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ASSOCIATION**

Free, Fair and Equal Electoral-Political 2019-2022 Cycle in Georgia

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INTRODUCTION

In August 2019, the Georgian Young Lawyers' Association (GYLA) has commenced implementation of the project “Free, Fair and Equal Electoral-Political 2019-2022 Cycle in Georgia”, which covers the area of Tbilisi, Kakheti, Mtskheta-Mtianeti, Kvemo Kartli, Shida Kartli, Imereti, Samegrelo-Zemo Svaneti, Guria and Adjara. One of the goals of the project is to support improvement of the electoral environment through monitoring and evidence-based advocacy. To this end, the organization will monitor ongoing political processes and develop recommendations, which will be presented to the public and decision-makers.

CEC DECISION ON PARTICIPATION OF THE VOTERS PLACED IN MEDICAL FACILITIES AND ISOLATION

On October 19, the CEC issued a decree on the voting procedures and sanitary-hygienic requirements in order to ensure the participation in the electoral process of October 31 of voters placed in medical facilities and isolation.¹ These rules were related to the rules of voting of the mentioned persons and addressed the representatives of election administration and electoral stakeholders.² According to the decree, in order to ensure participation in the voting process of persons placed in the medical institutions and isolation, the CEC established at least one special polling station in each municipality, and at least 10 polling stations in Tbilisi.³ Special groups carried out the functions of precinct election commissions, which later ensured the voting of persons placed in medical institutions and isolation.⁴ Each member of this group was equipped with following: disposable gowns, facemasks, gloves, protecting shields and disinfection means.⁵ Furthermore, the members of the groups handed the list of mobile ballot box and ballot papers without close contact, keeping the distance of at least 1,5 meters.⁶ Representatives of registered local and international organizations, accredited media and election subjects were given the opportunity to observe the voting day and votes counting process.⁷ The electoral subject was authorized to assign one representative considering the quantity of the list of mobile ballot box, the local observer organizations were authorized to assign one observer, the international observer organizations – one observer with an interpreter and representatives of press and other media – 2-2 representatives.⁸

The voters in isolation were to apply to CEC information center with written statement October 24 to October 26 until 22:00.⁹ With the CEC decision, this term was prolonged to 14:00 of October 27.¹⁰

GYLA considers that the document developed by the CEC responds to existing challenges in relevant way, however, expresses its concern that not sufficient time was considered to discuss it, therefore the organization had to evaluate the project in force majeure.

¹ “The Election Administration Ensures the Conduct of the 31 October Elections for Voters Placed in Medical Facilities and Isolation in Full Compliance with Sanitary-Hygienic Rules”, official webpage of the Central Election Commission, 19.10.2020, available: <https://bit.ly/311rWAU>, updated: 13.11.2020.

² Decree №45/2020 of the Central Election Commission, dated October 19, 2020.

³ Ibid. Paragraph 1, Article 2.

⁴ Ibid. Paragraph 2, Article 2.

⁵ Ibid. Sub-paragraph “a”, paragraph 2, Article 8.

⁶ Ibid. Sub-paragraph “d”, paragraph 2, Article 8.

⁷ Ibid. Paragraphs 1 and 2, Article 4.

⁸ Ibid. Paragraph 3, Article 4.

⁹ Ibid. Paragraph 8, Article 5.

¹⁰ “The Deadline for Self-Isolated Voters to Request Mobile Ballot Box Has Extended”, official web-page of the Central Election Commission, 19.10.2020, available: <https://bit.ly/3nQ2jFc>, updated: 13.11.2020.

AGREEMENTS DEVELOPED WITH SUPPORT OF CEC

a. Memorandum of Understanding with the Ministry of Internal Affairs of Georgia (MIA)

Tamar Zhvania, the CEC Chairperson and Vakhtang Gomelauri, the Minister of Internal Affairs have signed the Memorandum of Understanding on the conduct of 31 October, 2020 parliamentary elections of Georgia in a safe and calm environment.¹¹

The Memorandum aims to define additional forms and legal framework of cooperation between the parties during the election period, in order to support the conduct of elections in safe and calm environment.¹² The Memorandum envisages joint measures for voting day,¹³ joint trainings and working meetings,¹⁴ as well as coordinated exchange of information between MIA and the CEC.¹⁵

GYLA welcomes signing the Memorandum and hopes that this agreement will support the conduct of elections in safe and calm environment.

b. Memorandum of Understanding on misuse of administrative resources

The Memorandum of Understanding was signed between the CEC, Interagency Commission for Free and Fair Election and 13 local NGOs.¹⁶ The Memorandum of Understanding was developed based on working meetings between the election administration and NGOs.¹⁷

The Memorandum signatories share the opinion stated in OSCE Copenhagen Conference Document that there should be “a clear separation between the State and political parties” and that the state should “provide ... political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities”, based on what they agree that the relevant provisions of the Election Code are explained by them according to the Memorandum text. Furthermore, during the administrative and legal proceedings they will be guided by the explanations provided in the Memorandum.¹⁸

GYLA joins the Memorandum and hopes that the parties are guided with joint vision and internationally recognized standards.

THE OSCE/ODIHR INTERIM REPORT OF THE 2020 ELECTIONS

OSCE Office for Democratic Institutions and Human Rights have published 2020 elections interim report within the framework of limited observer mission, which covers the period from September 25 to October 10.¹⁹

The document covers general political context, constitutional amendments and electoral legislation reform.²⁰ In

¹¹ “The CEC Chairperson and Minister of Internal Affairs Signed the Memorandum of Understanding”, official web-page of the Central Election Commission, 19.10.2020, available: <https://bit.ly/310WXoO>, updated: 14.11.2020.

¹² Memorandum of Understanding between Central Election Commission of Georgia and Ministry of Internal Affairs of Georgia on Ensuring the Conduct of Parliamentary Elections of October 31, 2020 in safe and calm environment, official web-page of the Central Election Commission, available: <https://bit.ly/3ktl6Eb>, updated: 13.11.2020.

¹³ Ibid. Paragraph 2, Article 2.

¹⁴ Ibid. Paragraph 3, Article 2.

¹⁵ Ibid. Paragraph 4, Article 2.

¹⁶ “The Memorandum of Understanding regarding the Usage of the Administrative Resources during the 2020 Parliamentary Election”, official web-page of the Central Election Commission, 16.10.2020, available: <https://bit.ly/33cRvJc>, updated: 13.11.2020.

¹⁷ Ibid.

¹⁸ “Memorandum of Understanding on Use of Administrative Resources for October 31, 2020 elections, official web-page of the Central Election Commission, 16.10.2020, available: <https://bit.ly/3lHh4t6>, updated: 13.11.2020.

¹⁹ Interim Report of OSCE Office for Democratic Institutions and Human Rights, 16 October 2020, Available: <https://bit.ly/361udrL>, updated: 13.11.2020.

²⁰ Ibid. pages 4, 5, 6, 7.

relation to the latter, some of the OSCE/ODIHR recommendations were partially and some fully considered.²¹ However, part of the recommendations remain responded. In particular, the regulations related to the pre-election agitation, electoral administration, campaign expenditures, appeal process, re-count of votes and abolition.²² OSCE/ODIHR believes that the existing legislative framework provides the basis required for conduct of democratic elections, however their effective implementation is crucial.²³

According to the report, during the reporting period the CEC has not violated the terms of technical preparation.²⁴ The CEC held regular sessions open to representatives of electoral subjects, accredited observers and the media.²⁵ It is noted that all PEC chairs elected from members nominated by parties, represent the Georgian Dream.²⁶ Number of representatives of the opposition parties and civil society organizations raised concerns over the impartiality of lower-level commissions.²⁷

The report noted several cases of pre-election violence, alleged cases of voters' bribery, including social allowances established by the state in relation to COVID-19, as the pre-election challenge.²⁸

The report furthermore covers the issues related to the funding of political parties, media, disputes and participation of the minorities in the process.²⁹

ACTIVITIES OF INTERAGENCY COMMISSION

In order to prevent the violation of election legislation by public servants and to respond to them, the interagency commission is established at the Ministry of justice.³⁰ The interagency commission is established not later than 1st July³¹ of election year and is active until the day when the CEC officially publishes final results of elections.³² The composition of an interagency commission shall be determined by an order of the Minister for Justice of Georgia, while the rules of operation of the interagency commission shall be determined by its statute approved by the Minister for Justice of Georgia.³³ The interagency commission shall be convened by the commission chairperson when necessary, but at least once in two weeks, and after the registration period for electoral subjects expires –at least once a week.³⁴ If any statement of violation is confirmed, the commission shall have the right to recommend to any public officer, an administrative body, or the CEC to take respective measures within a reasonable time.³⁵

The Commission has gathered 9 times for the 2020 parliamentary elections. In accordance with the legislation, the Commission considered the information spread by media regarding the legislation violation facts by public servants, as well as the facts of violations, provided by the political parties or observer organizations. The meetings considered the cases of illegal participation in agitation, alleged misuse of administrative resources and identified problems related to pre-election campaigns.³⁶ Other cases are related to the alleged facts of dismissal from jobs on political grounds, however in number of cases the commission failed to establish existence of personal or political interests.³⁷ The meetings also considered the cases of pressure on and intimidation of the representatives of

²¹ Ibid. page 7.

²² Ibid.

²³ Ibid.

²⁴ Ibid. page 8.

²⁵ Ibid.

²⁶ Ibid. page 9.

²⁷ Ibid.

²⁸ Ibid. page 13.

²⁹ Ibid. pages 14-20.

³⁰ Paragraph 3, Article 48, Election Code of Georgia.

³¹ Ibid. Paragraph 4, Article 48.

³² Ibid. Paragraph 4¹, Article 48.

³³ Ibid. Paragraph 5, Article 48.

³⁴ Ibid.

³⁵ Ibid. Paragraph 9, Article 48.

³⁶ The minutes of the meeting of the Interagency Commission for Free and Fair Elections N5, Official webpage of the Ministry of Justice of Georgia, 08.09.2020, available: <https://bit.ly/3eZoIg1>, updated: 14.11.2020.

³⁷ The minutes of the meeting of the Interagency Commission for Free and Fair Elections N6, Official webpage of the Ministry of Justice of Georgia, 22.09.2020, available: <https://bit.ly/3nqt82K>, updated: 14.11.2020.

opposition parties, provocations during the pre-election campaign and the facts of confrontations.³⁸

On the meeting held on October 7, the Commission considered the information spread by media regarding the misuse of administrative resources and the results of response on it by the state bodies and issued recommendations for public servants³⁹ of central and local government. The Commission urges the parties:

- a) to refrain from participation in pre-election agitation, including via social networks, during working hours and/or when fulfilling official functions;
- b) when performing their professional activities to distance themselves to the maximum from the political processes, so that there is no perception of them acting in favor of certain political party/electoral subject;
- c) to refrain to the maximum from participation in meetings held against any political party/electoral subject and from violence, in order to exclude even the verbal confrontation on political grounds and to allow the candidates contact with voters without delay.

The Commission applied with the recommendations to the political parties/electoral subjects and urged, to give guidance to their supporters, especially public servants, for them to refrain from attending the pre-election meetings of competitor political party candidates and from causing conflict.⁴⁰ Also to categorically prohibit damaging the agitation materials of the competitor parties or hindering their placement.⁴¹

Three days prior to 2020 parliamentary elections the Commission issued recommendations for employees of educational resource-centers, public schools and pre-school institutions as well.⁴²

INTERNATIONAL SUPPORT FOR FAIR ELECTORAL ENVIRONMENT AND ELECTIONS

The EU stated that 2020 parliamentary elections will be observed by the group of European diplomats.⁴³ According to the statement, more than 70 observer groups consisting of diplomats will visit more than 1,000 polling stations throughout the country.⁴⁴ The group consists of representatives of EU in Georgia and employees of EU member-states' embassies in Georgia.⁴⁵ „This is a testament to the EU's unwavering support to the democracy here in Georgia, and it is the demonstration of our readiness to walk the extra mile to make sure that we can instill some further trust in these elections by providing international eyes and ears,” – stated Carl Hartzell, EU Ambassador to Georgia.⁴⁶

Adam Kinzinger, Co-chair of the Friends of Georgia Group in the United States Congress have also responded to the approaching elections and expressed hope that Georgian people will be able to participate in fair and transparent electoral process.⁴⁷ “These (elections) are an important step for their democracy and should be conducted without interference and incidents”, - said Kinzinger.⁴⁸

German Ambassador to Georgia Hubert Knirsch, also evaluated the situation in Georgia and said that actively monitors the environment.⁴⁹ “I am happy with the fact that as it seems, the violent incidents are diminished at this

³⁸ The minutes of the meeting of the Interagency Commission for Free and Fair Elections N7, Official webpage of the Ministry of Justice of Georgia, 07.10.2020, available: <https://bit.ly/36zfrht>, updated: 14.11.2020.

³⁹ Recommendation of the Interagency Commission for Free and Fair Elections of October 7, 2020.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Recommendation of the Interagency Commission for Free and Fair Elections of October 28, 2020.

⁴³ “EU announces Diplomatic Watch for the Georgian 2020 Parliamentary elections”, Delegation of the European Union to Georgia, 29.10.2020, available: <https://bit.ly/3l0YDyC>, updated: 14.11.2020.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ “Adam Kizinger – the elections should be conducted without interference and incidents”, information portal InterPressNews, 27.10.2020, available: <https://bit.ly/3pvuOJO>, updated: 14.11.2020.

⁴⁸ Ibid.

⁴⁹ “The German Ambassador - I am happy with the fact that as it seems, the violent incidents are diminished at this moment, but we received many information regarding various aspects of the election environment, which sometimes are difficult to evaluate”, information portal InterPressNews 27.10.2020, available: <https://bit.ly/3krg1fL>, updated: 14.11.2020.

moment, but we have received many information regarding various aspects of the election environment, which we have collected and which sometimes are difficult to evaluate”, - he noted.⁵⁰

The US Ambassador, Kelly Degnan also commented on elections and urged Georgian voters to vote unconditionally in compliance with COVID-19-related regulations.⁵¹ She emphasized the necessity of conducting the elections in calm, free and democratic environment.⁵² According to Degnan the fair elections should be free from intimidation-bribery, nobody should force voters to take a photo of the bulletin or threat with dismissal.⁵³ According to Degnan, such elections will be a step towards the NATO.⁵⁴

Senator Jim Risch, US Senate Foreign Relations Committee chairman also responded to the elections in Georgia and stated that this is an important test for democracy.⁵⁵ “The credibility of these elections is as important as ever have been. I look forward to seeing Georgia reaffirm its democratic choice and stability through free, fair and credible elections. All parties must continue to respect the legal framework agreed by the political parties this year”, - stated Risch.⁵⁶

GYLA welcomes the interest and support of Georgia’s international partners and believes that their engagement will promote the conduct of elections in democratic and peaceful environment.

⁵⁰ Ibid.

⁵¹ “I wish to see an end to personality politics that has been polarizing Georgian society – Degnan”, information portal Publika, 28.10.2020, available: <https://bit.ly/3f5gJhx>, updated: 14.11.2020.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ “Risch: the credibility of these elections is as important as ever been”, information portal Netgazeti, 29.10.2020, available: <https://bit.ly/2UqI6cl>, updated: 14.11.2020.

⁵⁶ Ibid.