

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA will represent Salome Zourabishvili's interests in a case concerning her registration as a candidate for Presidential Elections

Tomorrow, on September 5, on behalf of Salome Zourabishvili GYLA will apply to the administrative board of Tbilisi City Court for invalidation of the resolution #64/2013 of the chairman of the Central Election Commission refusing to register Salome Zourabishvili as a candidate for the 2013 presidential elections.

GYLA considers the resolution of the CEC chairman unsubstantiated, based on clause a, b of Article 3 of the Election Code which determines that individuals who have the right restricted by the Constitution and the Georgian legislation (the right of a citizen to be eligible for election to a representative body of public power and of a public office) have no passive electoral right. The chairman of the CEC considers that paragraph Article 29 (1¹) of the Constitution which bans individuals with dual citizenship from taking the presidential office, the position of the chairman of the Parliament and the Prime Minister, is the Constitutional norm that restricts passive suffrage to individuals (in the case of citizens with dual citizenship).

In reality, however, Article 29 (1¹) of the Constitution does not regulate the issue of realization of the right to passive suffrage including for an individual with dual citizenship. Instead, Article 29 (1¹) restricts rights of individuals with dual citizenship in terms of occupying the three highest state positions. The limitation, though, is not so broad as to restrict individuals with dual citizenship to be the candidate on the position of the President, Prime Minister or the Chairman of the Parliament. If the legislator had such intent, it should have specified in Article 29 (1¹) that individuals with dual citizenship cannot occupy the position of the President, Prime Minister or the Head of the Parliament and run in the election for the positions.

Article 29 (1¹) of the Constitution does not regulate legal relationships in terms of registration of Georgian citizens as a presidential candidate. The constitutional provision with its detailed content does not apply to election process. The restriction provided for in Article 29 (1¹) of the Constitution will be effective from the moment when an individual with dual citizenship wins the presidential elections. In such case, a person elected on the position of the President, should abandon citizenship of other country by the time the s/he swears presidential oath.

Constitutional provision restricting passive suffrage in presidential elections is provided for in Article 70 (2) of the Constitution, rather than in Para Article 29 (1¹). It provides quite detailed requirement for registration of the presidential candidate and does not ban individuals with dual citizenship to run in the elections.

In view of above, refusal of the Central Election Commission on Salome Zourabishvili's registration as a candidate for Presidential Elections was unreasoned. Consequently, GYLA is going to protect Salome Zourabishvili's interests in a court.