

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA and the International Society for Fair Elections and Democracy Respond to the Statement of the CEC

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Recently media has been reporting about election subjects replacing their representatives following the Election Day. In particular, under the eleven resolutions of the CEC Secretary Gizo Mchedlidze, dated October 3, 2012, representatives of the election subject United National Movement – More Benefit to People have been replaced in individual district election commissions. Para.6 of Article 42 of the Election

Code clearly stipulates that [] election subject shall have the right to withdraw and/or replace its representative at any time on which it shall inform the appropriate election commission [] meaning that election subjects are prohibited from withdrawing or replacing their representatives following the Election Day. In view of the applicable legislation, GYLA and ISFED believe that replacement of representatives following the Election Day as an illegal decision.

Yesterday, on October 6, the CEC released a statement about replacement of election subjects [] representatives. In particular, the CEC has interpreted para.6 of Article 42 of the Election Code as follows: [] election subject is prohibited from withdrawing or replacing a representative only on the Election Day. The prohibition does not apply to the period after the polling is finished. A The statement also reads: [] is regrettable that Georgian Young Lawyers [] Association and the International Society for Fair Elections and Democracy have made a one-sided and unqualified comment about the issue. The prohibition, as interpreted by them, makes it impossible for election subjects to replace or appoint representatives during the period before future elections."

First and foremost, referring to comments of GYLA and ISFED as [] and unqualified A is completely unacceptable and unethical on part of the CEC. The Code of Ethics of the election administration officials, solemnly signed recently, obligates both the CEC as well as the CEC [] office [] express its opinions by relaying substantiated criticism in a tactful manner A We remain hopeful that all requirements of the Code of Ethics will be thoroughly fulfilled in future.

We [] like to disagree with interpretation of the CEC according to which the right of an election subject to withdraw and/or replace its representative any time prior to the Election Day means that withdrawal or replacement of representatives is prohibited only on the Election Day due to the following circumstances:

∇The provision clearly indicates that an election subject has the right to withdraw and/or replace its representative any time prior to the Election Day, meaning that election subjects are no longer entitled to this right on the Election Day and beyond. The provision does not indicate that it is prohibited to withdraw and/or replace a representative only on the Election Day.

∇Our interpretation is further validated by use of the term [] subject [] in the

provision. Under para.1 of Article 42 of the Election Code, for purposes of the Article, an election subject is a party participating in elections independently, an election bloc or an initiative group of voters. Under para.2 of the Article, a party, election bloc or an initiative group of voters are entitled to appoint no more than 2 representatives to every election commission. Contrary to the CEC ☐ belief, these provisions indicate that election subjects can appoint representatives during the election period, as election subjects do not exist during a non-election period and therefore, there is no point in presenting a person already selected for relations with election commissions;

As to the right of a registered party/election subject to participate in any other type of elections before future parliamentary elections, as stipulated by the law, the law allows election subjects to discharge their power of appointing, withdrawing or changing representatives during election period without any limitations. These subjects may acquire the status of an election subject based on their application, since the right to participate in any other type of elections before parliamentary elections is not automatic but rather, certain formalities must be observed.

In conclusion, we ☐ like to note that all 11 resolutions of the CEC, dated October 3, 2012, are illegal which may serve as grounds for their annulment. As to appointment of acting MPs or former Ministers, Deputy Ministers and the First Deputy Chief Prosecutor as representatives to district election commissions by the election subject UNM-More Benefit to People, we believe that it may have to do with efforts to influence DEC members in decision-making, which is unacceptable.