

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Opinions on the government proposals for improving Election Environment

On June 27, 2011 five political parties signed the agreement proposed by the governing party. The document entails pending activities for improving election legislation.

We, “Georgian Young Lawyers’ Association”, “International Transparency -Georgia” and “International Society for Fair Elections and Democracy” – organizations actively observing ongoing negotiations on the development of election environment, welcome advances in that direction, yet we should emphasize that submitted agreement, supported by certain opposition parties, cannot fully guarantee fair and free elections.

Like our previous statements, we highlight that problematic issues of election legislation should be considered and addressed comprehensively, insofar as their partial regulation will not ensure creation of fair and competitive election environment in the country. Imposition of preliminary limitations as though no other issue will be considered except already submitted ones is impermissible, since the document does not fully address

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certain major issues such as formation of election administrations, limitations in application of administrative resources, improvement of the political parties' funding system, creation of financial monitoring mechanisms and so on. Furthermore, proposed regulations do not guarantee eradication of the deficiencies in election legislation.

Hereby we submit our opinions on each proposal:

- The issue of increasing number of Members of Parliament up to 190 MPs by the governing party (83 MPs elected by majoritarian system and 107 MPs elected on the basis of proportional system) should be specified on a legislative level. It shall be implemented only after the referendum, since according to Paragraph 4 Article 28 of the Organic Law of Georgia on Referendum "only referendum can invalidate or alter the decision adopted as a result of referendum" otherwise; any introduced amendment to the constitution will be treated as violation of the Organic Law of Georgia.

It is also strange why the parties to the agreement make promises on the issues that should be solved explicitly at the referendum by the Georgian population.

- We should emphasize that submitted proposals cannot resolve the problem related to the ratio of votes received by political parties at the elections to the number of acquired seats in the Parliament. Furthermore the initiative cannot safeguard equality principle of the value for each elector's vote according to administrative precincts. Pursuant to international standards, maximal deviation in number of electors among election districts shall not overcome 15-20%.
- Specification of voters' lists is a vital issue for holding fair elections. We welcome the idea of setting up a working group composed of government, opposition and NGO representatives that, compared to the past elections, will initiate operation far earlier before the elections. Furthermore, we see the necessity of a separate body that will coordinate the activities of the commission, will define methodology of its activity and other issues. Yet, we consider that one agency should be identified in charge of making voters' lists and compliance of data bases used in formation of voters' lists should be ensured with each other.
- We consider that establishment of Interagency Coordination Council on the basis of law is deficient mechanism for preventing application of administrative resources. As already stated repeatedly, for the past three elections the interagency working group was unsuccessful in investigating election related violations timely and ensuring due punishment of violators. Therefore we deem that apart from intensifying monitoring it is also necessary to investigate election violations in a speedy manner and inform public proactively on the outcomes of investigation.
- Though we appreciate extending the term for dispute consideration from two to four days the amendment is nevertheless insufficient for resolving problems relating to election disputes. Frequently, legislative norms are unclear and open to various interpretations.
- It is essential to create the mechanism for effective monitoring of the donations in parallel to increased state funding for political parties. We consider that relevant amendment should be introduced to the organic Law of Georgia on Citizens' Political Unions and the Election Code for improving the reporting forms and monitoring of political parties' funding. Moreover, an independent body should be established in charge of monitoring political parties' funding and their pre-election campaign.
- We do not support the initiative on twofold increase of the limit for the donations of election subjects. Existing limit is already high and Georgia occupies one of the leading positions in terms of high donations. Furthermore, we think that proposed amendment will neither ensure establishment of more competitive election environment nor stimulate more donations to opposition parties and their diversification.
- We welcome the initiative that bans placement of district commissions in the buildings that belong to local self-governments and presidential envoys and grants representatives of elections subjects the right to participate in registration of complaints and calculation of election ballots jointly with representatives of precinct commissions. The registration process of election subjects will also be simplified.

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- Applicable Election Code already envisages the proposed media monitoring mechanism; therefore we do not think that the agreement proposes any novelty that would have drastically altered the problems with media broadcasting.

In conclusion we think that submitted amendments do not address the current problems, regulation of which is vital for improvement of election environment.

In view of the above we appeal the undersigned political parties to find more comprehensive approach to the problem. Though submitted suggestions contain positive trends, yet they are insufficient for establishing fair and free election environment. To this end the discussion shall continue on improvement of election environment. We are ready to participate in elaborating necessary legislative amendments for actual improvement of election environment.