALYSIS OF COURT DECISIONS

In the course of elections, GYLA's activities were not limited only to revealing of violations. Through litigation GYLA attempts to promote introduction of progressive interpretation of election legislation, implementation of legislative measures against violators and further prevention of election irregularities.

During the first and the second rounds of the 2014 local self-government elections, GYLA filed 47 pieces of complaints in the first instance court, where 18 were granted partially and 29 were rejected. During the June 15 local self-government elections GYLA filed 45 pieces of complaints in the first instance court, where 17 were satisfied partially. As for the second round of elections 2 complaints were filed and 1 was granted partially. As for complaints lodged in the Appellate Court appeals were submitted only during the first tour. Out of 16 appeals 1 was granted completely and 2 - partially.

Complaints submitted by GYLA and its observers mainly covered the following issues:

- ✓ Campaignat PEC;
- ✓ IDPs participation in elections without IDP card;
- ✓ Violation of voting procedure through the mobile ballot box;
- ✓ Irregularities with casting lots;
- ✓ Problems with summary protocols (corrections in summary protocols and no correction protocols, failure to fill out summary protocols in precinct election commission, verification of correction protocols with DEC seal, misbalance in summary protocols, filling out summary protocols incompletely);
- ✓ Restriction of observers' rights.

We would like to briefly review court decisions about some listed issues:

### **Participation of IDPs without an IDP card**

Election Code directly specifies that for participation in balloting internally displaced persons from the occupied territories of Georgia should submit IDP card along with ID card.<sup>165</sup> During the 2014 local self-government elections IDPs were entitled to participate in the elections on the basis of ID card only.<sup>166</sup> GYLA's election observers appealed IDPs' participation in elections without IDP card in election administration and in the court. Neither election administration, nor the court shared position of GYLA's observers. Court was governed by the CEC resolution<sup>167</sup> providing that voters are entitled to participate in balloting if along with private number of a citizen, gender and photo at least three fully match from the first name, second name, date of birth and address in the version of voters' general list prepared for election commission.

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<sup>165</sup> Para 19, Article 63 of the Election Code

<sup>166</sup> Vake district #2, since according to our information, these category of individuals were not able to receive IDP cars prior to elections.

<sup>167</sup> Resolution # 41/2012 of September 21, 2012

We are of the opinion that the resolution concerns cases when there is inconsistency between voters' list and ID card, though three requisites such as name, surname, date of birth and address coincide. The circumstance excludes IDPs's participation in balloting without submitting IDP card. We opine that application of the procedure is irrelevant in this case and consider that submission of IDP card is necessary for identification of internally displaced persons.

**Procedure of casting lots** –GYLA still observed the case, when head of precinct election commission delegated function defined through casting lots to another member during the whole day. GYLA's observers have appealed the fact. Court upheld position of GYLA's observers and in its judgment interpreted clause g) Para 2, Article 61 of the Election Code. Namely the court ruled that transfer of function “should be temporary... caused by objective reasons and should serve election purposes”.

Further, the court ruled that since balloting period is 08:00 –20:00 as per Election Code<sup>168</sup>, delegation of functions identified through casting lots for a whole day cannot be considered as reasonable period and actually this means change of functions during the whole period of balloting which comes in conflict with will of a legislator in terms of raising trust to the procedure of casting lots and other election procedures.<sup>169</sup>

**Problems with summary protocols** - GYLA appealed in the court irregularities with filling out summary protocols (irregularities, such as the alteration of data in summary protocols, failure to draft correction protocols,<sup>170</sup> drafting of correction protocols in DEC's, misbalance in summary protocols<sup>171</sup>, filling out correction protocols incompletely). In some cases, the court ordered relevant election administrations to re-examine violations and make relevant decisions. However, we should note that in some cases courts upheld position of election administration in terms of imposing administrative liability for absence of protocol of correction.<sup>172</sup> In the opinion of the election administration and the court, such violations were insignificant and they did not cause any adverse effect such as invalidation of results or other, therefore there was a minor offence. As a result, commission members should not have been penalized and disciplinary measure should have been applied against them.<sup>173</sup>

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<sup>168</sup> Para 1, Article 60 of the Election Code

<sup>169</sup> Decision #3/2134-14 of administrative chamber of Tbilisi City Court of 21.06.2014.

<sup>170</sup> Para 4, Article 70 of Election Code provides that if a mistake was made in the course of filling out summary protocol the note “corrected” is made in front of it immediately and protocol of correction is drafted. It is prohibited to change the data of the summary protocol. Further, Para 3, of the Article provides that change of data in summary protocol causes liability of the head of relevant election commission and secretary according to the rules provided in Election Code and envisages penalty in the amount of GEL 500. (Article 87).

<sup>171</sup> No summary protocol was drafted in Batumi # 79 district, #103 election precinct, though with its decision district election commission recalculated ballot papers and filled out and approved summary protocols and exceeded its authorities, since as per clause e) Article 21 of the Election Code he had not such authorities. Court shared completely opinion of GYLA's observers and by granted GYLA's claim prevented establishment of defective practice.

<sup>172</sup> June 21/2014 decision of the Akhaltsikhe distric court, case #14527580-3/044-14.

<sup>173</sup> Article 22 of the Administrative Code of Offences provides that if a minor administrative offence is committed, then relevant competent agency (official) can release a violator from administrative liability and give only reprimand.

**Restriction of observers' rights-** GYLA reported some facts of restricting observers' rights revealed on the one hand in denial to register filed complaints and on the other hand in allowing election observers to enter election venue after end of balloting at 20.00.

In the given case, neither city court nor appellate court upheld position of GYLA's observers and did not grant the claims.

As for denial to register complaint by election administration, the court shared position of election administration and stated, "though refusal to register complaint is an action which indirectly affected (restricted) observer's rights, violation of rights and interference with activities, with its nature, is an intentional action directed to restriction of a right. Conduct of the member of election commission revealed in omission, namely in refusal to register a complaint submitted by an authorized person, due to its context, was qualified as undue fulfillment of official duties, rather than as per Article 91 of the Election Code."<sup>174</sup> We opine that the court misinterpreted the law when restriction of observers' right has not been identified as administrative offence.<sup>175</sup>

Attitude of election administration and judiciary about presence of observers at the polling station after 20:00 attracts interest.<sup>176</sup> Kutaisi # 59 DEC treated disallowance of the observer at the polling station after 20:00 as restriction of observer's rights and found that election observer was entitled to unlimited access to polling station during the Election Day as per Article 41 of Election Code.<sup>177</sup> GYLA observed different approach about one of the precincts in Tbilisi when head of the precinct after CEC reaction allowed GYLA's observer at the polling station after 20:00. Though on the one hand for aggressive attitude of commission members appointed by political parties who requested eviction of GYLA's observers and on the other hand for failure to register GYLA's observers in logbook according to established standards, observers rights have been restricted.<sup>178</sup> Both Tbilisi City Court and Tbilisi Appellate Court did not share position of GYLA's observers and dismissed GYLA's claim.

We believe that election disputes play great role. The key reason is identification of problematic norms of Election Code and elaboration of new recommendations by analyzing previous years' experience.

Having analyzed election disputes we can conclude that:

- ✓ Articles of Election Code need to be analyzed in a systemic manner in the context of election reform and gaps and deficiencies that lead to establishment of defective practice should be eliminated;

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<sup>174</sup> The ruling of June 23, 2014 of Tbilisi Appellate Court, case #330310014527959

<sup>175</sup> Article 91 of Election Code

<sup>176</sup> The ruling of June 24, 2014 of Administrative Board of Tbilisi Appellate Court, case #330310014527708 (3b/872-14)

<sup>177</sup> Resolution ##215/2014 of Kutaisi #59 District Election Commission of June 17, 2014.

<sup>178</sup> Chapter 3 of resolution #25.2014 of Central Election Commission "closure of a precinct, calculation of election results" provides that the secretary of precinct election commission should indicate in the log book identity of individuals being in election venue in the moment of calculation of votes.

## **16. RESUME/ SUMMARY**

On June 15, 2014 GYLA held local self-governance elections. Population elected mayors and Gamgebels of municipalities in all self-governing cities, as well as members of the local council by majoritarian and proportional system for three years term.

The June 15, 2014 elections were distinguished for high competitiveness and less problems than the 2012 Parliamentary elections, though it was more problematic than the 2013 Presidential elections.

It was the first case in the history of Georgia's elections, when Georgia had the second round of Mayor's/Gamgebeli's elections that was a significant pre-condition for promotion of democratic process in the country. The competition was among the ruling political force and various oppositional forces. However, in each case, the candidates from the ruling political force have won.

### **Legislative framework**

GYLA renewed work on introducing amendments to election legislation a few months earlier before elections, in the end of December 2013. Notwithstanding some concrete positive legislative changes,<sup>179</sup> for restricted period and complexity of amendments, government refrained from introducing any substantial alterations to election legislation that would have improved election environment considerably. Therefore, electoral system for elections of city councils remains problematic. Namely, it fails to ensure one vote-equality principle, and proportional transfer of voter's will in mandates;<sup>180</sup> procedure of announcing mistrust to directly elected mayors and Gamgebels comes in conflict with principle of representative democracy; initiative groups are not entitled to nominate candidates for a Mayor/Gamgebeli which is ignorance of international standards, in addition, the rule of forming election administration and voter's lists are also problematic.

### **Interagency Task Force:**

Interagency Task Force for Free and Fair Elections played positive role in terms of informing parties about irregularities of pre-election period, as well as by responding to the violations. For example activities of Interagency Task Force prior to 2014 local self-government elections decreased use of administrative resources by civil servants. Though in other cases, recommendations of interagency commission were grossly violated, which made work of the commission ineffective.<sup>181</sup>

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<sup>179</sup> Increase of current self-governing cities, direct election of Mayors/Gamgebels with absolute majority of votes (50%+1), introduction of 4% barrier for elections of city council throughout the whole Georgia.

<sup>180</sup> Increase of election barrier only for Mayor's/gamgebeli's elections will not ensure significant improvement of the system.

<sup>181</sup> For example, despite recommendation of Interagency Task Force to refrain from dismissing high public officials from the office, deputy gamgebeli of Tskaltubo municipality was dismissed from the office allegedly for political reasons and gamgebeli of Kvareli municipality was removed from

## Election Administration

Election administration was prepared for the start of the pre-election period. The CEC has conducted a number of activities for informing voters and stakeholders engaged in the process. GYLA positively evaluates the address of the CEC chairperson towards the DECs, to demonstrate maximum responsibility and professionalism in selecting the PEC members. According to the GYLA observers' information, in those DECs, in which they conducted observation, the PECs were composed in compliance of the law. The CEC pro-actively examined the information on the pre-election violations, which is also a positive fact. Another fact that deserves positive evaluation is the fact that the CEC has upheld the majority of GYLA's complaints on the pre-election violations.<sup>182</sup>

Within the pre-election period, the provision of the Article 167 of the Election Code, which requires Gamgebeli and Mayor candidates to permanently reside in Georgia for the past 2 years, was interpreted by the CEC against oppositional political parties and in favor of the governmental political unions. We consider that while making this decision the election administration was biased and inconsistent,<sup>183</sup> while such decisions negatively affect the trust towards the CEC and might be damaging for the professional reputation of this institution.

The CEC chairperson made a statement in relation to the de-registration of the candidates due to the alleged pressure; the chairperson has called upon the law-enforcements to immediately examine such facts and to respond to them.<sup>184</sup>

In the context of the same problem, in order to prevent invalidation of the party list registrations, the CEC has adopted the special resolution on June 3, 2014 and prescribed the cases in which the party list electoral registration would have been invalidated due to the lack of the minimum requirement.<sup>185</sup> We consider that the CEC resolution had a positive impact on the pre-election environment, since it helped all of the parties that faced invalidation of a party list registration due to the candidate de-registrations.

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the position through impeachment. Facts of interference in conduct of pre-election events and distribution of election campaign materials was also frequent. Further, some facts were reported about implemented pressure on different opposition parties and candidates of election blocks.

<sup>182</sup> Within the reporting period, in relation to the electoral violations, GYLA has submitted 5 statements to the election administration: 4 to the CEC, 1 to the Ozurgeti DEC. Election administrations have satisfied 4 statements of GYLA. 1 statement was rejected (the statement related to the illegal campaigning by the deputy Mayor of Kutaisi and the alleged use of administrative resources by the Mayor of Kutaisi).

<sup>183</sup> The CEC has invalidated the registration of the Gori Mayor candidate of the "Georgian Party" – Irakli Okruashvili, citing that he did not reside in Georgia for the past 2 years. At the same time, the registration of the candidate from the ruling political force was not invalidated and the standard of the physical residence was not applied in this case. The CEC also did not satisfy the UNM request and has maintained in force the decision of the Marneuli DEC chairperson, according to which, in the same district, the Gamgebeli candidate of the mentioned political force – Akmamed Imamkuliev's electoral registration was invalidated. <http://gyla.ge/uploads/2014.pdf>

<sup>184</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/ceskos-tavmdjdomaris-gancxadeba-kandidatebze-zewolis-faqtebtan-dakavshirebit.page>

<sup>185</sup> The resolution #31/2014 of the CEC (June 3, 2014). [https://matsne.gov.ge/index.php?option=com\\_ldmssearch&view=docView&id=2362713&lang=ge](https://matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=2362713&lang=ge)

However, by adopting this resolution the CEC has exceeded its mandate, since it established the rules that are different from the Election Code.<sup>186</sup>

### **State Audit Services**

The initiative of the State Audit Services for the 2014 local elections deserves positive evaluation; according to the initiative, the consultation commission, composed of the NGOs, was created under the auspices of the State Audit Services. We consider that such initiative has supported increase of transparency of the State Audit Services in terms of party finance monitoring.

### **Pre-Election Period**

In comparison with the 2012 parliamentary elections, the 2014 pre-election period reflected less use of administrative resources for the electoral purposes, less facts of illegal participation in the pre-election campaigning, as well as less cases of vote bribery. However, the pre-election period has frequently reflected such types of electoral violations as: alleged pressure upon the candidates, assaulting political opponents, obstruction of the pre-election campaign and physical confrontation. Such facts damaged the pre-election environment and endangered the possibility to conduct pre-election campaigns in a free and competitive environment.

The facts of campaigning by then incumbent Gamgebelis/Mayors while implementing the duties in the pre-election period was problematic as well: then incumbent Gamgebelis/Mayors that participated in the local elections did not have the obligation of resigning from their post in accordance with the incumbent legislation. In this regard, there were a number of cases, in which then incumbent Mayors/Gamgebelis were conducting campaigns while holding the post of a Mayor/Gamgebeli, which clearly violated the principle of equal access to the resources and the principle of the fair pre-election environment.<sup>187</sup> In this case, the existing legislative shortcoming has resulted in the problem in separation of the state and party resources and has erased the line among the party and state activities. Such actions contradicted the 1990 Copenhagen conference document (Article 5), which obliges the states to make clear separation among the state and political party activities, to avoid the confusion of the state and political parties.<sup>188</sup>

In the pre-election period, there were cases of initiation of the social projects, the beginning of which has coincided with the pre-election period. The initiatives had social nature and were mainly targeted at the broad population. Although the mentioned initiatives did not violate the legislation, they still included the risks of administrative resource use.

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<sup>186</sup> See the chapter on pressure and threatening for the information on the resolution.

<sup>187</sup> Batumi Mayor; Gamgebelis of Gurjaani and Tskaltubo, Chokhatauri deputy Gamgebeli and others.

<sup>188</sup> The document received within the OSCE.

On April 14, 2014 the prime minister of Georgia has announced the Moratorium on conducting the legal proceedings against the persons, engaged in the electoral campaign and called upon the law-enforcements to refrain from the legal detentions and limitation of the rights of the politically active persons. The mentioned Moratorium represented the expression of the political will of the Government, to give politically active individuals a possibility to conduct comprehensive electoral campaigns.

In this context it is notable that prior to the announcement of the Moratorium (that is, prior to April 14/2014) a number of politically active persons were summoned or charged at the investigation.<sup>189</sup> The mentioned persons mainly represented the UNM and according to the party, they should have been the candidates of the party in the local elections. The preventive measures (imprisonment) were imposed against part of the detained, which caused the limitation of their possibility to directly and actively engage in the pre-election campaign.<sup>190</sup> According to the information, available to GYLA observers, following examination of the mentioned cases,<sup>191</sup> a number of questions have arisen – whether the criminal persecution related to the political activities of the accused. However, it should also be mentioned that the active members of the opposition were detained prior to the local elections for the offences, committed years ago and the fact that the law-enforcements requested imprisonment as the preventive measures have caused questions, especially in the context, in which the prosecution has officially announced the new approach, according to which the so-called “white collar” offences would not result in the imprisonment. It is notable that the following the announcement of the Moratorium the number of summoning, questioning and bringing charges against the politically active persons have been minimized. However, there were individual cases of criminal persecution against this groups of persons, which was explained by the law-enforcements by the urgent necessity. The Government explained that the Moratorium would not cover such cases. In our opinion, the limitation of the rights of a head of the electoral office of the UNM, explained by the urgent necessity by the law-enforcements, was not properly justified and caused a number of questions.<sup>192</sup>

According to the information, available to GYLA, as of June 2, in 15 districts of the 9 regions, up to 50 candidates of the 6 oppositional parties have de-registered their candidacies, allegedly, due to the pressure.<sup>193</sup> The victims mainly did not specify who was pressuring them. According to the parties or candidates, they were being called and threatened; they threats related to dismissal of relatives from work or threats of “creating problems”, as well as threaten-

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<sup>189</sup> <http://gyla.ge/geo/news?info=2050>

<sup>190</sup> For example, Zurab Jibukhaia, Zurab Otiashvili. In relation to the mentioned cases, GYLA has publicized the information in its first and second intermediate reports of the pre-election observation.

<sup>191</sup> The detention of the Khoni municipaloty Gamgebeli – Zurab Jibukhia and his deputy – Besarion Chelidze; the detention of the Khoni Sakrebulo member – Levan Bobokhidze; the detention of the Dusheti Municipality Sakrebulo chairperson – Zurab Otiashvili; the case of the majoritarian candidate of the Tbilisi Sakrebulo – Giorgi Oniani; the detention of the Kobuleti Municipality rtsmunebuli – Malkhaz Diasamidze; the detention of the Chiatura municipality Sakrebulo chairperson – Iason Chumburidze and bringing the charges against.

<sup>192</sup> <http://gyla.ge/geo/news?info=2206>

<sup>193</sup> <http://gyla.ge/geo/news?info=2131>



ing through the relatives. Simultaneously with that, there was a high number of candidate de-registrations on their own initiative across the country.

According to the information from the CEC, **101** Mayor, **262** Gamgebeli and **21'574** Sakrebulo membership candidates have registered at the beginning for participating in the elections.<sup>194</sup> Among others, **1'220** independent candidates have registered. However, later on, more than 600 individuals have refused to participate in the elections by submitting personal statements.<sup>195</sup> The mentioned, of course, does not mean that in all cases the candidates have de-registered due to the pressure. Apart from the fact that the above facts included the signs of violation, such actions have increased the tension and has created risks for conducting the elections in a free and fair environment.

There were a number of cases of obstructing the pre-election campaign, which, in a number of cases, has evolved into the physical confrontation and aggression. The cases of obstruction were mainly directed against the UNM. According to the party, not only the activists and candidates of the Georgian Dream participated in those incidents, but also the public servants of the local self-governments. The mentioned incidents have damaged the pre-election environment and created risks for conducting the electoral campaign in a free and competitive conditions; those incidents have further increased the tension and contributed to the inflammation of the aggression among the individuals engaged in the political processes.

In the pre-election period, the local self-government officials were being dismissed on the allegedly political grounds. According to the information available to GYLA lawyers, the examination of these cases has reflected certain illegalities.

There were a number of cases when the high-level officials have publicly criticized media/journalists in the pre-election period, which resulted in negative evaluations by the media and which may be regarded as an attempt to influence the media.<sup>196</sup>

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<sup>194</sup> Party Sakrebulo – 13'879, majoritarian party list – 6'475, independent candidates - 1'220.

<sup>195</sup> Response#02-04/1792 (August 21/2014) of the CEC. 481 majoritarian list, 223 proportional list, 3 Mayor and 5 Gamgebeli candidates. Out of majoritarian list candidates, 208 party-nominated candidates have refused to participate in the elections and 273 initiative group-nominated candidates.

<sup>196</sup> In May 2014, the Government of Georgia has made a special statement, expressing dissatisfaction with the critical journalist materials, prepared by Vakho Sanaia on the TV outlet – Maestro. The materials related to the promises made by the government in the pre-election period. The government has called the material unprofessional; however, has not indicated the necessity of correcting specific false facts; the vice prime minister and simultaneously the Minister of Energetics – Kakha Kaladze has criticized the TV outlet Rustavi 2 for their program relating to the increase of the prices for the electric energy (the program has reflected substantial differences in the responses among the Minister and Deputy Minister of Energetics).

## Law-Enforcement Bodies

Although the government has stated that ensuring free and non-violent pre-election environment was its primary objective, the government was not able to properly prevent the violent acts and cases of confrontation. The obligation of the government – specifically, the law-enforcements, is not only to respond to the violations, but also to avoid physical confrontation or other types of violations through preventive measures, which was not conducted.<sup>197</sup>

In relation to the alleged facts of pressure upon the candidates, we consider that the response of the relevant bodies was not enough and was ineffective. The Ministry of the Internal Affairs (MIA) has denied the facts of pressure upon the electoral candidates (and police’s engagement in it) without any investigation.<sup>198</sup> In this context, instead of unconditional condemnation of violence, pressure and instead of underlying the necessity of conducting an effective investigation, the Prime Minister made a statement that the “Georgian Dream” would not allow the victory of other political force in any region or city, which was unacceptable.<sup>199</sup>

The cases, examined by GYLA reflect that the legal response of the prosecution on the alleged offences was not adequate. The fact that the prosecution has limited itself to only questioning, reflects that despite the requirements of the Criminal Law procedural legislation, the investigation in most of the cases was not initiated or was not complete or comprehensive.<sup>200</sup>

The cases examined by GYLA have reflected that the investigation in many cases was initiated only formally and did not yield any results. In relation to many cases there are no final decisions as of now. The public was not convinced that the measures, applied by the investigative bodies have ensured safety and free, competitive electoral environment for the electoral subjects and related candidates.

## Election Day

According to GYLA’s evaluations, in general, the voting process was conducted in a calm environment. The voters had a possibility to express their will in a free environment. The especially grave violations did not have a broad scale on the Election Day . A number of significant violations were revealed in the Martvili, Zugdidi, Khoni, Telavi, Samgori and Khulo districts,<sup>201</sup> which later caused the repeat elections at the number of precincts.<sup>202</sup>

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<sup>197</sup> Please see the Appendix #3 for the detailed information about the specific facts of obstruction;

<sup>198</sup> <http://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/6671>

<sup>199</sup> <http://gyla.ge/geo/news?info=2135>

<sup>200</sup> [http://pog.gov.ge/res/docs/gamokitxbisqmebi\\_3.pdf](http://pog.gov.ge/res/docs/gamokitxbisqmebi_3.pdf)

<sup>201</sup> #16 of Martvili (ballots were stolen), #32 of Zugdidi (the voting process was terminated), Khoni #22 (the polling station was raided), #19 of Khoni (attempt to break into the polling station and break through the door), #14 of Telavi (forging signatures), threatening observers (Samgori #32, Khulo #27).

<sup>202</sup> See the chapter on the repeat elections.

In a number of cases, the low level of the PEC members' qualification and unprofessional approach towards the duties was revealed. The PEC members found it most difficult to fill out the summary protocols and to achieve the balance in numbers. The PECs did not have proper technical equipment because of which it was not possible to forward the summary protocols to the CEC in a timely manner.

The process of delivering the sealed electoral documentation from the PECs to the DEC's had the chaotic nature and the process was conducted in un-organized manner. There were cases when the documentation was delivered without the delivery-receipt act, or a delivery-receipt act was written later on.

The CEC did not ensure the timely publication of the copies of the summary protocols (forwarded from the precincts) at their web-page, which violated the requirements of the clause 4 and 8 of the Article 76 of the Election Code.

### **Post-Election Period**

In the districts, in which GYLA observers conducted monitoring, it was revealed that apart from the exceptions, the DEC's were not willing to examine GYLA complaints in detail, to examine the circumstances important for the case and to examine/evaluate the evidences. Despite the fact that in specific cases the existing violations were documented by the relevant evidences, the DEC's were not upholding the requests under the complaints and in some cases, refused to accept the evidences.

There were cases in which the DEC's corrected the significant mistakes in the PEC summary protocols and attached the correction protocols to the summary protocols at a later stage, in the districts.

Because of the mentioned, in a number of cases, the summary protocols' copies, provided by the DEC's were different from the summary protocol copies provided by the PEC's. Despite the gravity of violations, the DEC's favored the lighter measures of the disciplinary responsibility and did not apply more adequate measures prescribed under the law (for example, creation of the administrative violations' protocol).

In separate cases, there were differences among the summary protocols, publicized by the CEC and the results' graph publicized at the CEC web-page (which, allegedly, happened due to the technical mistakes).

### **The Second round of the Mayor/Gamgebeli Elections**

It is important that the second round of the Mayors/Gamgebelis was appointed and the elections were conducted in 8 self-governing cities and in 13 self-governing communities.<sup>203</sup> The problems and violations, identified on the June

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<sup>203</sup> Self-governing cities: Tbilisi, Batumi, Rustavi, Poti, Gori, Mtskheta, Ozurgeti and Telavi. Self-governing communities: Akhmeta, Kvareli, Gori, Tianeti, Martvili, Kobuleti, Baghdati, Khoni, Tkibuli, Lanckhuti, Terjola, Telavi and Khulo.

15 elections of the representative and executive bodies were also repeated during the Election Day of the second round of the Mayor/Gamgebeli elections. However, in difference with the June 15 elections, the PECs, in major cases, adequately responded to the remarks of GYLA observers and were resolving the problems immediately, which is why GYLA observers did not write further complaints in a number of cases.

## **17. RECOMMENDATIONS**

GYLA hopes, that the present information will assist persons, engaged in the electoral processes, to strengthen the achievements and to resolve the problems, which, in our opinion will significantly support conducting the elections. Therefore, for the purpose of conducting the elections in a qualitatively better, transparent and fair environment, we consider it important to regulate the following issues:

### **Legislative Framework**

Within the electoral reform context, we consider it important to regulate such issues, as the electoral system for the parliamentary and local self-government elections, composition of the electoral administration, revision of the rules regulating voters' lists and electoral complaints, amendments supporting women's political engagement.

In the context of the local elections we consider that it is important to change/revise such regulations, as: the procedure of declaring mistrust towards the directly elected Gamgebeli/Mayor (impeachment); prohibiting the initiative groups to nominate Gamgebeli/Mayor candidates.

We consider that it is important to provide interpretation of the term "permanent residence" (requested from the Gamgebeli/Mayor candidates) at the legislative level.

It is very important to start working on the electoral reform much earlier, prior to the 2016 parliamentary elections. In this regard, the relevant work group must be created immediately, which should immediately start working on the legislative amendments to improve the electoral environment.

### **Inter-Agency Commission**

For the purpose of prevention of the electoral violations and for the response to the already committed violations, it is important for the work of the Inter-Agency Commission to be more effective. Inter-Agency Commission must pay more attention to the control of the implementation of its recommendations, especially, by the public institutions and its employees. The Commission must inform public of its work. The commission must conduct permanent monitoring, analysis and evaluation of its recommendations. For the purpose of prevention of the violations, the Commission must identify specific problematic issues and address the parliament and other bodies for their elimination and for the improvement of the electoral legislation.

## **Election Administration**

It is crucial to have an objective election administration free from perceived inconsistency and bias in its actions. It should be guided by the same standards no matter which candidate from which political affiliation is being discussed. Most importantly, it should interpret the ambiguity of any of the norms of the election code in favor of the candidates, no matter which political force they belong to.

We consider that the number of PEC members should decrease and their certification should be obligatory. Election commission members should be selected based on certification results. Also, the salary of PEC members should be reviewed (increased). Raising of PEC members' qualification should continue with special emphasis on the training on Election Day procedures and thorough record book keeping of election documents.

A single rule should be established for the completion of results protocols. PECs should be equipped accordingly to ensure timely transfer of summary results protocols to the CEC.

DECs should carefully study violations described in the complaints, do proper examination of evidences and take a well-reasoned decision. Administrative measures set forth by the election code should be applied in case corrections are made to the summary results protocol. The delivery acceptance acts need to be made upon delivery of election documents to the DEC. The CEC should ensure immediate posting of summary results protocols on the website and the transfer of the same data from the summary protocols into the results table.

The CEC should annul the ordinance adopted in 2012 that discriminates against the media and limits their actions on the polling stations during the Election Day .

## **Central and Local Self-governance Bodies**

The central and local self-governance bodies should ensure political neutrality, should refrain from illegal campaigning and should not allow misuse of budgetary resources in favor of or against any of the candidates. Government representatives, including government officials, should refrain from those actions and statements that are against the spirit of democratic election process and jeopardize the establishment of multiparty democracy in Georgia.

## **Law Enforcement Agencies**

Based on the significance of the issue and the scale of possible violations the law enforcement agencies should conduct a comprehensive, unbiased and objective investigation in the shortest time possible of cases of alleged pressure on candidates from different political forces and other violations during the pre-election period. They should react accordingly and adequately to identify the offenders and to bring criminal charges against them.

It is necessary for the criminal prosecution of a person to be substantiated with high standards leaving no room for question marks.

The law enforcements should ensure the conduct of pre-election campaign meetings and events in a calm and safe environment; they should eliminate violence and take all legal actions to ensure public order and public safety both during the pre-election period and the Election Day . They should eliminate in their actions the possibility of selective attitude towards confronted parties. To do so, it is crucial that each offence is given relevant legal qualification and adequate charges are brought.

### **Election Subjects and Persons Engaged in Political Activities**

Political unions should ensure discipline inside their parties and should discourage their supporters from attending meetings of other political unions with a purpose of counter campaigning or making a statement. This is required to avoid verbal or physical assault on political grounds and to enable all election subjects an unhindered contact with their constituents.

Campaigners should refrain from vote buying by means of neither the budgetary funds nor companies in their possession.

Persons engaged in political processes should refuse to protest violently, should say no to violence, pressure and assault of the opposition candidates; they must not meddle in the work of the election administration and should refrain from those activities that can be perceived as pressure on election administration.

### **Media Environment**

We consider that offences towards the media should be investigated.<sup>204</sup> As regards legal framework in media, we consider that in case of runoff elections issues like media coverage of the election campaign, and access to the media for election subjects should be regulated by law.

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<sup>204</sup> Following the 2012 parliamentary elections GYLA appealed to the law enforcements demanding investigation of 38 cases of journalists being unlawfully hindered from conducting their professional activities. According to the letter from the General Prosecutor's Office, as of September 2013, criminal investigation is still underway in 21 cases out of 38. Investigation of five cases out of 38 has been dropped due to lack of evidence of assault. The investigation has ended and the sentence was passed on three cases out of 38. In February 2014 GYLA appealed to the General Prosecutor's office again to inquire about the mentioned cases however the Prosecutor's Office chose not to publicize the information.

## Appendix 1

Facts of misuse of administrative resources and breach of pre-election campaigning rules:

- Misuse of resources in favor of UNM's Tbilisi mayoral candidate Nika Melia by the **Public Affairs Office of Tbilisi City Hall**.<sup>205</sup>
- **Misuse of administrative resources in Ozurgeti** – an event organizer was campaigning in favor of the Georgian Dream in kindergarten #9 of the municipality.<sup>206</sup>
- **Misuse of administrative resources** in favor of GD's candidate for Gamgebeli in Kharagauli by the Kharagauli municipal newspaper "Akhali Kharagauli"
- **Organized attendance of local self-government representatives** at GD's campaign meeting.<sup>207</sup>
- **Presence of village Natanebi's governor** at GD's party meeting in its district office during working hours.<sup>208</sup>
- **Presence of Shida Kartli's deputy governor** at GD's party activists meeting in the party's district office in Kaspi.<sup>209</sup>
- Kutaisi Deputy Mayor's **participation in the election campaign**.<sup>210</sup>
- Participation of the public officials in the **election campaign in Tusheti**.<sup>211</sup>
- Anti UNM campaigning by **Patriarch's Archbishop Iakob** during the Sunday preaching.<sup>212</sup>

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<sup>205</sup> <http://frontnews.ge/ge/news/37044-> (seen on 02.05.2014) On May 16 2014 CEC satisfied GYLA's application and drew an administrative protocol against Tbilisi City Hall based on subparagraph "b" of paragraph one of article 28 and subparagraph "a" of paragraph one of article 49 of the election code which, according to article 88 of the same code, imposes a sanction (fine of GEL 2000) on the offender. The given protocol was forwarded to the Tbilisi civil court with supporting documents for further reaction.

<sup>206</sup> Based on GYLA's application Ozurgeti DEC drew an administrative protocol against kindergarten's manger Vera Vasadze on May 28, 2014 for breach of paragraph 7 of article 45 of the election code and filed all the documents with the court.

<sup>207</sup> <https://www.youtube.com/watch?v=akSvEcmcB3Y>

<sup>208</sup> <http://www.cec.gov.ge/ge/mediisatvis-4-ge/pres-relizebi-13-ge/31-maisis-sxdomis-shedegebi.page>

<sup>209</sup> [www.qartli.ge/web/18105](http://www.qartli.ge/web/18105)

<sup>210</sup> See chapter 11.2 on vote buying

<sup>211</sup> <https://www.facebook.com/media/set/?set=a.731497940205372.1073742220.531910146830820&type=1> On April 30 acting Gamgebeli of Akhmeta municipality Beka Baidauri and Mamuka Kholegashvli – Georgian Dream-Democratic Georgia's chairman, who was also acting head of administration of Akhmeta municipality, were in Tusheti along with other representatives of municipality where they gave Easter baskets and medicines to the local population.

<sup>212</sup> <http://gyla.ge/geo/news?info=2212> for more information refer to chapter on Election Administration.

## Appendix 2

### Cases of Physical Assault and Attack

- On March 31, 2014, late night, Nugzar Tsiklauri, MP and a member of UNM was physically assaulted at his home.<sup>213</sup>
- According to the information in the media on May 27, 2014 UNM member and its representative in the inter-governmental commission for free and fair elections under the Ministry of Justice Zurab Chiaberashvili was attacked and physically assaulted in the book cafe on Abashidze St. 22.<sup>214</sup>
- On June 4, 2014 Giorgi Mosiashvili, Telavi mayoral candidate from non-parliamentary opposition was attacked by knife in Telavi close to the non-parliamentary opposition's office on Nadikvari St.<sup>215</sup>
- On June 15, 2014 Zviad Tvaltvadze, UNM's majoritarian candidate in Tskaltubo was beaten up.<sup>216</sup>
- UNM's supporter, a 71 year-old man Domenti Khochishvili was physically assaulted in village Mirzaani of Dedoplistskaro district.<sup>217</sup>
- On June 14, 2014 UNM's activists Lasha Rukhaia, Gia Sabashvili, Mariam Shamatava and Mikheil Shamoev received various physical injuries in Zemo Ponichala.<sup>218</sup>
- On May 29 Unity Hall's Gori mayoral candidate Tamaz Makhashvili's supporter Shalva Goloshvili came under pressure.
- On June 5, 2014 a majoritarian candidate of the Labor Party Jaba Endeladze was physically assaulted.
- On June 10, 2014 Gevor Jivashvili, spouse of UNM's candidate in village Durkani Svetlana Jirashvili was physically assaulted.
- On June 5, 2014 chairman of Marneuli DEC came under pressure.
- Independent candidate of Gurjaani Sakrebulo Givi Ramazashvili and his supporters Gulo Basilashvili and Otari Mirianashvili were threatened.

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<sup>213</sup> <http://gyla.ge/geo/news?info=2045>

<sup>214</sup> <http://gyla.ge/geo/news?info=2128>

<sup>215</sup> <http://ick.ge/rubrics/politics/18296-i.html> and <http://kakhethnews.ge/ge/home/news/main-theme/telavis-merobis-ert-ert-kandidats-giorgi-mosiasvils-tavs-daesxnen-video>

<sup>216</sup> A phone conversation with UNM's Tskaltubo office head Mamuka Saghareishvili

<sup>217</sup> <http://ick.ge/rubrics/politics/18249-i.html>

<sup>218</sup> [http://saqinform.ge/index.php?option=com\\_content&view=article&id=19253:-----125-----&catid=102:samartali&Itemid=473#axzz391oFtfCT](http://saqinform.ge/index.php?option=com_content&view=article&id=19253:-----125-----&catid=102:samartali&Itemid=473#axzz391oFtfCT)



- On June 2 at 6 pm house of the Labor Party's first number on the proportional list of Khelvachauri municipality and majoritarian candidate of Tkhilnari community Ushangi Tsestkhaldze was searched.<sup>219</sup>
- UNM's activist Levan Tetemadze was physically assaulted in Batumi and hospitalized in the Batumi Republican hospital.
- On April 25, 2014 the law enforcements detained Gamgebeli of the Kvareli municipality and president of judo federation Davit Kevkhishvili. Governors of three villages in the municipality (Shilda, Akhalsopeli, and Gremi), GD members and citizens, a total of 17 persons were detained with them for not following the police order and for disorderly conduct.<sup>220</sup> Later on, based on GYLA's application the Kvareli municipality's member T. Gugoshvili was detained by the police for disorderly conduct.

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<sup>219</sup> According to the Internal Ministry Tsestkhaldze's house was searched following the operational information they received. The Ministry's press office explained that according to their information the candidate was keeping an unregistered weapon, which search didn't confirm.

<sup>220</sup> <http://gyla.ge/geo/news?info=2090>

## Appendix 3

### Cases of Obstructing Pre-election Campaigning

- On April 7 UNM's internal party meeting in Akhaltsikhe was marked by incidents.<sup>221</sup> A protest rally with participation of a member of Sakrebulo in Akhaltsikhe municipality Nodar Talakhadze and NGO Public Hall members was held in parallel with the meeting. UNM members who were coming out of the meeting were greeted with assaulting remarks.<sup>222</sup>
- On April 10 in various parts of the country: in Anaklia, Telavi, Tskaltubo, and Tbilisi attempts were in place to disrupt meetings organized by UNM representatives. In Batumi, Gigi Ugulava was verbally assaulted in front of the constitutional court where he was also egged. These incidents grew into verbal and physical assaults.<sup>223</sup>
- On April 12 an incident happened in Zugdidi before the start of the UNM rally. A verbal assault between UNM supporters and opponents grew into into a physical assault.<sup>224</sup>
- On May 12, 2014 conflict took place among GD supporters. According to GYLA's observers' two campaign offices that acted individually on behalf of GD, confronted each other.<sup>225</sup> During this confrontation GD's campaign office head in Tskaltubo Jemal Pantskhava damaged video camera of Rustavi 2 TV.<sup>226</sup>
- On May 24 GD coalition activists held a rally in front of the UNM campaign office where they shouted out: "Killers; you sold Rustavi; sectarians."<sup>227</sup> According to the UNM member and mayoral candidate Mamuka Chikovani, the same day he had a meeting scheduled in the office and the rally participants hindered him from pre-election campaigning.<sup>228</sup>
- On May 31, 2014 confrontations occurred during the rally and concert held in support of UNM's Krtsanisi majoritarian candidate Khatuna Berdzenishvili.<sup>229</sup> Some people threw eggs at the majoritarian candidate and her supporters.<sup>230</sup>

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<sup>221</sup> <http://sknews.ge/index.php?newsid=3482#.U0Q-mPmSxqU>

<sup>222</sup> <http://sknews.ge/index.php?newsid=3481#.U0e3SaiSxWI>

<sup>223</sup> <http://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/6455>

<sup>224</sup> <http://1tv.ge/news-view/67237>

<sup>225</sup> <http://topnews.com.ge/index.php?newsid=2366>

<sup>226</sup> <http://www.myvideo.ge/?act=dvr&chan=rustavi2> news program Kurieri from 15:16:40 to 15:18:12

<sup>227</sup> <https://www.facebook.com/photo.php?v=338667579616527&set=vb.306943529455599&type=2&theater>

<sup>228</sup> <http://www.reportiori.ge/?menuid=2&id=27985> The next day, on May 26 information came out that GD fired head of Rustavi campaign office.

<sup>229</sup> <http://www.myvideo.ge/?act=dvr&chan=rustavi2>

<sup>230</sup> <http://www.myvideo.ge/?act=dvr&chan=rustavi2>

- At night on May 28 an incident happened in Gardabani where locals of the Gardabani district confronted each other. The attack was so serious that (according to eyewitnesses, about 300 people were involved in attack) according to information agencies a special service forces had to be mobilized to relieve tension.<sup>231</sup>
- On June 7, 2014 members of UNM Giga Bokeria, Gigi Ugulava and Giorgi Baramidze held a pre-election meeting in front of the Batumi opera house.<sup>232</sup> Reportedly, political prisoners attended the meeting. The meeting was marked by confrontation. The party stated that unknown persons verbally assaulted UNM's leaders and supports first and later physically assaulted them. Later on, it was reported by the party that GD coalition organized the incident and that GD's Batumi mayoral candidate Giorgi Ermakov's campaign office representatives were involved in it. It was also mentioned that the police didn't show up on the scene.<sup>233</sup>
- On June 6 dozens of citizens and family members of the disappeared intelligence officer of the Defense Ministry Paata Kardava held a rally in front of the UNM campaign office.<sup>234</sup> The rally participants demanded punishment of UNM's Zugdidi Gamgebeli candidate Tengiz Gunava and former officials. The rally grew into a confrontation where the rally participants stoned UNM's campaign office. UNM's majoritarian candidate Salome Makatsaria was injured. Reportedly, the police detained two participates of the rally.<sup>235</sup>
- On June 9, 2014 at the Tsageri cultural center UNM leaders Gigi Ugulava and Giga Bokeria, who were meeting the constituents, were attacked by GD coalition members and candidates.<sup>236</sup> They threw eggs at Ugulava and Bokeria and physically assaulted them. The patrol police was on the scene however they didn't try to stop the coalition members.
- On June 11 in front of UNM's campaign office in Zugdidi family members and relatives of the disappeared intelligence officer of the Defense Ministry Paata Kardava and forester-ranger of the forest department Davit Tsindeliani held a rally where dozens of locals were also present. The rally participants demanded punishment of UNM's Zugdidi Gamgebeli candidate Tengiz Gunava and former officials on the bases of the fact that Tengiz Gunava was head of police department when Tsindeliani and Kardava disappeared. The rally participants wanted to break into the campaign office however the police managed to stop them.

<sup>231</sup> <http://gyla.ge/geo/news?info=2132> locals were dissatisfied with lawinforcements as they couldn't avoid such a large-scale confrontation and timely start of investigation.

<sup>232</sup> <http://www.myvideo.ge/?act=dvr&chan=rustavi2>

<sup>233</sup> The court case is initiated on the fact of beating up rather than on obstruction of pre-election campaigning.

<sup>234</sup> <http://gyla.ge/geo/news?info=2150>

<sup>235</sup> <http://www.myvideo.ge/?act=dvr&chan=rustavi2hq> 9 o'clock news program Courier from 21:41:20. It should be noted that Ministry of Internal Affairs released a statement on June 5 announcing the case of disappearance of Defense Ministry's intelligence officer Paata Kardava solved. The Prime Minister of Georgia stated that Tengiz Gunava was involved in Paata Kardava's case.

<sup>236</sup> Lasha Kvirikashvili, GD's candidate for Sakrebulo in Tsageri on party list; Gogita Akhvediani, coalition member, majoritarian candidate of village Aghvi and an independent candidate in the same village; and Ramaz Murtsvaladze, coalition member and employee of the Tsageri campaign office.

- On May 14 head of non-parliamentary opposition's Imereti regional office and head of Kutaisi campaign office Gogi Tsulaia was detained in Kutaisi on resisting arrest charges. The resistance was shown to the police officer who tried to perform his job.<sup>237</sup> The court gave only verbal warning to Tsulaia. Released Tsulaia stated that he planned to organize a rally in front of the Justice House on May 15 and later at the civil court, which was why, he was detained.<sup>238</sup>
- On May 21, 2014 the patrol police detained Georgian Way's Batumi majoritarian candidate for Sakrebulo Irakli Iremadze who was driving the vehicle. After they were detained the police took them for drug test. Iremadze's friend was released soon but Iremadze was kept for more than five hours. During this time Iremadze had a meeting scheduled with the public, which was cancelled.<sup>239</sup>
- May 28<sup>th</sup> training for GD DEC members and observers at CIDA in Rustavi was followed by confrontation. During the training UNM and Free Zone's members entered the CIDA office and tried to film the training.

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<sup>237</sup> <http://topnews.com.ge/index.php?newsid=2398>

<sup>238</sup> <http://kutaistoday.com/?p=5301>

<sup>239</sup> <http://www.netgazeti.ge/GE/105/News/31703/>

## Appendix 4

### Facts of Hindering the Process of Disseminating Election Materials

- On June 2, 2014 on the fence of an apartment building under construction in front of the Batumi Sakrebulo all posters of political parties besides the poster of old Batumi majoritarian candidate Irakli Chavleishvili were painted in black.<sup>240</sup>
- On May 25, 2014 a representative of Non-parliamentary Opposition Soso Bortsvadze and UNM representatives were deprived of the opportunity to place posters by GD representatives.<sup>241</sup>
- According to Nino Burjanadze-United Opposition's Gori mayoral candidate Mamuka Nozadze, GD posters were placed on top of his and the majoritarian candidate's posters in Gori in the station settlement. While in Chala settlement his and majoritarian candidate's posters were covered by Salome Zurabishvili-Georgia's Rode posters. Also, on May 27 posters were torn down on Stalini St. in Gori.
- On May 14, 2014 Nino Burjanadze-United Opposition's Telavi Sakrebulo's proportional list candidate Maka Mo-shvili held a briefing for the media where she stated that her party was not allowed to place Gangebeli's and mayoral candidate's campaign banners while GD had unhindered access.<sup>242</sup>
- Non-parliamentary Opposition representation Gogi Tsulaia held a briefing in Kutaisi where he stated that campaign posters were placed on lamp posts in Kutaisi which was a violation of the election law and #510 ordinance of Kutaisi Sakrebulo which prohibited placement of campaign posters on lamp posts. According to him both the GD and UNM violated this norm. Acting mayor Nodar Mikiashvili stated that the mayor's office would react to cases of violations.<sup>243</sup>
- UNM placed campaign banners and campaign materials for campaign purposes in various places in Tbilisi. According to the party, on May 7, 2014 unidentified persons defaced UNM's campaign banner (Nika (Nikanor) Melia with Gigi Ugulava) on Davitashili rise and Tskneti highway in Tbilisi. Also, on May 9, 2014 they tore down, painted and covered up Mayoral candidate Nika Melia's campaign materials on Ilia Chavchavadze street, nearby Vake Park with posters of Vake majoritarian candidate for Tbilisi Sakrebulo Bacho (Henry) Dolidze. Similar cases occurred on various locations.

## Appendix 5

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<sup>240</sup> Link to TV 25 [http://tv25.ge/?page=news&news\\_id=11686](http://tv25.ge/?page=news&news_id=11686)

<sup>241</sup> [qartli.ge](http://qartli.ge)

<sup>242</sup> <http://localinfo.ge/?p=1743>

<sup>243</sup> [http://psnews.ge/index.php?m=68&news\\_id=56331#](http://psnews.ge/index.php?m=68&news_id=56331#), article in internet newspaper PS news.

## Illegal Acts Against Journalists

- On May 27, 2014 journalist Merab Rodonaia was illegally deprived of the opportunity to attend a public meeting of GD candidate with residents of village Rukhi in Zugdidi district. He was threatened and assaulted, and video files were deleted from his photo camera.
- The second incident with journalist Merab Rodonaia happened on June 14, 2014 in Zugdidi in the office of GD candidate. GYLA appealed to the Ministry of Internal Affairs on this issue; investigation is still underway.
- In July 2014 at GD candidate's pre-election meeting with Akhmeta schoolteachers, the Gamgebeli candidate and his supporters made the Kakheti Information Center editor Gela Mtvilishvili leave the place; attempts were made to take away his video camera. Eventually, the candidate and his supporters disrupted the meeting due to journalist's presence.
- Dissatisfied with the critical movie filmed about the activities of the Adjara Supreme Council, a member of the Adjara Supreme Council Medea Vasadze called TV 25's journalist Jaba Ananidze on June 8, 2014, criticized his work, threatened with legal action against him, and spoke with him about the rumors in the city about his non-traditional orientation. The journalist released his and the deputy's phone conversation. GYLA published two public statements and called on the law enforcements to investigate the case of illegally preventing the journalist from conducting his professional activity; they also demanded the Supreme Council to vote on dismissal of Medea Vasadze from the position of the human rights commission chair. Later on the council voted on the dismissal of Medea Vasadze from the chairman's position but due to insufficient number of votes the decision wasn't made. The law enforcements didn't start the investigation process due of the lack of signs of offence.
- **The case of TV company TV 25** – According to the owner of TV 25 Giorgi Surmanidze and Jemal Verd zadze, they were invited to the General Prosecutor's Office on December 17, 2013 with regard to the investigation of the transfer of state property to the relatives of the shareholders of the TV Company with symbolic price<sup>244</sup> on February 24, 2012. At that time no investigation was conducted. An informal meeting took place where, according to the company owners, they came under psychological pressure. According to the owners of the TV Company they were pressurized by up to ten prosecutors who were instructed by an official of the prosecutor's office. According to Jemal Verd zadze and Giorgi Surmanidze, the pressure involved assault and threatening with family members. Also, as they explained, the prosecutors were aggressively demanding from the owners to testify in favor of investigation otherwise threatened with imprisonment.
- **Rustavi 2 case** – At the press conference on May 6, 2014 Rustavi TV's director stated that internal affairs agencies were tapping the TV company's management. To prove this a secret video tape was released where TV company's director Nika Gvaramia and his deputy, program host Nino Shubladze were speaking with each other in the office. Later on, on May 10, 2014 Rustavi 2 aired secret audiotape of phone conversation between the of-

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<sup>244</sup> On February 24, 2014 relatives of TV 25's owners were transferred various state property worth of 4 million GEL at a symbolic amount through direct sale. The same day, according to the public registry, the owners of the TV Company alienated their shares.

ficials and some businesspersons. When airing these tapes Rustavi 2 was stressing that the reasoning behind their airing was to unveil fallacious practice of illegal tapping. The prosecutor's office started investigating the case with article 158 of the criminal code (infringement of secrecy of private communication). Release of this information by Rustavi 2 was followed by conflicting reactions from the government. Officials, including Manana Kobakhidze, stated that Rustavi 2 should have named the source of the information<sup>245</sup> while Eka Beselia said publicly that everyone equally should be brought to justice for the infringement of the secrecy of private communication.<sup>246</sup>

- **The case of television audience measuring company TVMR-Georgia** – On February 27, 2014 the revenue service started carrying out inventory checking in the television audience measuring company TVMR-Georgia. During this process the revenue service representatives requested information about location of people meters. This information according to the research rules is confidential and disclosure of such information will diminish credibility of the ratings.<sup>247</sup> This will have negative impact on the media environment and financial standing of the TV companies.

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<sup>245</sup> <http://news.ge/ge/news/story/88285-arsebitha-rom-rustavi-2-ma-rogorst-dazaralebulma-mkharem-tavisi-valdebulebebi-shearsulos>

<sup>246</sup> [http://www.youtube.com/watch?v=ijFtBbsR\\_w4](http://www.youtube.com/watch?v=ijFtBbsR_w4)

<sup>247</sup> For tax audit purposes, the company offered revenue service a partial information about the participating persons (10% of participants) and full information about unique identification information of people meters. Company TVMR-Georgia nowadays is the only company in Georgia that does TV ratings based on people meters, which is an internationally acclaimed and approved methodology. Coalition for Media Advocacy, whose member is GYLA, considered that the delivery of information about the participating persons to the third person would jeopardize the process of measuring TV ratings. According to the coalition this might cause distrust of other companies towards TVMR-Georgia that will affect the company's income and functioning as well as the state of the advertising market. <http://gyla.ge/geo/news?info=2033>