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OBSERVATION MISSION OF THE 2021 LOCAL SELF-GOVERNMENT ELECTIONS

MONITORING REPORT OF THE PRE-ELECTION
ENVIRONMENT, ELECTION DAY,
POST-ELECTION PERIOD AND BY-ELECTIONS

OBSERVATION MISSION OF THE 2021 LOCAL SELF-GOVERNMENT ELECTIONS

**Monitoring Report of the Pre-Election Environment,
Election Day, Post-Election Period and By-Elections**

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EXECUTIVE SUMMARY

The 2021 local elections were held amid the pandemic and ongoing political crisis. In the months leading up to the elections, a number of amendments were made to the legislation based on the political agreement reached on April 19, mediated by the President of the European Council, Charles Michel. As a result of the reform, the legislation has improved in many areas; however, the free pre-election environment has been hampered because of the sharp polarization and irregularities in the campaigning process. The main challenge again was blurring the line between the government and the ruling party and misuse of administrative resources, giving the majority an unjustified advantage and failing to create equal conditions for everyone. The cases of pressure and intimidation of the opposition candidates and their supporters and the dismissal of public officials on political grounds had a negative impact on the campaign. Politically motivated attacks, incidents of verbal and physical assault, and violence in the run-up to both rounds have intensified with Election Day approaching. Attempts to bribe voters and put pressure on them prevented citizens from exercising their right to vote. These tendencies, together with the delay in the investigation of criminal cases, damaged the pre-election process and failed to ensure that the campaign was conducted under normal conditions.

The political crisis, prior to the Local Self-Government Elections, had been significantly exacerbated by disagreements between the ruling party and the opposition over the results of the 2020 parliamentary elections. The parties, despite the facilitation of international partners, were unable to reach an agreement for months, leading to a stalemate in the country. The process moved to a new stage following the visit of European Council President - Charles Michel - to Georgia. With his mediation, the parties signed a political agreement on April 19. All parties that joined the agreement, including the Georgian Dream (GD), committed themselves to reforms in the areas of justice system, elections, and the redistribution of power in the Parliament. One of the points also referred to the possibility of snap elections, in case the ruling party would have received less than 43% of the true proportional votes in the 2021 elections. Following this agreement, a large number of opposition parties agreed to take up the mandates. The main opposition party, the United National Movement (UNM), from the outset, did not join the agreement and the ruling party soon withdrew from the agreement because "more than half" of opposition lawmakers did not sign it, and the agreement "was not valid anymore." A few months later, the largest opposition party signed the April 19 document.

During the campaign, the Georgian Dream strategically attacked local observer organizations, the Georgian Young Lawyers' Association (GYLA), Transparency International Georgia (TIG), and the International Society for Fair Elections and Democracy (ISFED), and criticized their reports. According to the Georgian Dream, the problematic trend in all three reports was the separation of violations and "bad practices," and the assessments were not clear and transparent enough, which, according to them, were based on internal criteria of the organizations. The attacks of the ruling party were characterized as contradictory, slanderous, formalistic, and superficial. In a response letter, GYLA stressed out that the criticism of the Georgian Dream was intended to discredit the organization and tarnish its image, as GYLA has the name of an impartial and competent organization in public.

The return of the third president of Georgia, Mikheil Saakashvili, who was arrested by law-enforcement bodies the day before the elections, had a significant impact on the political agenda. This was preceded by two large-scale rallies of the GD and the UNM during the campaign, which were attended by thousands of people. Shortly before the elections, the campaign was completely engulfed by a showdown between the two polarized parties. This did not leave room for substantive discussion on local issues, competition between parties, and informed decision-making by voters.

The agreement of April 19 improved the electoral legislation in a number of areas, including the change of the electoral system at the local level. Compared to the previous elections, the proportional share in the local elections increased, and the threshold was 2.5% in Tbilisi and 3% everywhere else. The threshold for electing majoritarian members of the City Councils (Sakrebulos) was set at 40%. Despite the positive steps, the boundaries of the majoritarian constituencies established for local self-government elections, which contradicted the principle of equality of votes, were problematic. GYLA appealed to the Constitutional Court to declare the distribution unconstitutional. The reform also changed the gender ratio in the proportional lists for local self-government elections, according to which at least one in three candidates on the party list must be of the other sex. This worsened the standard that required parties to have the other sex on every second candidate on the list.

Electoral reform reorganized the composition of election commissions and the rules for selecting its members at all three levels. Prior to that, the current election administration had disproportionately large representation and influence by the ruling party, largely due to the opposition's distrust of the electoral process. The number of CEC members was increased to 17, which served to achieve a more balanced representation of political parties. A high quorum was established in the selection procedure to form a consensus around the candidates. In addition, an anti-deadlock mechanism has come into force in the procedure for electing a CEC member and chairperson to prevent a stalemate. A 4-week interval was set between the voting procedures. However, during the transition period, this tenure was reduced to 1 week. The CEC chairperson and two professional members were elected according to the new regulations, however, unfortunately, they only won the majority of votes of the deputies, and no consensus was reached between the parties on this issue. The parties that overcame the threshold in the parliamentary elections appointed nine party members of the CEC; however, according to the temporary mechanism, preference was given to those parties that had more budget funding. With this regulation, the two parties - the Labor Party and the European Georgia - Movement for Freedom - were deprived of the chance to appoint a representative in the election administration. A representative of the opposition party was elected as one of the deputy chairpersons of the CEC. The pluralistic composition of the CEC has helped to increase trust in the administration, including the initiative to broadcast CEC sessions live, which has contributed to this work.

Despite the positive steps, district and precinct election commissions still face challenges, including in terms of the trust. At both levels, the candidate selection process proceeded without any real competition. This was due to objective factors, for example, the tripled number of vacancies compared to the previous elections, although the extremely short deadlines for submitting the application did not allow the information to be properly disseminated or the relevant steps to be taken by the addressees. Half of the candidates

selected from the temporary members of the district commissions were appointed as professional members by agreement between the government and the opposition, which is to be welcomed. However, all the candidates supported by the appointed member of the Georgian Dream party were eventually elected to the commission (if they did not get enough votes in the first round, they had this support in the second round). This indicates at maintaining the influence of the ruling party.¹ Part of the CEC opposition members did not participate in the selection procedures; however, the consensus-oriented decision-making process worked, and there was no real need for district members to be elected under a lower quorum. The diligence of the election administration should be positively evaluated, the process was as open as possible, and the trends revealed in the statistical data as a result of the selection process were made public as soon as possible. At the same time, for greater efficiency, including in the interview and candidate review stages, the process needs to be improved.

Legislative changes were introduced as part of the reform to prevent misuse of administrative resources, and memoranda were signed with the CEC, the interagency commission, and 18 local NGOs. It was joined by GYLA. Despite such efforts, the use of administrative resources was one of the major challenges. Five of the complaints filed by GYLA concerned the misuse of administrative resources. In resolving election disputes, the organization estimates that the election administration and the courts, in some cases, failed to provide a consistent and correct interpretation of the law, which was important for the effective enforcement of the norms governing administrative resources. In some cases, the election administration was guided by a low standard of proof. Such approach hinders the proper enforcement of the law and fails to ensure the misuse of public resources in the future. In only one case, the court shared GYLA's position on a complaint alleging the use of state-funded communications for agitation. It assessed this fact as a violation of the law, which should be welcomed. Nevertheless, overall, these changes have not been sufficient to prevent and respond effectively to the misuse of administrative resources. Added to this is the lack of a clear mandate of the interagency commission and the inefficiency of its activities, which have led to the inability to address existing challenges.

During the campaign, facts were revealed that are not illegal but are bad practices and prevent the campaign from being conducted on equal terms. An example of this is the personification of government projects and affiliation with a particular party. During the pre-election campaign, the head of the government, Irakli Gharibashvili, constantly emphasized the role of the founder and leader of the Georgian Dream party, Bidzina Ivanishvili, as well as his financial contribution during government events and talks on government initiatives and projects. Such approaches make it difficult to draw the line between the state and the ruling party and contradict to the international principles and standards.

GYLA also monitored pre-election changes in the budgets of the municipalities. In the area of social assistance, by increasing the budget, the law was violated in three municipalities. GYLA also observed budget amendments in subsidies, grants, remuneration, and other expenditures, which is not a violation, although this may affect the use of public resources for electoral purposes in the pre-election process. As a bad practice, GYLA recorded an increase in funding for subsidies, and other expenditures, one of each had happened in two

municipalities. During the pre-election period, the articles of remuneration and grants were not changed in any of the municipalities. The organization evaluates this fact positively.

GYLA monitored the observance of the rules of participation in agitation during the pre-election period. In this regard, two cases are noteworthy: in the first - the involvement of a CEC member in the campaign of an opposition candidate, and in the second - the presence of a member of the precinct commission at the pre-election meeting of the ruling party. None of these complaints were upheld. The election administration in these cases was guided by a low standard of proof, which does not contribute to the proper enforcement of the law and the prevention of such violations in the future.

During the pre-election campaign, the confrontation between political opponents took the forms of coercion, threats, physical confrontation, and violence. Incidents substituting signs of criminal activity were reported by GYLA throughout the country, which generally prevented the campaign from being conducted in a calm and peaceful environment. The aggression of the campaign was manifested in various forms, including damage to the office and personal belongings and destruction of agitation materials. GYLA has registered dozens of cases of damage to the banners and posters of the ruling and opposition parties. Of particular concern were widespread allegations of pressure on opposition candidates, their supporters, and voters. According to GYLA, the investigation into the alleged criminal offenses has been delayed, and in almost none of the cases have the perpetrators been identified (except in a few cases). This practice shows that the relevant agencies do not respond quickly and effectively to such crimes and punish the perpetrators. In the cases where the investigation has not been launched, according to GYLA, there are signs of a criminal offense, and the investigative bodies are obliged to respond. At the same time, the timely awareness of the public about the ongoing investigations is problematic. Overall, it can be said that the state's response to such facts is ineffective and does not contribute to a calm and peaceful pre-election environment.

During the campaign, GYLA recorded a number of cases of voter bribery, most of which were related to the Georgian Dream. Out of nine cases of voter bribery registered by GYLA, the investigation has not been launched - in five cases. This practice shows that there is no timely and proper response to electoral crimes, which deprives voters of the opportunity to express their will freely. In addition, the timely awareness of the public about the ongoing investigations is problematic. Overall, the state response to voter bribery cases is unsatisfactory and does not contribute to the prevention of future electoral crimes.

The report also provides information on the non-fulfillment of obligations imposed by law by several municipalities. This is related to the publication of the list of buildings allocated for the pre-election campaign and poses difficulties for the parties in conducting agitation.

During the reporting period, GYLA received reports of dozens of politically motivated dismissals from public institutions and pressure on public officials, especially to those who had close, friendly, benevolent relations with members of the newly formed Party "For Georgia" or those who expressed sympathy for the party or its leader. Unfortunately, in some cases, political discrimination has been difficult to establish due to problems in obtaining evidence. GYLA, in the conditions of limited resources, started to study the facts where obvious signs of political discrimination and/or its evidence was present. In two cases, the

court reinstated the dismissed persons, which is welcomed; however, in the assessment of the organization, in both cases, in the part of dismissal, there were signs of political discrimination, which was not established by the court. In such cases, the role of the court is critically important not only in restoring the labor rights of illegally released persons but also in establishing a fair and uniform standard in determining the motive for discrimination. In other instances, the case is being heard in court or the trial has not yet been scheduled.

The tense and polarized pre-election environment was also reflected on the Election Day. In the first and second rounds, representatives of GYLA observed a number of confrontations between commission members and members of some observer organizations, which in many cases hampered the voting process at the polling station. There was a negative tendency in voter tracking and influencing their will, which was one of the main challenges on the Election Day. Although, because of the 2021 electoral reform, administrative liability was established for voter tracking, their obstruction, person gathering, and agitation on the perimeter of the polling station, law enforcement agencies were unable to effectively comply with statutory requirements. During both rounds of the election, GYLA repeatedly reported violations to the 112 for the perimeter regulations. In many cases, the police only used verbal remarks to make potential offenders temporarily leave the perimeter or failed to record any facts about the voter tracking, their obstruction, person gathering. Despite the ineffectiveness of enforcement, it should be noted that during both rounds of elections, people gathered at the perimeter of the precinct often kept a certain 100-meter distance, thus reducing voter control at the entrance to the precinct. Instead, the representatives of the political parties exercised control over the will of the voters beyond 100 meters, which did not have a positive impact on the election environment. On the other hand, GYLA observers found a negative trend in voter registration within the polling station, which in some cases involved PEC members or certain observer organizations. Such an environment put pressure on the voter and restricted them from exercising their right to vote in a free environment.

GYLA positively assesses the fact that the precinct election commissions were highly trained and organized, although shortcomings were revealed here as well. In some polling stations, in both rounds, PEC chairpersons found it difficult to maintain order at the polling station during the day, which in some cases hampered the voting process. The problem of the work of the precinct election commissions is evidenced by the frequent facts of interference with the rights of GYLA observers and obstruction of their activities, which were revealed in both rounds. During the 2021 elections, there were cases of threats and physical as well as verbal abuse against the observers of the organization. Although, in key cases, GYLA provided witnesses or relevant photo-video evidence to the district election commissions, none of them has in any case drawn up an administrative violation record against the perpetrators, preventing a recurrence of similar cases in the future.

As a result of the electoral reform of 2021, the rule of mandatory random recounting of election results has been established. Such change should be viewed positively, as it increases the credibility of the election results, although it is necessary to address the procedural shortcomings identified during the practical implementation of the norm. An important drawback is that the mandatory recount of results involves only the technical review of the

sealed ballots and their comparison with summary protocols without signatures on the desk lists, which reduces the effectiveness of verifying election results. In addition, the procedure does not provide for any legal liability for errors observed at the site.

As part of the same reform, the CEC has established videotaping of the counting process. GYLA welcomes the change and believes that such an approach reduces the possibility of manipulation and increases public confidence in the election results. Nevertheless, GYLA observers noted deficiencies related to equipment malfunctions in some polling stations, as well as inconsistencies in the start and end moments of filming. It should also be noted that in most cases, the will expressed on the bulletin was unidentifiable on video cameras.ⁱⁱ In addition, GYLA believes that the use of such an important procedure should be reflected in the specific legal implications of responding to violations identified during videotaping.

Although judicial control over election disputes has improved as a result of electoral reform in 2021, in many cases, the justice system does not oversee the discretionary powers of district election commissions. In addition, the decisions of the district election commissions on the submitted complaints concerning the imposition of disciplinary liability on the commission members, the recount of the election results, and the invalidity of questionable ballot papers are also heterogeneous.ⁱⁱⁱ

Finally, irregularities and negative tendencies identified during the campaign and on the Election Days, such as the blurring of the border between the ruling party and the state, the misuse of administrative resources, voter tracking and control of their will, bribery, pressure, attacks on members of the opposition and inadequate response by investigative agencies have significantly damaged the free and fair election process.

Recommendations

Based on the findings of the 2021 Local Self-Government Election Observation Mission, GYLA has developed recommendations that will serve to improve the electoral process.

Electoral System

- The Parliament of Georgia should adopt constitutional amendments, which will make the threshold for parliamentary elections from natural to 2%;
- Boundaries of constituencies should be revised and defined in accordance with the principle of equality of the vote, following the international standards and good practice;
- In order to increase women's participation in politics, it is important to establish a 50% commitment to represent the opposite sex on party proportional lists when registering for parliamentary and local self-government elections; The quota mechanism should be maintained in the law until the result is achieved.

Election Administration

- The Parliament shall revise the institutional framework of the election administration and the procedures for appointing commission members to change it in such a way as to ensure the independence and impartiality of the election administration in the long run. It is desirable to staff all levels of the election commissions on a fully professional basis, with the consensus between the parties.^{iv} In the process of selecting the members of the commission, special attention should be paid to the consensus between the majority and the opposition, which means the selection of the CEC chairperson and professional members with the support of 2/3 majority;
- The Presidential Competition Commission should be composed of representatives of political parties instead of independent actors. It should include the parties that overcame the barrier in the last parliamentary elections, where the majority and the opposition will be represented on the principle of parity. The commission must nominate the candidacy to the President by a 3/5 majority of the members on the list;
- The anti-crisis mechanism should be abolished in the procedure for recruiting professional members of the District Election Commission, as it hinders the achievement of the goal of agreement-based decision-making and hinders the consensus-based process;^v
- The legislative barriers shall be removed regarding the terms of staffing district and precinct election commissions. It is desirable to increase the period for both the receipt of applications and their review, and this process should not depend on the date of the official announcement of the elections;
- In accordance with the law, a uniform practice shall be established regarding the authenticity of the will expressed on the ballot paper without restricting the suffrage of the citizens;^{vi}

- In order to increase the effectiveness of the recount procedure and confidence in the election results, it is necessary to clarify what the recount of the election results means,^{vii} and in case the districts decide to open a polling station on their own initiative, through lottery or complaint, the procedure should be conducted by the PEC according to the process of counting the election results on the Election Day;^{viii}
- For maximally distancing the party appointed commission members from the desk list of voters, which restricts the possibility of voter tracking and illegal processing of their personal information, it is important that the registrar is substituted by a PEC member appointed by the DEC, the deputy chairperson or the chairperson upon necessity;^{ix}
- To increase the effective work of the election administration in preventing incidents of violation of observer activities and rights, appropriate administrative responsibilities shall be imposed on offenders who obstruct their work in precinct election commissions;
- In order to increase the credibility of the election results, a lever for a legal response to the violations observed as a result of the videotaping of the counting procedures and obligatory random counting of the results shall be introduced.

Election Disputes

- It shall be ensured that the election administration and the courts implement consistent and correct interpretation of the law when resolving disputes;
- When resolving the disputed issue, the CEC should clearly indicate the arguments on which the operative part of its action is based;^x
- In ongoing cases of dismissal on political grounds, the court should take all measures to determine whether there was indeed a legal basis for dismissal of the plaintiff while imposing the burden of proof on the defendant that they acted for a lawful purpose;
- When reviewing election administrative violations, decision-makers shall apply an adequate penalty prescribed by law, which in the future will ensure the prevention of violations of both the observers' rights and agitation rules.

Law Enforcement Agencies

General Prosecutor's Office

- Shall launch an investigation into voter bribery cases where there are obvious signs of a criminal offense;
- Shall ensure a timely response to voter bribery offenses, and conduct an investigation impartially and objectively;
- Shall inform the public in a timely manner about the investigation of the cases.

Ministry of Internal Affairs

- Shall launch an investigation into cases where there are obvious signs of a criminal offense;

- Shall investigate the alleged crimes thoroughly, conduct the process objectively and transparently;
- In cases where there is a political motive, the investigation shall be conducted with the right qualifications;
- Shall timely inform the public about the investigation of cases;
- Shall ensure effective enforcement of regulations imposed on the perimeter of the precinct, identify offenders, and draw up a report on the relevant administrative offense;
- Shall urge the Public Safety Management Center 112 to start producing statistical information on the incoming calls on Election Day according to the type of election violations.

Parliament

- The legislature should not make changes that are unpredictable and do not serve to improve the electoral environment.

Pre-Election Campaign

- It is necessary to have a mechanism for real, fast, and effective response by the law enforcement to the facts of abuse of administrative resources; The interagency commission should be abolished, and the relevant competence should be transferred to the CEC;
- Legislation should provide for effective mechanisms against online agitation, in particular, the concept of agitation should be specified, and it should include the dissemination of political calls through a personal social networking site;
- Municipalities must comply with the requirements of the law and not interfere with the parties conducting their election campaign under normal conditions;
- Changes to "subsidies," "grants," "remuneration," and "other expenses" should also be restricted and only possible in a force majeure situation.

Control of the Will of the Voters

- In order to prevent the influence on the will of the voters on Election Day, the day before the elections should be declared a silence day;
- Voter tracking shall be completely banned both inside and outside the polling station.^{xi}

SCOPE AND METHODOLOGY OF THE OBSERVATION MISSION

GYLA monitored the 2021 local self-government elections through two instruments - Long-Term Observation (LTO) and Short-Term Observation (STO) Missions.

1. Long-Term Observation Mission (LTO)

The main purpose of Long-Term Observation is to facilitate the conduct of elections in a free environment. To achieve this, the tasks of the GYLA's Long-Term Observation Mission (LTO) were to increase transparency in the electoral process, ensure the effectiveness of legislative mechanisms through the conduct/monitoring of electoral disputes, and provide the public with credible, evidence-based information on important trends.

The monitoring of the pre-election environment covers the pre-election period¹ and the campaign period.² GYLA observed it through 9 regional offices in Tbilisi, Adjara, Guria, Samegrelo-Zemo Svaneti, Imereti, Shida Kartli, Samtskhe-Javakheti, Kvemo Kartli, Mtskheta-Mtianeti and Kakheti. GYLA offices provided identification of alleged violations and informed the central mission. The main monitoring tools were obtaining information and documents from the first source, studying/analyzing media reports, finding/processing public information and documents,³ studying/analyzing information published on the websites of monitoring subjects and Facebook pages, attending and participating in political parties' pre-election events.

Based on the LTO Mission strategy, the monitors focused on the following violations:

- Use of administrative resources, including the spending of state/municipal budget;⁴
- Voter bribery;
- Illegal agitation;
- Interference in campaign/agitation;
- Influencing the will of the voter through intimidation and coercion;
- Dismissal for political reasons;⁵
- Politically motivated physical confrontations and violent incidents;
- Damaging someone else's property for political reasons;
- Other violations of the election law or actions that are not in themselves violations but are bad practices and distort the pre-election environment.

¹ GYLA started monitoring of the political processes on May 1.

² The pre-election campaign period covered the period of August 3 to October 1, as well as the second round of voting until November 21.

³ The data on the investigation of criminal cases is dated with the relevant number of information received from the investigative agencies. There may have been changes in a particular case since then, which are not reflected in this report.

⁴ GYLA monitored the process of budget changes in the municipalities in the following areas: (1) increasing the amount of social assistance, (2) adding a new program to the budget and increasing subsidies, grants, remuneration and other expenses.

⁵ Cases of dismissal for political reasons are dated by the relevant number of information received from the relevant agencies/individuals by the end of March 2022. There may have been news of specific cases since then, which are not reflected in this report.

In case of revealing violations, GYLA addressed with relevant statements/complaints to the election administration. It should be noted that the task of the organization was not to identify and record all such cases, but rather it focused on identifying key trends. In the pre-election period, GYLA mostly focused on irregularities when they were large-scale and/or could have had an impact on the election environment and election results.⁶

Within the LTO mission, the monitoring objects were the following institutions and persons involved:

- Election administration;
- Other central government bodies;
- Local authorities;
- Political parties.

2. The Short-Term Observation (STO) Mission

The main purpose of Short-Term Observation is to facilitate the exercise of the right to vote by voters in a free environment. On Election Day, GYLA observers try to protect the voting rights of every citizen by observing and responding to violations of voting procedures.

GYLA's Short-Term Election Mission was divided into 4 groups: (1) a mobile group, (2) a precinct static observer, (3) a static perimeter observer, and (4) a district observer.

In parallel with the observation of polling stations provided by the first and second types of mission representatives, observers from GYLA's perimeter and mobile groups were constantly monitoring developments outside the polling station, outside the precinct, and responding to alleged administrative violations. GYLA's task was to monitor the processes of the perimeter in order to examine the extent to which the norms introduced reduced the impact on the will of the voters and the extent to which they were enforced by law enforcement officials.

Precinct static observers did not leave the polling station and monitored the process starting polling station preparation until the counting was finished in order to obtain a summary protocol.

The district observers started their activities at 20:00. They attended the process of submitting summary protocols, election attributes, and documentation received from precincts in the constituencies - from start to finish. In addition, their main task was to find violations in the summary protocols, and they acted in accordance with GYLA's strategy.

GYLA STO structure was as follows:

- Central Headquarters;
- Regional headquarters;
- District Observers;

⁶ GYLA issued a separate document on the analysis of election disputes, see Gabroshvili M. et al., Major Trends in Election Dispute Resolution 2021 Municipal Elections (Tbilisi, Georgian Young Lawyers' Association, 2022), official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3uutv2g>, updated: 11.04.2022.

- Precinct observers: a mobile group observer, a static precinct observer, a static perimeter observer.

In the case of both rounds, on polling day, GYLA focused on the observance of election procedures (polling station opening, voting, and summarizing processes), as well as on developments in the vicinity of precinct election commissions. The organization used a strategic litigation mechanism in relation to the identified violations.

GYLA operated a special hotline through which citizens could receive legal advice on voting procedures. The media coordinator of the organization was working at the central headquarters, and monitored the activities of journalists and, at the same time, was responsible for providing legal advice to them.

GYLA informed the public about the results of the monitoring mission through press conferences.

For the purposes of this report, the monitoring team investigated polling day violations based on an analysis of complaints filed by GYLA and decisions of district commissions. The analysis of complaints is based entirely on the information contained in the Central Election Commission Disputes Register.

The First Round of 2021 Local Self-Government Elections

3,746 polling stations were created in the 73 constituencies for the October 2 elections. 9 precincts were established by the rule of exception while 73 were COVID polling stations.⁷ The STO mission of GYLA only covered main precincts.

For the 2021 local government elections, GYLA's mission consisted of 349 people. Among them: static observers of the precincts - 113; static perimeter observers - 22; mobile groups-148; district observers - 21. 45 GYLA employees were deployed at central and regional headquarters.

On Election Day, the organization covered 10 municipalities in 8 regions.

GYLA had observers in all districts of Tbilisi (#1 Mtatsminda, #2 Vake, #3 Saburtalo, #4 Krtsanisi, #5 Isani, #6 Samgori, #7 Chugureti, #8 Didube, #9 Nadzaladevi, #10 Gldani), Kakheti (#17 Telavi district), Kvemo Kartli (#20 Rustavi and #22 Marneuli districts), Shida Kartli (#32 Gori district), Samtskhe-Javakheti (#40 Akhalkalaki district), Imereti (#59 Kutaisi district), Guria (#60 Ozurgeti district), Samegrelo (#67 Zugdidi district), Adjara (#79 Batumi district). In addition, GYLA had one observer in #27 Mtskheta and one in #28 Dusheti District Election Commissions from 20:00 in the evening.

On Election Day, Tbilisi Central and 7 Regional Headquarters operated in Telavi, Rustavi, Gori, Zugdidi, Ozurgeti, Kutaisi, and Batumi.

⁷ #03-01/596 letter from the Central Election Commission (CEC), June 6, 2022.

Out of 3664 polling stations operating for the first round of elections, the mission fully covered 38% during the day. In each constituency, GYLA observers observed the counting procedure in 27% of precincts and in 11% in Tbilisi.

As part of its Short-Term Observation Mission, in the first round of elections, GYLA compiled gender statistics of international and local observers and representatives of the entities in 102 randomly selected polling stations. In addition, GYLA observers were trained and assessed the circumstances of the alleged signs of gender-based violence in the precincts. A questionnaire was prepared to answer the following questions:

- Was there voting by the family at the polling station, which means the entry of family members together into the booth?
- Has there ever been a case where a man, while voting by a family, decided who to vote for a woman?
- Has there been any fact of discrimination on the grounds of gender? (e.g., discrimination by a commission member or other representative against a female observer/commission member/party representative on the grounds of gender, i.e., acting against the interests of a person just because he or she is of one gender and not the other).

The Second Round of the 2021 Local Self-Government Elections

On October 30, the second round of elections was held in 5 self-governing cities and 15 municipalities at 24 majoritarian constituencies across Georgia. In total, the citizens of Georgia elected 20 mayors and 42 majoritarian members of the city assemblies (Sakrebulo).⁸ 1867 precincts were created in 40 constituencies for the October 30 elections. 9 precincts were established by the rule of exception while 73 were COVID polling stations.⁹ The STO mission of GYLA only covered main precincts.

For the second round of the 2021 local government elections, GYLA's mission consisted of 247 people. Among them: Static observers of the precinct - 57; Static perimeter observers - 11; Mobile groups - 129; District Observers - 18. 32 GYLA employees were deployed at central and regional headquarters.

On Election Day, the organization covered 9 municipalities in 4 regions.

GYLA had observers in all districts of Tbilisi (#1 Mtatsminda, #2 Vake, #3 Saburtalo, #4 Krtsanisi, #5 Isani, #6 Samgori, #7 Chugureti, #8 Didube, #9 Nadzaladevi, #10 Gldani), Kvemo Kartli (#20 Rustavi district), Samegrelo (#64 Senaki, #65 Martvili, #67 Zugdidi, #68 Tsalenjikha, #69 Chkhorotsku districts), Adjara (#79 Batumi, #83 Khelvachauri districts).

On Election Day, Tbilisi Central and 3 Regional Headquarters operated in Rustavi, Zugdidi, and Batumi.

⁸ "Election Precincts are Open, Polling is Launched", Official Website of Central Election Commission, available at: <https://bit.ly/3O5CP3t>, updated on: 15.04.22

⁹ #03-01/596 letter from the Central Election Commission (CEC), June 6, 2022.

Out of the 1830 polling stations in force for the second round of elections, the mission fully covered 59% during the day. GYLA observers observed the counting procedure in 25% of precincts in self-governing communities, 20% in self-governing cities, and 11% in Tbilisi.

3. COVID-19

The COVID-19 pandemic remained a challenge. Due to the spread of the virus, the organization monitored the pre-election events mainly remotely. LTO mission monitoring tools were still reduced as public meetings, focus groups, and network meetings were rarely held. GYLA did not attend rallies at a time when the number of infected was particularly high.

The spread of the virus was still a challenge for observer organizations on polling day. Although GYLA observed the planned scale on Election Day, the process of finding, training, and maintaining human resources was problematic. Observers, often for various reasons related to the pandemic, were unable to participate in the mission.

GYLA observers received information on infection prevention on Election Day, became acquainted with the regulations established by the CEC, and were equipped with special security equipment.

To ensure safety and encourage vaccination, GYLA gave priority to those who had been vaccinated twice when selecting observers. 72% of those participating in GYLA's mission were fully vaccinated, and 9% were one-time vaccinated.

PART I – THE PRE-ELECTION PERIOD

1. Political Context

Political Crisis and Memorandum of Cooperation

Following the 2020 parliamentary elections, the opposition relinquished its parliamentary seats and went on a boycott.¹⁰ Disagreement between them and the Georgian Dream over the election results has created a severe political crisis in the country.¹¹ In order to alleviate this crisis, a process of dialogue between the parties was initiated through the mediation of the facilitators.¹² Despite several rounds of negotiations, the parties failed to reach an agreement.¹³

On February 4, 2021, a memorandum was signed between the opposition party Citizens and the Georgian Dream, aimed at reforming the election legislation; this agreement provided for changes in the legislation in the following areas:¹⁴

- The electoral threshold for the 2024 parliamentary elections was set at no more than 3%;
- The minimum number of members of the parliamentary faction was determined according to the barrier, and the right to form a faction in the current parliament would be given to at least 4 deputies (instead of 7);
- In Tbilisi, Kutaisi, Batumi, Rustavi, and Poti municipalities, all subsequent Sakrebulo elections would be held in a 4/1 ratio between proportional and majoritarian electoral systems. In other municipalities, the coefficient would be determined according to local peculiarities so that the ratio was at least 2/1 (in favor of the proportional system);
- The threshold for Tbilisi Sakrebulo elections would be 2.5%, and for other Sakrebulo elections - no more than 3.2%;
- Reform, full professionalization and optimization of the election administration in accordance with the OSCE/ODIHR recommendations - the composition of the CEC was determined by at least 7, not more than 11 members selected on a professional basis. Candidates for the CEC chairperson and membership were nominated by the president from among persons selected by an independent commission set up by the president;
- Citizens' gatherings and delaying them within a 100-meter radius of polling stations would be prohibited, as well as voter registration in the area on polling day. Strict sanctions would be imposed on offenders;
- In accordance with the OSCE/ODIHR recommendations, the norms on the use of administrative resources, as well as the handling of election disputes, would be

¹⁰ Latsabidze M. Newsletter №16, January, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 2-3, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3GMMKHq>, updated: 15.02.2022.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid, pp. 3-5.

reviewed and enforced in order to resolve them in a timely, transparent and proper manner;

- Innovative election technologies would be introduced.

On February 4, Shalva Papuashvili and Levan Ioseliani, at a joint briefing, announced the creation of a parliamentary working group based on a memorandum between the majority and the Citizens¹⁵ to work on a draft law amending the Electoral Code.¹⁶ On February 15, the working group discussed the first version of the draft law on amendments to the Electoral Code at the second meeting.¹⁷ GYLA submitted a conclusion on the Electoral Bill. The organization had a principled position on three issues: staffing the election administration on a fully professional basis and reducing the number of members; Electoral system at the local level; Control of the will of the electorate.¹⁸

Opinions were presented by the US Embassy in Georgia and the EU Delegation. According to their vision: each subsequent election should be held under a proportional system; A party that crosses the 3% threshold must be able to form a faction; Gathering persons within a 100-meter radius of the polling station and control the will of the voters should be prohibited. The EU Delegation further stated that the opposition should be included in the election of the Chairperson of the Central Election Commission, which meant election by a 2/3 majority or a double majority, where a positive vote of more than half of the opposition would be required; They also supported the initiative of appointing CEC members on a professional basis.¹⁹

Recommendations were made by local observers Transparency International Georgia and the International Society for Fair Elections and Democracy; According to them, the rules for staffing the CEC should be changed in such a way that one party should have the right to appoint only one member to the CEC, as well as to the precinct commission; Professional members were to be elected with the support of both the majority and the opposition; The transition to a fully professional model should be done through a phased reform, once a fully proportionally elected parliament was formed.²⁰

¹⁵ Shalva Papuashvili and Levan Ioseliani have been appointed co-chairs of the working group. Davit Zilpimiani from the party European Socialists joined the group, and Giorgi Sharabidze, Giorgi Javakhishvili and Giorgi Dzagania from the CEC. Both local and international organizations were included in the group.

¹⁶ Kruashvili N. Newsletter №17, February, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 5-9, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3rSNJ4M>, updated: 15.02.2022.

¹⁷ Ibid.

¹⁸ According to GYLA's recommendation, local self-government elections should have been held in a fully proportional system, under natural barrier conditions; the mixed model of staffing the election administration had to be replaced by a professional one; under the proposed bill, the CEC would appoint members to the District Election Commission by a majority of the listed members. This figure should have been increased to 2/3; The organization did not agree with the proposed version of the appointment of PEC members, according to which the members of the commission were elected by the relevant district election commission by a majority of the list, provided that it was supported by at least 3 members elected by the CEC for a term of 5 years; In the majority of the listed members, instead of the members appointed by the CEC, three members appointed by the political parties should be supported. Also, in addition to delaying and registering voters 100 meters away from the polling station, the presence of non-accredited persons should also be prohibited.

¹⁹ Kruashvili N. Newsletter №17, February, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), p. 8, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3rSNJ4M>, updated: 15.02.2022.

²⁰ Ibid, p. 8.

EU-initiated Mediation Process

The negotiation process between the parties entered a new phase when the President of the European Council, Charles Michel, visited Georgia.²¹ The EU has expressed its readiness to move from facilitation to the mediation and has introduced a six-point plan to the parties, which called for an "ambitious electoral reform" and a "potential early elections and preparations for local elections."²²

Christian Danielsson has been appointed as an EU-backed political dialogue mediator in Georgia; He visited Georgia on March 12 and held a number of meetings, including with the President and the Prime Minister; He met with the majority, the United Opposition, and other opposition parties, and met with representatives of non-governmental organizations; At the meetings, the parties shared their positions on the six-point plan with the mediator; On the sixth day of EU mediation, mediated by Danielsson, representatives of the majority and the opposition met for the first time at the negotiating table after a pause of several months; There was significant progress on some points around the plan developed by Charles Michel, although the parties could not agree on key issues; This stage of the EU mediation mission proved futile.²³

The Second Round of EU Mediation

On March 22, Charles Michel announced Danielsson's return to Georgia for the second round of mediation.²⁴

GYLA, together with several non-governmental organizations, addressed the negotiating parties with an open letter, calling for constructive dialogue and presenting its proposals for reforms and ways out of the crisis:²⁵

- Conducting parliamentary and self-government elections in a fully-proportional system;
- Reforms related to the appointment of judges. In particular, to increase the required so-called double votes to 2/3 in the High Council of Justice for the decision on the appointment of judges of the first and second instance, as well as the nomination of judges of the Supreme Court to the Parliament; Appointment of non-judicial members of the High Council of Justice with the support of the government and the opposition (so-called bilateral support);
- Appointment of members of the Central Election Commission, judges of the Supreme Court, the Auditor General, and the Prosecutor General with bilateral support;
- Release of persons of fundamental importance for the opposition involved in criminal cases from penitentiary institutions and temporary suspension of their cases. Making a final decision on these cases by the reformed justice system; Proportional

²¹ Kruashvili N. Newsletter №18, March, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), p. 11, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3Bn8l8a>, updated: 15.02.2022.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid, pp. 15-16.

distribution of important positions in parliament between the majority and the opposition;

- Appropriation of mandates won by the opposition in the 2020 parliamentary elections.

After the second round of mediation on March 30 ended without result again, the EU issued a document calling on the parties to sign it; it addressed five key issues: responding to issues perceived as a politicized judiciary, ambitious electoral reform, the rule of law, the distribution of power in parliament, and the forthcoming elections.²⁶

On March 23, the US Senate Foreign Relations Committee hosted a hearing in the European and Regional Security Subcommittee to discuss the political crisis in Georgia, the judiciary, and electoral reform; At the Senate hearing, it was decided to adopt a resolution on Georgia, which would strengthen the Senate's support for Georgia.²⁷

On April 1, seven MEPs²⁸ issued a statement condemning the refusal to sign the document by the political parties proposed by Christian Danielsson, saying that due to broken talks between the Georgian Dream and the opposition, the European Parliament would raise the issue of suspending additional aid to Georgia and demand an increase in the principle of conditionality on macro-financial and budget assistance programs.²⁹

GYLA, along with other non-governmental organizations, addressed the US senators with a statement on overcoming the crisis in Georgia and asked the senators to help them achieve five goals:³⁰

- The US should have clearly stated its position that the status quo, i.e., in fact, a one-party parliament, was incompatible with membership in the Euro-Atlantic community;
- The crisis was to be de-escalated by releasing Nika Melia and Giorgi Rurua from custody and suspending cases that were to be heard in a future reformed court;
- The US should have been clearly required to implement judicial and electoral reforms. In particular, the consent of the opposition was required to appoint members of the Supreme Court, non-judicial members of the High Council of Justice, as well as the chairperson, and members of the Central Election Commission. Both parliamentary and local self-government elections were to be held in a proportional system, with a barrier close to natural. The implementation of these systemic changes was to begin at the 2021 Spring Session;
- The distribution of power in various institutions, including parliament, should be encouraged;

²⁶ Ibid, pp. 16-17.

²⁷ Ibid.

²⁸ David McAllister (EPP, Germany), Chairperson of the Special Committee on foreign interference in all democratic processes in the EU, Marina Kaljurand (S&D, Estonia), Andrius Kubilius (EPP, Lithuania), Viola von Cramon-Taubadel (the Greens, Germany), Sven Mikser (S&D, Estonia), Michael Gahler (EPP, Germany), Petras Auštrevičius (Renew Europe Group, Lithuania).

²⁹ Kruashvili N. Newsletter №19, April, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), p. 5, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3v3ISzz>, updated: 18.02.2022.

³⁰ Ibid, pp. 3-4.

- Once the ruling party made these commitments to the Georgian people and its international partners, the opposition had to seize seats in parliament received in the 2020 elections, engage in an institutionalized political process, and participate in the development and implementation of the above-mentioned reforms.

The April 19 Political Agreement

European Council President Charles Michel has prepared a new document for the parties to resolve the political crisis, which became publicly available on 19 April. Several points have been added to this document, namely:³¹

- Measures to respond to two issues perceived as politicized justice were specified. The response mechanism should have been amnesty and/or measures that would have had a similar effect;
- A mechanism against the emergence of a deadlock situation in the election of the chairperson and/or professional members of the Central Election Commission has been defined;
- A mechanism has been set up to prevent a stalemate in the election of future Attorneys General;
- Finally, according to the Georgian Dream's April 16, 2021, proposal, early parliamentary elections in 2022 would be called if the Georgian Dream party received less than 43% of the true proportional vote in the October 2021 local elections.

GYLA, along with other non-governmental organizations, called on the parties to sign. The Georgian Dream and 16 members of the opposition agreed with Charles Michel's proposed compromise proposal.³²

Approving Amendments to Electoral Legislation Reform

Parliament approved the amendments to the Electoral Code in the third reading on June 28 by 86 votes against 3.³³ In accordance with the political agreement of April 19, the law was amended to address the local self-government electoral system, the institutional framework

³¹ "A WAY AHEAD FOR GEORGIA", EU Delegation to Georgia, official website, 19.04.2021, accessible: <https://bit.ly/3frBggU>, updated: 21.02.2022.

³² The compromise proposal was signed by 16 deputies in a boycott mode. The opposition parties joined the document were For Georgia (Mamuka Khazaradze, Badri Japaridze, Davit Usupashvili, Ana Natsvlishvili), Girchi - More Freedom (Zura Japaridze), New Political Center - Girchi (Iago Khvichia, Vakhtang Megrelishvili, Alexander Rakviashvili), European Georgia (Davit Bakradze, Shalva Shavgulidze, Armaz Akhvlediani; from the same party Elene Khoshtaria and Taniel Nakaidze did not join -), Strategy Aghmashenebeli (Giorgi Vashadze, Paata Manjgaladze, Teona Akubardia; from the same party Tamar Charkviani did not join and left the bloc). The document was not joined by the majority of MPs from the bloc United National Movement – Strength in Unity. The exception was Salome Samadashvili, a member of the National Movement at the time, who signed the document independently from the party. Khatuna Samnidze from the Republican Party joined the document. See Georgian Dream, Opposition, Except for UNM, EG, Sign EU Proposal, information portal Civil.ge, 19.04.2021, accessible: <https://bit.ly/3v1O7ji>, updated: 21.02.2022.

³³ Parliament endorsing draft election code with 86 votes, official website of the Parliament of Georgia, 28.06.2021, accessible: <https://bit.ly/3ian3Xb>, updated: 21.02.2022.

of the election administration, the pre-election campaign, the voting process, its summarization, and election disputes.

On 30 April and 18 June, the Venice Commission and the OSCE/ODIHR presented joint expedited conclusions during the drafting stage; In the first report, published on April 30, they issued 4 key and several other recommendations; The main recommendations were as follows:

- The rule of electing the chairperson of the Central Election Commission and the professional members by a 2/3 majority, together with the mechanism for avoiding a deadlock situation;
- The abolition of restrictions on the appointment of members of the commission by the parties, which provided for the right of the party to receive state funding, and that "the party must have at least one member in the parliament who exercises the powers of a member of parliament";
- Making such changes to the rules for the selection of members of district election commissions and precinct election commissions would ensure a transparent and genuinely merited selection process for non-partisan members;
- Clearly define the grounds for termination of the powers of the members of the election commission nominated by the party.³⁴

Other recommendations included banning campaigning around the precinct, developing a vote-counting framework, introducing electronic means of filing a lawsuit, equality of votes in constituencies, electronic technologies, and more.³⁵

According to the June 18 report³⁶ presented by the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights on the amended bill, some of the key recommendations were fulfilled.³⁷ However, the main recommendations for reviewing the selection process of the district and precinct commissions, as well as the issue of termination of the powers of the election commission members nominated by the party, remained unfulfilled.³⁸ At the same time, the June 18 report included several changes that raised additional concerns.³⁹ For example, reducing the voting process of the CEC Chairperson and professional members from four to one week during the transition period. This jeopardized the consensus-based decision-making process; when appointing a CEC member, giving the preference to the party that has more budget funding. According to this regulation, two

³⁴ Ibid.

³⁵ Ibid.

³⁶ The report of the Venice Commission and the OSCE/ODIHR of 18 June 2021 has been prepared to evaluate the updated election bill and it should be considered in conjunction with the report of the Venice Commission and the OSCE/ODIHR on 30 April 2021.

³⁷ Introduce 2/3 voting rules in the selection process of the CEC chairperson and professional members and approve the anti-crisis mechanism; The abolition of the conditions for the appointment of a member of the election administration by the party, which concerned the right of the party to receive state funding, as well as the rule that "the party must have at least one member in parliament who exercises the powers of a member of parliament".

³⁸ Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, CDL-P (2021)011 (Strasbourg, Council of Europe, 2021), accessible: <https://bit.ly/3wCLHEX>, updated: 18.02.2022.

³⁹ Ibid, para. 15, 17.

parties - the Laborists and the European Georgia - were deprived of the chance to appoint a representative in the election administration; Another temporary provision of the election amendments, which stipulates that if all MPs who have passed the party list in the parliamentary elections leave the party and join another party, then the latter is entitled to appoint one member of the CEC.⁴⁰ This record was tailored to one particular case⁴¹ and was unfair.

The Georgian Dream Withdrawal from the April 19 Agreement

On July 28, the Georgian Dream withdrew from the April 19 political agreement and annulled the document.⁴² According to the chairperson of the party, Irakli Kobakhidze, they have faithfully fulfilled each point of the document and could not see the point of staying in the agreement.⁴³

This move of the Georgian Dream was sharply criticized by international partners.⁴⁴ For their part, this was seen as a halt to the advancement of democracy, which threatened Georgia's aspirations to join the European Union and NATO.⁴⁵

At the same time, the Georgian Dream refused to receive macro-financial assistance from the European Union.⁴⁶ The government cited high economic growth in the country as the reason; In contrast, the Acting Head of the EU Delegation stated that the EU took into the account Georgia's justification; however, the country was unable to fulfill its condition of receiving macro-financial assistance; this was a judicial reform that was part of the April 19 agreement.⁴⁷

On September 2, the United National Movement (UNM) signed the April 19 agreement after the Georgian Dream refused the EU agreement and financial assistance.

Georgian Dream Attacks on Non-governmental Organizations

On September 17, a majority held a press conference to address three non-governmental organizations - GYLA, Transparency International Georgia, and Fair Elections - and criticized their election reports; According to the ruling party, the GYLA report did not clearly separate the campaign period from the pre-election period; therefore, it was unnecessary to talk about irregularities in that period of time; the Georgian Dream had similar assessments on the reports of other organizations. In their view, it was problematic to separate law violations and

⁴⁰ Election Code of Georgia, Article 196¹, part 1.

⁴¹ Several members of the Patriots Alliance left the party, and in January 2021 they were elected to parliament on behalf of the European Socialists.

⁴² Kruashvili N. Newsletter №22, July 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 5, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3oWl0Ki>, updated: 18.02.2022.

⁴³ Ibid.

⁴⁴ Ibid, pp. 6-7.

⁴⁵ Ibid.

⁴⁶ Kruashvili N. Newsletter №23, August, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 4-5, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3LGOBuK>, updated: 18.02.2022.

⁴⁷ Ibid.

"bad practices" in all three reports; the majority called on local observer organizations to make their assessments clear and transparent to the public while separating the law violations and the violations established by the organizations' internal criteria.⁴⁸

GYLA responded to the criticism of the ruling party and considered it unfounded; GYLA's report clearly stated the period when the campaign regulations did not apply, and the organization clearly distinguished between "bad practice" and "violation of the law"; As for the unscrupulousness of introducing additional evaluation criteria, GYLA pointed out that the additional criteria were not assessed as illegal and the report included two categories of facts: first, political ethics, which the organization did not recommend to regulate by the law; Second, the ban on advertising of the ruling party with state budget funds, the regulation of which could not be recommended, as it was a new trend.⁴⁹

According to GYLA, the ruling party's attacks were contradictory, slanderous, and superficial. Criticism by the Georgian Dream served to discredit the organization and tarnish its image, as GYLA has the reputation of an impartial and competent organization in society.

President Saakashvili's Return to Georgia and the Deepening of Polarization

Georgia met the 2021 elections amid a continuing political crisis. A few days before the election, Georgia's third president, Mikheil Saakashvili, announced his return to Georgia, despite being threatened with imprisonment if he returned. On October 1, law enforcement officers arrested Mikheil Saakashvili in Tbilisi.

Saakashvili's return had a significant impact on the political agenda. This was preceded by two large-scale rallies of the Georgian Dream and the National Movement during the campaign, which were attended by thousands of people. The election campaign was completely engulfed by a confrontation of forces between the two polarized parties. This, in general, left no room for substantive discussion, competition between parties, and informed decision-making by the electorate.

2. Systemic Changes

The Electoral System for Local Self-Government Elections

As a result of the electoral changes of 2021, local self-government elections were held under a mixed system, where the majority share was reduced compared to the previous elections.⁵⁰

⁴⁸ Kruashvili N. Newsletter №24, September 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 17-18, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3lqEDbq>, updated: 19.05.2022.

⁴⁹ Ibid.

⁵⁰ In self-governing cities (except Tbilisi) the ratio between the members of the Sakrebulo elected by the majoritarian and proportional systems was 2/3, and in Tbilisi it was 1/1. In other municipalities, the number of Sakrebulo members elected by the proportional system was 15, while the election of Sakrebulo members by the majoritarian system was proportional to the number of voters established by law. The threshold was 4%, and the one who would get more votes was considered elected by the majoritarian system.

The proportions under the April 19 political agreement⁵¹ were defined as follows: 4/1 (proportional favor) proportional and majoritarian mandate proportions in the five self-governing cities, 2/1 proportion in all other municipalities.⁵² In the proportional part, a 3% threshold was set everywhere except in Tbilisi and 2.5% in the capital.⁵³ In municipalities, the election of Sakrebulo majoritarian members was determined in proportion to the number of voters established by law.⁵⁴ A 40% threshold was set for their selection.⁵⁵

GYLA welcomed the increase in the proportional share in the electoral system; however, according to the organization, the parallel model⁵⁶ does not fully ensure the proper reflection of the voters' mood and leads to disproportionate representation in the city Sakrebulo. The organization believes that the majoritarian system should be abolished at the local level, and one of the varieties of the proportional system - the Single Transferable Vote (STV) model⁵⁷ should be established. Like other such systems, it ensures the conversion of voter votes into mandates in accordance with the electoral support of a party or candidate and the representation of an elected body.⁵⁸ According to STV, both the party and its specific member, as well as the initiative group and its affiliated candidate, can run in the elections.⁵⁹ Under the STV conditions, a constituency is multi-member, with a list of candidates nominated by a registered party or initiative group in the respective constituency.⁶⁰ An election subject is authorized to nominate one or as many candidates as the number of seats in the constituency.⁶¹ The ballot paper is of a preferential nature,⁶² which implies that the voter gives priority to the candidates by indicating the numbers.⁶³ This model allows the so-called Panachage; voters can give preference to not only one but also representatives of different parties.⁶⁴ The given system ensures a proportional transformation of the will of the electorate into mandates because regardless of which round a particular candidate received the mandate from, they were still one of the priorities for the electorate. In addition, the

⁵¹ "A WAY AHEAD FOR GEORGIA", EU Delegation to Georgia, official website, 19.04.2021, accessible: <https://bit.ly/3frBggU>, updated: 18.02.2022.

⁵² Election Code of Georgia, Annex №1, Compositions of Sakrebulo of Self-governing Communities and Self-governing Cities (Except for Tbilisi City) Elected under Majoritarian and Proportional Electoral Systems.

⁵³ Election Code of Georgia, Article 148, part 1 and Article 162, part 2.

⁵⁴ In the administrative center of a self-government community where the number of voters does not exceed 7 000, 1 member of Sakrebulo shall be elected through the majoritarian electoral system. In the administrative center of a self-government community where the number of voters is more than 7 000 but does not exceed 14 000, 2 members of Sakrebulo shall be elected through the majoritarian electoral system, *See* Election Code of Georgia, Article 140, part 2.

⁵⁵ Election Code of Georgia, Article 149, part 1.

⁵⁶ This model is a parallel model of the family of a mixed electoral system, according to which the results obtained by majoritarian and proportional elections, which do not affect each other and are independently reflected in the City Council, are separated from each other.

⁵⁷ Reynolds A., Reilly B. and Ellis A., *Electoral System Design: The New International IDEA Handbook*, Stockholm, Sweden, 2005, para. 109.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*, para. 111.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*, para. 109.

⁶³ *Ibid.*

⁶⁴ *Ibid.*

geographical link is not lost because among the candidates nominated by the subjects, the voter can consider the connection to their precinct.

Violation of the Principle of Equality in the Majoritarian Constituencies

GYLA has applied to the Constitutional Court with a request to declare the borders of the majoritarian constituencies established for the local self-government elections unconstitutional.⁶⁵ According to the appealed norms,⁶⁶ the vote of voters in small constituencies has a high weight compared to the voters registered in big constituencies. The legal acts are appealed in relation to the constitutional right to vote and equality.

A constitutional complaint has been filed by four individuals for violating the equal right to vote in the elections, which is reflected in the determination of a similar amount of majoritarian MP for the respective constituency (constituency with many residents) and constituencies with few residents. For example, Mtatsminda, like Saburtalo voters, elects one deputy in Tbilisi Sakrebulo. The number of registered voters in Saburtalo is 134,582 and in Mtatsminda - 53,884. As the number of voters living in Saburtalo is 2.5 times higher than the number of registered voters in Mtatsminda, the weight of a registered voter in the Saburtalo district is 2.5 times less than the weight of a voter registered in Mtatsminda.⁶⁷

According to the established practice of the court, "the primary goal and basis for the exercise of the right to vote are to reflect the will of the citizens in the final results of the elections"; Consequently, an important component of this right is the ability of voters to influence the outcome of elections; Due to the disputed norms, the loss of the "weight" and influence of the voter's vote deprives the voter of the opportunity to effectively exercise their active suffrage; In contrast, there is an increase in the possibility of voters having an impact on the election results whose vote "weight" has increased; Such an electoral system deprives citizens of unequal opportunities and fails to ensure that elections are held in accordance with the Constitution and that the will of the electorate is adequately reflected in the final results of the elections, which is contrary to the principle of democratic governance.⁶⁸ According to the Constitutional Court, "an electoral system in which the votes of a registered voter in one constituency are several times more 'valuable' than in another does not create equal opportunities for voters to have an equal impact on the election results and causes a significant deviation from the principle of equal suffrage."⁶⁹

⁶⁵ GYLA DEMANDS THE BORDERS OF MAJORITARIAN ELECTORAL DISTRICTS ESTABLISHED FOR LOCAL SELF-GOVERNMENT ELECTIONS TO BE DECLARED UNCONSTITUTIONAL IN CONSTITUTIONAL COURT, website of the Georgian Young Lawyers' Association, 18.09.2021, accessible: <https://bit.ly/3LNniVQ>, updated: 18.02.2022.

⁶⁶ Election Code of Georgia, Article 140, parts 2, 3 and 4; Election Code of Georgia, Annex №2 Names and Limits of Local Majoritarian Electoral Districts within Self-governing Communities, for Elections of Municipality Representative Body – Sakrebulo, Ordinance #04/2021of №20 Rustavi District Election Commission, July 16, 2021.

⁶⁷ Ibid.

⁶⁸ GYLA DEMANDS THE BORDERS OF MAJORITARIAN ELECTORAL DISTRICTS ESTABLISHED FOR LOCAL SELF-GOVERNMENT ELECTIONS TO BE DECLARED UNCONSTITUTIONAL IN CONSTITUTIONAL COURT, website of the Georgian Young Lawyers' Association, 18.09.2021, accessible: <https://bit.ly/3LNniVQ>, updated: 18.02.2022.

⁶⁹ Constitutional suit, Vakhtang Menabde, Vasil Zhizhiashvili, Gvantsa Sakanelashvili and Nona Kurdovanidze against the Parliament of Georgia and №20 Rustavi District Election Commission.

Thus, the boundaries of the majoritarian constituencies established for local self-government elections violate the principle of equal voting weight and are in conflict with the right to vote and equality, which is why the regulatory norms, in the organization's view, should be declared unconstitutional.

The boundaries of constituencies should be revised and defined in accordance with the principle of equality of the vote, in accordance with international standards and good practice.

Reducing the Number of Candidates on the Party List

The procedure for creating party lists for local self-government elections and the rules for their registration shall be determined by the Election Code.⁷⁰ The number of candidates for Sakrebulo membership in the party list shall not be less than the number of members elected by the proportional system and shall not exceed three times its number.⁷¹ Under the terms of this legal regulation, the threat of abolition of proportional lists for opposition parties was threatened during the local self-government election campaign.⁷² That is why the CEC passed a resolution according to which the registered proportional list will not be canceled if the number of candidates turns out to be less than the minimum established by law due to the removal of a candidate.⁷³

GYLA positively assesses this step of the CEC, which facilitated the realization of the suffrage of the parties and their representatives.

3. The Election Administration

The 2021 electoral reform, along with a number of other issues, regulated the composition of all three levels of election commissions and the rules for appointing commission members. These changes were part of Charles Michel's April 19 political agreement,⁷⁴ under which the majority and opposition parties committed themselves to electoral reform.

3.1. The Central Election Commission

With the changes, the number of members in the election administration at all levels has increased from 12 to 17.⁷⁵ Arranging the previous election administration gave the ruling party disproportionately large representation and influence, which significantly contributed to the opposition's distrust in the electoral process. The increase in the number of members

⁷⁰ Organic Law of the Election Code, Articles 142 and 143.

⁷¹ Ibid, Article 143, part 3.

⁷² Latsabidze M. et al., II Interim Report of the 2021 Local Self-Government Election Observation Mission, August-September (Tbilisi, Georgian Young Lawyers' Association, 2021), official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3BA3W21>, updated: 18.02.2022.

⁷³ Resolution №60/2021 of the Central Election Commission of Georgia, September 7, 2021.

⁷⁴ "A WAY AHEAD FOR GEORGIA", EU Delegation to Georgia, official website, 19.04.2021, accessible: <https://bit.ly/3frBggU>, updated: 15.02.2022.

⁷⁵ Election Code of Georgia, Article 10, part 1, Article 12, part 11, Article 24, part 2.

served to achieve a more balanced representation of political parties in the election commissions. According to a joint assessment by the Venice Commission and the OSCE/ODIHR, these changes were acceptable as a compromise option, although the number of members of the election administration should be reduced.⁷⁶ GYLA shares this recommendation of international organizations and believes that it is necessary to optimize the election administration and reduce the number of members, especially at the level of precinct commissions.

Under the new regulations, professional members of the CEC were elected by parliament, nominated by the president, by a two-thirds majority, instead of an absolute majority. The introduction of a high quorum was aimed at forming a consensus around the candidates. To avoid a stalemate, an anti-crisis mechanism came into force in the procedure for electing a CEC member and chairperson, which meant that if a vote could not be collected the first time, the candidate would go through the second (2/3 majority), third (majority 3/5), and fourth (by a simple majority) rounds. A 4-week interval was set between polls; however, during the transition period, this deadline was reduced to 1 week. The latter was assessed negatively in the joint opinion of the Venice Commission and the OSCE/ODIHR. In their view, by reducing the voting process from four to one week during the transition period, the success of the reform in terms of ensuring a balanced representation in the election administration was at stake.⁷⁷ Indeed, despite improvements in legislation, a consensus has not been reached in the process of selecting the CEC chairperson and professional members.

On July 1, Tamar Zhvania, Chairperson of the Central Election Commission, resigned.⁷⁸ GYLA, along with other non-governmental organizations, responded to Tamar Zhvania's resignation.⁷⁹ According to the organizations, there was a possibility that this decision would have a significant impact on building confidence in the election administration for the 2021 elections.⁸⁰ The statement also said that on the basis of maximum consensus among political parties, highly qualified, impartial, experienced persons should be selected for the vacant positions of the new CEC chairperson and professional members.⁸¹

⁷⁶ The report of the Venice Commission and the OSCE/ODIHR of 18 June 2021 was prepared to evaluate the updated election bill and should be considered in conjunction with the report of the Venice Commission and the OSCE/ODIHR on 30 April 2021. See Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, CDL-P (2021)011 (Strasbourg: Council of Europe, 2021), para. 19, accessible: <https://bit.ly/3wCLHEX>, updated: 15.02.2022.

⁷⁷ The Reform Working Group agreed on such an approach due to the short time remaining before the 2021 elections. See Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, para. 21.

⁷⁸ Statement of Tamar Zhvania, Tamar Zhvania official Facebook page, 30.07.2021, accessible: <https://cutt.ly/7YLqoWf>, updated: 15.02.2022.

⁷⁹ The Organizations Working on Elections Respond to the Resignation of the Chairperson of the Central Election Commission of Georgia, official website of the Georgian Young Lawyers' Association, 30.06.2021, accessible: <https://bit.ly/3jlzZ7c>, updated: 15.02.2022.

⁸⁰ Ibid.

⁸¹ Ibid.

On July 1, in accordance with the law, the President announced an open competition for the selection of a new candidate for the chairperson and 2 professional members⁸² and, by decree, established a competition commission.⁸³ According to the President's decision, the commission consisted of 11 members, 5 of whom were represented by non-governmental organizations operating in Georgia and 6 - from the academic field.⁸⁴ GYLA was also among the members of the commission. The organization was involved in the activities of the competition commission to facilitate the process and ensure its credibility.

On July 9, the competition commission nominated two candidates for the position of CEC chairperson by a majority and 5 candidates for the position of CEC member.⁸⁵ GYLA did not vote for any of the candidates for the chairperson but expressed its support to 3 of the professional members.⁸⁶ Other non-governmental organizations,⁸⁷ members of the commission, also did not support any of the candidates for the position of chairperson. The exception was the organization Multinational Georgia, which supported three candidates for the position of chairperson.⁸⁸

According to GYLA, the Presidential Competition Commission should be composed not of independent persons but of representatives of political parties. It should include the parties that overcame the barrier in the last parliamentary elections, where the majority and the opposition will be represented on the principle of parity. The commission should nominate a candidate to the president by a 3/5 majority of the members of the list.

On July 12, the president nominated two candidates for the position of CEC chairperson and four candidates for membership.⁸⁹ Parliament, despite three attempts, failed to elect a CEC chairperson and professional members.⁹⁰ On August 2, the Parliament elected Giorgi

⁸² The increase in the number of members in the CEC also gave rise to the need for Parliament to select 2 members of the CEC.

⁸³ Decree of the President of Georgia N01/07/01 of July 1, 2021, official website of the Presidential Administration, accessible: <https://bit.ly/3wNXikN>, updated: 15.02.2022.

⁸⁴ Ibid.

⁸⁵ Summary minutes of the meeting of the Competition Commission for the Chairpersonship and Candidates Selection of the Central Election Commission of Georgia, established by the Decree of the President of Georgia N01/07/01 of July 1, 2021, official website of the Presidential Administration, 08.07.2021, accessible: <https://bit.ly/2W3OqLo>, updated: 15.02.2022.

⁸⁶ Nika Simonishvili - Candidates for the post of CEC chairperson are associated with the elections, which caused great distrust - the commission made a bad and low standard decision, information portal Interpressnews, 09.07.2021, accessible: <https://bit.ly/3rhEBod>, updated: 15.02.2022.

⁸⁷ These organizations are Transparency International Georgia, the International Society for Fair Elections and Democracy, and the Institute for Freedom of Information and Development.

⁸⁸ Among the candidates for the position of the CEC chairperson, Multinational Georgia supported three candidates: Lili Begiashvili, Giorgi Santuriani and Giorgi Kalandarishvili. See Multinational Georgia releases a statement, information portal Report.ge, 09.07.2021, accessible: <https://bit.ly/3u77Qfc>, updated: 17.03.2022.

⁸⁹ The President nominated Giorgi Kalandarishvili and Giorgi Santuriani for the position of the Chairperson, while Gia Tsatsashvili, Lela Taliuri, Tamara Sartania and Maia Zaridze for the vacant positions of CEC members. See, The President has nominated Giorgi Kalandarishvili and Giorgi Santurian for the position of CEC Chairperson, information portal Interpressnews, 12.07.2021, accessible: <https://bit.ly/35eMT9I>, updated: 15.02.2022.

⁹⁰ Parliament could not elect the CEC chairperson, information portal Radio Liberty, 12.07.2021, accessible: <https://bit.ly/3I59unx>, updated: 15.02.2022; Candidates for the position of the chairperson and member of the Central Election Commission have not received the necessary support from Parliament, official website of the Parliament of Georgia, 18.07.2021, accessible: <https://bit.ly/3AtJTjX>, updated: 15.02.2022; Candidates for the

Kalandarishvili as the CEC Chairperson by the majority of the deputies on the 4th attempt.⁹¹ Gia Tsatsashvili and Maia Zaridze won the support of the Parliament for the position of the commission members.⁹² According to the new regulations of the Election Code, all three of them held the position for a period of 6 months.⁹³

It is important to reconsider the institutional framework for the election administration and the procedures for appointing commission members and to change them to ensure the independence and impartiality of the election administration in the long run; At the same time, it is desirable to staff the election commissions of all levels of the election administration on a fully professional basis, based on consensus between the parties. In the process of selecting the members of the commission, special attention should be paid to the consensus between the majority and the opposition, which means the selection of the CEC Chairperson and professional members with the support of 2/3 majority.

On August 3, the CEC elected Giorgi Sioridze, a CEC member appointed by the Lelo party, as the opposition deputy chairperson.⁹⁴

According to the amendments, no more than 9 members of the CEC are appointed on a parity basis by the parties that have overcome the threshold in the parliamentary elections.⁹⁵ The changes increased the number of members from 6 to 9, provided that each party had the right to appoint only one member. Under the old wording, the party quota was determined in proportion to the number of votes cast in the previous election, while each party was not allowed to nominate more than 3 members.⁹⁶ Under the interim mechanism, if there are more than 9 qualified parties, the party with more budget funding would be preferred when appointing a CEC member.⁹⁷ Part of the opposition considered this temporary norm unfair because it ruled out the possibility of a boycott by some opposition parties. In particular, with this regulation, two parties – the Laborists and the European Georgia - are deprived of the chance to appoint a representative in the election administration. According to the Venice Commission, it is unclear what this record served when the regulation linking the appointment of a member of the administration to budget funding and the appropriation of a mandate was repealed.⁹⁸ On the positive side, the amendments abolished the conditions for the party to appoint a member of the election administration, which required the party to

positions of the CEC chairperson and members still did not get the necessary support from the parliament, official website of the Parliament of Georgia, 22.07.2021, accessible: <https://bit.ly/3AvoHKe>, updated: 15.02.2022; Parliament Voted on the Candidates for the Election of the Chairperson and Members of the Central Election Commission, official website of the Parliament of Georgia, 26.07.2021, accessible: <https://bit.ly/3Aut8VL>, updated: 15.02.2022.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Election Code of Georgia, Article 10, part 3.

⁹⁴ CEC Ordinance #103/2021 on the Election of the Deputy Chairperson of the Central Election Commission of Georgia, August 3, 2021, accessible: <https://bit.ly/3BzeDSt>, updated: 15.02.2022.

⁹⁵ Election Code of Georgia, Article 10, part 1.

⁹⁶ The Georgian Dream was represented by 3 members in the Central Election Commission for the 2020 elections, while the United National Movement, European Georgia and the Alliance of Georgian Patriots were represented by one member each.

⁹⁷ Ibid.

⁹⁸ Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, para. 26.

have at least one member of parliament to receive funding. The international community has welcomed the removal of this regulation.⁹⁹

The CEC has 17 members for the 2021 elections.¹⁰⁰ The CEC held regular sessions from August 2 to November 13, which were broadcast live.¹⁰¹ This has contributed to greater transparency and accountability of processes. The CEC adopted a total of 33 resolutions and 275 ordinances.¹⁰²

3.1.1. *The CEC Advisory Group*

In accordance with the changes of 2021, during the election period, the CEC Advisory Group was established. On July 29, the CEC determined its structure, rules of operation, powers, and issues related to its activities by a resolution,¹⁰³ and on August 13, it approved the composition by an ordinance.¹⁰⁴

The Advisory Group is authorized to submit recommendations to the CEC regarding the process of reviewing election disputes, including the review procedure, the search for relevant materials, and/or the examination of relevant evidence.¹⁰⁵ The chairperson of the advisory group or a member of the advisory group appointed by them is authorized to attend the process of recounting the voting results in the district election commissions on one's own initiative.¹⁰⁶

The CEC resolution set a quota for local non-governmental organizations, according to which at least 7 and no more than 11 candidates for the Advisory Group will be selected by mutual observation (consensus) by the local observer organizations registered at the CEC during the last three general elections.¹⁰⁷ GYLA refused to participate in this process from the very beginning. According to the original wording, the members of the group should have been selected by full consensus; however, on August 6, the CEC amended the resolution, according

⁹⁹ Ibid, para. 14.

¹⁰⁰ 8 of them are professional members elected by the Parliament: Giorgi Kalandarishvili (Chairperson of the Commission), Giorgi Sharabidze (Deputy Chairperson), Giorgi Javakhishvili (Secretary of the Commission), Giorgi Dzagania (CEC member), Dimitri Javakhadze (CEC member), Giorgi Chikaberidze (CEC member), Gia Tsatsashvili (CEC member), Maia Zaridze (CEC member) and 9 of them are appointed by parties: Giorgi Sioridze (Deputy Chairperson, Lelo), Archil Anasashvili (CEC member, Georgian Dream - Democratic Georgia), Ana Kobakhidze (CEC member, Giorgi Vashadze - Strategy Builder), Ia Pirtakhia (CEC member, European Democrats of Georgia), Davit Jinjolava (CEC member, European Georgia), Nino Basilaia (CEC member, European Socialists), Davit Kirtadze (CEC member, United National Movement), Ivane Norakidze (CEC member, Aleko Elisashvili-Citizens), Levan Jgerenaia (CEC member, Girchi).

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Resolution #44/2021 of the Central Election Commission of Georgia on the approval of the Statute of the Consultative Group of the Central Election Commission of Georgia, July 29, 2021, Article 5, Paragraph 1, accessible: <https://bit.ly/3oCTF0C>, updated: 15.02.2022.

¹⁰⁴ Ordinance #156/2021 of the Central Election Commission of Georgia, August 13, 2021, accessible: <https://bit.ly/3BCIWbN>, updated: 15.02.2022.

¹⁰⁵ Resolution #44/2021 of the Central Election Commission of Georgia on the approval of the Statute of the Consultative Group of the Central Election Commission of Georgia.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

to which, in case of failure to select the members of the advisory group by consensus, in the re-vote, the candidate who will be supported by at least 2/3 of the total membership of the submitted organizations will be considered elected.¹⁰⁸ GYLA disapproves of this decision and believes that it was better to maintain the old rule to ensure the credibility of the group.^{xii}

This decision made by the CEC became one of the preconditions for some non-governmental organizations to leave the selection process of the advisory group. In particular, on August 8, Transparency International Georgia and the International Society for Fair Elections and Democracy left the advisory group.¹⁰⁹ In their view, the composition of the organizations invited to select the members of the advisory group and the decision-making procedure could not ensure the selection of qualified and credible people by consensus.¹¹⁰

On August 13, the CEC approved the composition of the group (12 members)¹¹¹ by the ordinance; however, the advisory group was unable to function and disbanded on September 19, 2021.¹¹² The CEC declared the ordinance on its creation invalid.¹¹³ The reason for the dissolution of the advisory group was the statements submitted by the group members to the CEC about leaving the group.¹¹⁴ According to the law, the Advisory Group must consist of at least 9 members,¹¹⁵ and as of September 19, it had only 6 members, which is less than the established minimum. At the same time, its composition should be approved within 10 days of the election,¹¹⁶ which makes it impossible to form a new group.

3.2. District Election Commissions

As a result of the electoral reform, the district election commissions are composed on a mixed principle, where 8 members selected on professional grounds are appointed by the CEC, while the other 9 are appointed by the parties.¹¹⁷ 5 professional members hold this position for a term of 5 years and 3 temporary, until the final results of the relevant elections are announced.¹¹⁸ The competition for the members of the District Election Commission is

¹⁰⁸ Ibid, Article 3, paragraph 3, sub-paragraph "b".

¹⁰⁹ Transparency International and ISFED Leaving the Process of Staffing the CEC Advisory Group, official website of Transparency International Georgia, 08.08.2021, accessible: <https://bit.ly/3JF5VEN>, updated: 15.02.2022.

¹¹⁰ Ibid.

¹¹¹ Ordinance #156/2021 of the Central Election Commission of Georgia of August 13, 2021, accessible: <https://bit.ly/2X7gopE>, updated: 15.02.2022.

¹¹² Kruashvili N. Newsletter №24, September, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 17-18, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3lqEDbq>, updated: 19.05.2022.

¹¹³ CEC Ordinance #5285/2021, on Approval of the Advisory Group of the Central Election Commission of Georgia for the October 2, 2021, Elections of the Municipal Representative Body - Sakrebulo and the Mayor of the Self-Governing City/Self-Governing Community, to Annul the CEC Ordinance #156/2021 of August 13, 2021, accessible: <https://bit.ly/3AtXGqY>, updated: 15.02.2022.

¹¹⁴ Kruashvili N. Newsletter №24, September, 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 17-18, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3lqEDbq>, updated: 19.05.2022.

¹¹⁵ Election Code of Georgia, Article 16¹, part 1.

¹¹⁶ Ibid.

¹¹⁷ Election Code of Georgia, Article 20, part 1.

¹¹⁸ Ibid, Article 19, part 5.

announced after the appointment of the elections; the deadline for submitting the competition documents is 2 days after the announcement of the competition.¹¹⁹ The legislation does not provide for the obligation to interview candidates.

The political agreement of April 19, 2021, reflected in the legislation the rule of electing the members of the district commission by a 2/3 majority vote.¹²⁰ The Electoral Code additionally defined an anti-crisis mechanism, according to which if 2/3 of the votes cannot be collected for the first time, the candidate will be elected by a full majority at the next ballot.¹²¹ The anti-crisis mechanism was not provided for in the April 19 agreement; however, the parliamentary majority cited the exclusion of the possibility of artificially delaying the process as an argument for this record, which is a frequently used but insufficient argument to circumvent the agreement.

The total number of members of 76 District Election Commissions is 1,255; Of which 380 were permanent members, elected by the CEC, not less than by the two-thirds, for a five-year term, 219 were temporary members (elected during the election period, from the date of the election until the final results were announced), and 656 were elected by nine authorized parties.¹²² For the second round, the number of members of 40 district election commissions was 680, of which 200 were permanent, 120 temporary members were elected by the CEC, and 360 temporary members were appointed by the parties.¹²³

The temporary members of the district election commissions for the local self-government elections were selected in accordance with the reformed legislation. More specifically:

1. The CEC announced the competition for the selection of temporary members of the District Election Commission on August 3.¹²⁴ It received a total of 377 applications for 219 vacancies.¹²⁵ 7 contestants did not submit corrected documents after the defect was identified; thus, 370 persons continued to participate in the contest.¹²⁶
2. According to the CEC, the number of applications for 3 vacant positions in each district commission was as follows: at 12 district commissions, 3 at each, at 20 district commissions, four at each, at 16 district commissions 5 at each, at 9 district commissions 6 at each, at 11 district commissions 7 at each, at 4 district commissions 8 at each, and at

¹¹⁹ Ibid, Article 20, part 12, subparagraph "b".

¹²⁰ "A WAY AHEAD FOR GEORGIA", EU Delegation to Georgia, official website, April 19, 2021, accessible: <https://bit.ly/3HcAWi4>, updated: 15.02.2022.

¹²¹ Election Code of Georgia, Article 20, part 16.

¹²² Election Administration of Georgia Report on the October 2, 2021 (August 2 - November 13) elections of the representative body of the municipality - Sakrebulo and the mayor of the self-governing city/self-governing community, official website of the Central Election Commission, accessible: <https://bit.ly/3JFy2nx>, updated: 15.02.2022.

¹²³ Ibid.

¹²⁴ Ordinance №102/2021 of the Central Election Commission of Georgia of August 3, 2021 on announcing the competitions for the election of the representative body of the municipality - Sakrebulo and the mayor of the self-governing city/self-governing community on October 2, 2021 and establishing the secretariat, official website of the Central Election Commission, accessible: <https://bit.ly/3t4kCdM>, updated: 15.02.2022.

¹²⁵ Statistical information on the election of temporary members of district election commissions, official website of the Central Election Commission, August 9, 2021, accessible: <https://bit.ly/3DjOpUz>, updated: 15.02.2022.

¹²⁶ Ibid.

1 district commission 11 candidates were registered.¹²⁷ As mentioned above, 12 constituencies received exactly as many applications as there were vacancies. This means that the selection process here took place without real competition. The reason for this may be various factors, including a threefold increase in the number of vacancies compared to the previous election. Still, it is worth noting the extremely short deadline for submitting the application, which did not allow the dissemination of information or to take appropriate steps by the addressees. Applications were accepted for 2 days, from August 4, 2021, to August 5, 2021, until 18:00.¹²⁸

3. The commission members examined 370 applications in 2 days, and on 7 August, they traveled to the regions and conducted interviews.¹²⁹ The commission members split up and interviewed 180 candidates individually in 1 day. The process was attended by 14 members of the CEC,¹³⁰ both professional and appointed by the parties.¹³¹ With the candidate's consent, the interview process was broadcast live on Facebook.¹³² The initiative by the CEC members to interview the candidates and the conduct of this process with maximum openness should be evaluated positively. At the same time, GYLA continues to focus on time shortages. Reviewing 370 applications in two days and organizing 180 interviews is unwise and distributing candidates among CEC members and conducting interviews separately is also ineffective. Following such a procedure, the members of the commission are in an unequal condition regarding the information about specific candidates, which, in addition to being a problem in itself, also prevents an agreement between the decision-makers.
4. The members of the commission appointed by the United National Movement and the European Georgia did not take part in the process of staffing the districts. They demanded the removal of persons employed in the public sector, local self-government bodies, and NPLEs from the list of candidates.¹³³ According to Davit Kirtadze (the United National Movement), splitting the commission and conducting individual interviews by the

¹²⁷ Ibid.

¹²⁸ Ordinance №102/2021 of the Central Election Commission of Georgia of August 3, 2021, on announcing the competitions for the election of the representative body of the municipality - Sakrebulo and the mayor of the self-governing city/self-governing community on October 2, 2021 and establishing the secretariat.

¹²⁹ CEC members will hold interviews with candidates for temporary membership in district election commissions, official website of the Central Election Commission, August 6, 2021, accessible: <https://bit.ly/2UGI4Rx>, updated: 15.02.2022.

¹³⁰ Members of the commission appointed by the United National Movement and the European Georgia protested against the process of staffing the district election commissions. They did not take part in the interviews or voting, and Dimitri Javakhadze, a professional member of the CEC, did not attend the interviews for personal reasons, although he did take part in the voting.

¹³¹ Interviews were conducted by CEC members: Deputy Chairperson of the CEC Giorgi Sharabidze, CEC Secretary Giorgi Javakhishvili, CEC member Giorgi Dzagania, CEC member Giorgi Chikaberidze, CEC member Gia Tsatsashvili, CEC member Maia Zaridze, CEC member Dimitri Javakhadze, Nino Basilaia (the European Socialists), Levan Jgerenaia (the Girchi), Ia Pirtakhia (the European Democrats of Georgia), Ivane Norakidze (Aleko Elisashvili-Citizens), Archil Anasashvili (the Georgian Dream - Democratic Georgia), Deputy Chairperson of the CEC Giorgi Sioridze (the Lelo for Georgia), Ana Kobakhidze (Giorgi Vashadze - Strategy Aghmashenebeli).

¹³² CEC members will hold interviews with the candidates for temporary membership in the district election commissions, official website of the Central Election Commission, August 6, 2021.

¹³³ CEC sitting, 00:49 - Davit Kirtadze's speech, 00:55 - Davit Jinjolava's speech, official Facebook page of the Central Election Commission, August 8, 2021, accessible: <https://bit.ly/3Ba5rCF>, updated: 15.02.2022.

members was an ineffective way. Davit Jinjolava (the European Georgia) also shared this position. According to him, in the conditions when the commission is not obliged by law to conduct an interview, and some of the candidates did not appear for the interview, it was impossible to make a real assessment.¹³⁴ They did not take part in the voting process for any of the candidates. It is not entirely clear to GYLA why these arguments are sufficient to boycott the process, while the participation of opposition parties could have made a positive contribution to the decision-making process.

5. Overall, out of 218 candidates selected as a result of the process - 105 received the support of 2/3 of the CEC members (12 or more votes),¹³⁵ while 113 members were elected by a majority or more of the full membership but not by 2/3 (9-11 votes).¹³⁶ It should be noted that all the candidates supported by the appointed member of the Georgian Dream party were eventually elected to the commission (if they did not get enough votes in the first round, they had this support in the second round).¹³⁷

Thus, half of the selected candidates were appointed by agreement between professional members, the government, and the opposition. It is true that part of the latter did not participate in the selection process. However, this fact confirms that decisions can be made through a consensus-oriented approach, and there is no real need for constituency members to be elected under a lower quorum. **Therefore, the Election Code should eliminate the anti-crisis mechanism in the procedure for recruiting professional members of the District Election Commission (DEC), as it hinders the achievement of the goal of agreement-based decision-making and hinders the consensus-based process.**

In addition, it is necessary to remove legislative barriers regarding the terms of staffing the DEC. The qualifying competition must be announced before the official start of the campaign, and the application and review deadlines must be extended. Interested parties should be given a reasonable time to apply for membership in the Commission, and the Commission should be given the opportunity to consider them in a calm environment and make a decision. This, in turn, will help lead to a fairer and more competitive process. The problem of tight deadlines is also relevant in the staffing of precinct election commissions, which is discussed in the next chapter.

3.3. Precinct Election Commissions

The competition for the members of the Precinct Election Commissions for the self-government elections was announced on August 8, and the applications were accepted in a rather short period of time, from August 9 to 12.¹³⁸ According to the legislation, 8 members

¹³⁴ Ibid.

¹³⁵ In the first ballot, 98 candidates received 12 or more votes, while 7 candidates received 12 or more votes in the second ballot.

¹³⁶ In the second ballot, the candidates received 9 votes or more.

¹³⁷ See Annex №1.

¹³⁸ Ordinance №97/2021 of the Central Election Commission of Georgia, August 3, 2021, on determining the rules, conditions and terms of the competition for the members of the precinct election commissions established for the October 2, 2021 elections of the municipal bodies, official website of the Central Election Commission, accessible: <https://bit.ly/38AIV9K>, updated: 15.02.2022.

of the Precinct Election Commission are elected by the relevant district election commission with at least 2/3 of the total membership, provided that the candidacy was supported, including at least 3 members of the relevant district election commission elected by the CEC for a term of 5 years.¹³⁹ If the candidate fails to get the required number of votes, the candidate who will be supported by the majority of the full composition of the relevant election commission will be considered re-elected (the requirement for the support of 3 out of 5 permanent professional members also applies here).¹⁴⁰

According to the official data of the CEC, 31,483 applications were submitted for the competition in 29,312 vacancies in 3,664 polling stations in 73 constituencies.¹⁴¹

- At 2 153 polling stations (58.76%), only 8 applications were submitted for 8 vacancies;
- At 891 polling stations (24.32%) - 9 applications;
- At 539 polling stations (14.71%) - more than 9 applications.

The lack of applications was also a problem in the 2020 parliamentary elections. In low competition, the possibility of staffing precinct election commissions with highly professional staff decreases.

Like the district commissions, the election of the members of the precinct commissions took place in a short period of time, from August 14 to August 17.¹⁴² The time required by law for filing and reviewing an application is short for disseminating information about the vacancy, reviewing the applications received, and making appropriate decisions.

It is desirable to increase the period of both the receipt of applications and the processing of applications, and this process should not depend on the date of the official announcement of the election. The OSCE also speaks about this, believing that it is possible to extend the deadlines for submission and consideration of membership applications in the Precinct Election Commission.¹⁴³

According to the election legislation, a member of a district election commission is prohibited from participating in the selection procedure if they are a family member of a candidate for membership in the relevant precinct election commission.¹⁴⁴ According to the data published by the CEC, 145 members of the District Election Commission did not participate in the election process due to kinship.¹⁴⁵

Legislative changes made in 2020 also ruled out the membership of a PEC professional member who had been appointed to the commission on a party basis in the previous general

¹³⁹ Election Code of Georgia, Article, part 2.

¹⁴⁰ Ibid, Article 25, part 11.

¹⁴¹ Information statement on the election of PEC members, official website of the Central Election Commission, August 17, 2021, accessible: <https://bit.ly/3BupYSm> updated: 15.02.2022.

¹⁴² Ordinance №97/2021 of the Central Election Commission of Georgia, August 3, 2021, on determining the rules, conditions and terms of the competition for the members of the precinct election commissions established for the October 2, 2021 elections of the municipal bodies, Article 2, paragraph 2.

¹⁴³ OSCE 2020 Report, p. 17.

¹⁴⁴ Election Code of Georgia, Article 24, part 2.

¹⁴⁵ A statement on the election of PEC members, official website of the Central Election Commission, August 17, 2021, accessible: <https://bit.ly/3BupYSm>,

elections.¹⁴⁶ 903 contestants were excluded from the selection process because, in the last general election, they were members of a party-appointed commission. As a result, none of the members was elected in violation of this rule.¹⁴⁷

In total, the number of 3,664 PEC members established by DEC's across Georgia was 63,105, including the respective DEC's, with at least 2/3 of the total membership, electing 31,848 members by roll-call vote, while the nine authorized parties appointed 31,257 members.

Out of 29,086 elected members of the PEC's, 25,730 (88.46%) were elected by a high quorum (12 or more votes).¹⁴⁸ 3330 members (11.44%) were elected by 10 or 11 votes. Only 26 members (0.089%) were elected with a minimum of sufficient votes (9 votes).¹⁴⁹

The willingness of the election administration to make public the tendencies revealed in the statistical data as a result of the selection process of the candidates as soon as possible should be evaluated positively.

Representatives of the United National Movement filed several complaints with the CEC alleging that dozens of candidate applications had been sent from the same e-mail address¹⁵⁰ and that dozens of the handwritten applications had been filled in with the same calligraphy.¹⁵¹ The CEC considered that the facts mentioned in the complaints did not constitute circumstances under which the district election commissions did not have the right to elect the persons.¹⁵² The decision of the election administration is legal, but it is unclear why the candidates were not able to fill out the applications themselves or use their own e-mails. There was another problem: the signatures on several applications about participating in the competition were similar.

According to the UNM complaint, in some cases, the members of their commission did not have the opportunity to get acquainted with the applications.^{153xiii} The CEC did not uphold it,

¹⁴⁶ Election Code of Georgia, Article 24, part 2.

¹⁴⁷ Information statement on the election of PEC members, official website of the Central Election Commission, August 17, 2021.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid. 2 members of the Precinct Election Commission were elected by 17 votes; 5 members of the Precinct Election Commission - by 16 votes; 719 members of the Precinct Election Commission - by 15 votes; 4 102 members of the Precinct Election Commission by - 14 votes; 9,391 members of the Precinct Election Commission - by 13 votes; 11,511 members of the Precinct Election Commission - by 12 votes; 2,872 members of the Precinct Election Commission - by 11 votes; 458 members of the Precinct Election Commission – by 10 votes.

¹⁵⁰ Complaints accessible: №80 District Election Commission, accessible: <https://bit.ly/3IOZC7x>, updated: 15.02.2022; №1 District Election Commission, accessible: <https://bit.ly/3nRrnPt>, updated: 15.02.2022; №60 Election Commission, accessible: <https://bit.ly/39u6dOI>, updated: 15.02.2022; №2 District Election Commission, accessible: <https://bit.ly/2Z7PJKj>, updated: 15.02.2022, №79 District Election Commission, accessible: <https://bit.ly/3ztcfdD>, updated: 15.02.2022, №5 Isani District Election Commission, accessible: <https://bit.ly/3AtB8qv>, updated: 15.02.2022.

¹⁵¹ Complaints accessible: N80 District Election Commission - <https://bit.ly/3IOZC7x>, N60 Election Commission - <https://bit.ly/39u6dOI>, N2 District Election Commission - <https://bit.ly/2Z7PJKj>, N79 District Election Commission - <https://bit.ly/3ztcfdD>, N5 Isani District Election Commission - <https://bit.ly/3AtB8qv>.

¹⁵² Ibid.

¹⁵³ Complaints accessible: N80 District Election Commission - <https://bit.ly/3IOZC7x>, updated: 27.09.2021; N1 District Election Commission - <https://bit.ly/3nRrnPt>, updated: 15.02.2022.

but the ordinance in which it ruled on several of them, including this complaint, does not mention the motivation.^{154xiv}

GYLA calls on the CEC to clearly indicate the arguments underlying the operative part of its act when resolving all disputes.

4. Electronic Elections

An important innovation envisaged by the 2021 electoral reform was the introduction of electronic technologies for the October 2 local government elections. The CEC has been empowered to carry out voter registration, voting, counting, and tabulation procedures electronically.¹⁵⁵ The rules and conditions of using electronic means and the list of election districts were determined by the CEC resolution.¹⁵⁶

The First Simulation of Electronic Elections

On June 12, 2021, the CEC used new technologies to simulate elections.¹⁵⁷ Representatives of non-governmental organizations, political parties, and the media observed the voting. GYLA participated in the process as an observer and fully monitored the voting process.¹⁵⁸

The following main innovations were presented in the simulation:

- Facial Recognition Program. Voters arriving at the polling station were identified through a special electronic program (its purpose was to exclude voting by unregistered voters and so-called carousel voting in the polling station);
- Modified ballot paper. The new ballot paper had a special code, and it could be identified through a special reader (its purpose was to prevent the ballot paper from being changed/withdrawn illegally);
- Special seal. Voting took place through a special seal placed by the voter along with their preferred subject;
- A special screen was placed in the Precinct Election Commission, through which the persons present at the polling station could keep track of the information about the voter who arrived at the polling station, in particular, their identity and how many minutes they spent at the polling station were displayed on the screen;
- The ballots were video recorded and scanned during the counting process.

¹⁵⁴ Ordinance №180/2021 of the Central Election Commission of Georgia on the complaints of the representatives of the political union of citizens United National Movement in the district election commissions of August 17, 2021 (CEC registration №№2700; 2701; 2702; 2703; 2704; 2705; 2706; 2707; 2708; 2709; 2710; 2711).

¹⁵⁵ Election Code of Georgia, Article 203², part 1.

¹⁵⁶ Ibid., part 2.

¹⁵⁷ The official Facebook page of the Central Election Commission, June 12, 2021, accessible: <https://bit.ly/3kfNayl>, updated: 23.03.2022.

¹⁵⁸ Ibid.

The flow regulator, registrar, and box supervisor were equipped with tablets. When the precinct was opened, the first three voters could not be found on the registrar's tablet. They were only able to register after an IT professional restarted the program.

On the one hand, the flow regulator used a tablet to identify the voter, and on the other hand, they were responsible for checking the markings. Due to the increased load, the flow regulator often found it difficult to combine these two functions.

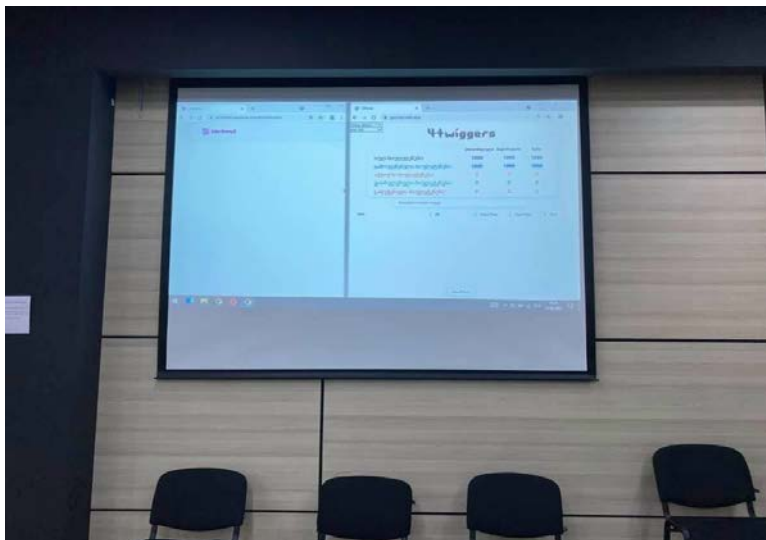
The face recognition program first identified the voter with a personal number and then with a face scanner. Only in case of 80% compliance with face recognition the voter could enter the polling station. There were cases where a voter photo could not be found in the program even though they were on the list.

The function of a commission member with the function of a box supervisor has also changed. The commission member had to scan the QR code of the electronic ballot paper, after which the voter tore the stub off and threw the ballot paper in the box. This process took place without substantial irregularities. Box supervisors handled the case well; however, sometimes, queues were observed near the box.

Voting was displayed on a large screen in parallel with the process (see photo material). Each voter needed an average of 3-4 minutes to vote.

The counters counted the votes using the traditional method, after which the summary protocols were scanned by an IT specialist. The process was video recorded using a special video device. Overall, no significant deficiencies were observed at the vote count stage.





As a result of monitoring the electronic election simulation, GYLA submitted recommendations to the CEC, according to which it is desirable: A) to provide IT services at all polling stations; B) review the functions of the members of the precinct commission; C) pay attention to the training of PEC members; D) technologies should not exclude the human factor; E) Analyze the risks of voter will control. According to the recommendation of the OSCE/ODIHR and the Venice Commission, it is important to pay attention to the time factor when piloting electronic technologies; therefore, according to their recommendation, the use of some technologies would be appropriate for the next elections.¹⁵⁹

The Second Simulation of Electronic Elections (Krtsanisi)

The CEC held another simulation on September 22, 2021.¹⁶⁰ The building of school №75, located in the Krtsanisi constituency, was selected as a pilot. 823 voters were registered on the voter list to participate in the voting. GYLA nominated one observer and several voters for the mock voting process.

Unrest and queues were observed at the beginning of the voting process, although this was soon rectified. It took some time to instruct voters about the new rules. However, they followed the instructions exactly.

A series of innovations were presented in this simulation of the e-election pilot, which differed from the technologies used in the previous simulation. In particular:

¹⁵⁹ Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, para. 16.

¹⁶⁰ Pilot project for electronic vote counting in the October 2 elections - mock elections were held in Krtsanisi constituency, website of the Central Election Commission, September 22, 2021, accessible: <https://bit.ly/3InJpXQ>, updated: 23.03.2022.

- **Different Ballot paper design and voting rules.** There are three columns in one ballot paper for proportional, mayoral, and majoritarian candidates. Instead of marking the election number, voters color the rounded circles with a special marker next to the candidate. The place for the testing is marked on the ballot paper. The ballot paper is protected by a special bar code, which guarantees that the device will receive ballot papers only for this precinct. In case the circle is improperly colored, or the ballot paper is placed in the folded position in the receiving slot, the device returns it with an indication of the corresponding cause on the screen. The apparatus considered the ballot papers invalid for two main reasons: if more than one number was marked in one column or if it was not marked at all;
- **Different ballot box design.** An electronic vote-counting device is attached to the ballot box with a special plastic seal, which scans the ballot paper and places it in the ballot box. It takes about 5-10 seconds for the device to place the vote after placing the ballot in the receiving slot. Commission officials requested voters to stay at the apparatus for the same amount of time to make sure their votes were recorded. It should be noted that the ballot paper is placed in the apparatus in an inverted form, which excludes the violation of the secrecy of the ballot in case of return of the ballot paper by the apparatus;
- **New rules for counting votes and summarizing results.** The chairperson of the election commission has a special electronic chip and code, which is necessary to print a zero report. Removing a zero score from the device confirms that voting using the device starts from zero. It takes a total of 2-3 minutes for the device to calculate the results, which includes using an electronic key, a special code, and printing the results. It should be noted that the results printed by the apparatus have no legal force. To check the accuracy of the data printed by the apparatus on the voting simulation, the ballots were manually counted and compared with the apparatus results. 100% compliance was established between them.

Piloting Electronic Technologies in the October 2 Elections

On September 3, 2021, the CEC issued a resolution defining the registration, voting, counting, and tabulation procedures for the use of electronic means by voters who arrived at the polling station during the October 2 elections. The following was determined by the resolution:

- **Ballot paper with a different design.** The ballot paper is divided into as many columns as there are types of elections. The ballot paper has (for protection and use on the relevant device) a special barcode and an individual QR code. The rule for filling it out is different; in particular, a special circle should be colored instead of marking the election number of the candidates. The ballot paper is verified only with the seal of the registrar and does not require signature verification;¹⁶¹

¹⁶¹ Ibid., Article 4.

- Instead of a control sheet, a confirmation is printed from a special counting machine ("Zero Report");¹⁶²
- Instead of a special envelope for voting through the main ballot box, two types of special frame envelopes were used;¹⁶³
- **A different voting rule.** The ballot paper is placed in the main ballot box through a special device mounted on the ballot box, which simultaneously counts the results;¹⁶⁴
- **A different rule of counting.** After the results are counted electronically, the votes are manually counted, and both the summary protocol and the demonstration protocol are filled out. The protocol will be accompanied by an extract of the preliminary results printed from the device, which has no legal force.¹⁶⁵

On October 2, 2021, the CEC organized a voting procedure at polling station #28 of Krtsanisi Election District #4, within the framework of a pilot project, in accordance with the above-mentioned rules. In total, 41,314 voters registered in the Krtsanisi constituency were given the opportunity to vote using electronic technologies.

From the opening of the polling station to the start of the voting process, more or less tension was felt in some polling stations due to the election procedure of voting.

CEC representatives were present at all polling stations to assist precinct election commissions in enabling electronic ballot counting equipment, sealing, getting the zero report from the electronic counting machine, and other technical issues.

There have been several cases where it has been technically difficult to seal a box using a plastic seal and then attach the vote meter to a sealed box with a plastic seal.

Deficiencies were observed regarding the ballot papers. In particular, at the polling stations #18, #24, and #32 of the Krtsanisi constituency, the ballot papers were large and could not be placed in a special device. Consequently, the voting process in these three precincts continued in the usual mode without the use of electronic devices.

A small number of voters were protesting against the new rule, according to which the relevant circle should be colored instead of marking the election number of the candidates. A small proportion of voters also refused to color the ballot paper test circle.

On polling day, the registrar explained the new voting rules to voters, leading to queues at both registrars' desks and polling stations.

Due to the marker paint leak on the other side of the sheet, it was more or less possible to identify the vote if the apparatus for some reason returned the ballot paper or in the process of placing the ballot paper in the apparatus.

The machine was receiving and perceiving the ballots as invalid if they were not certified by the registrar.

¹⁶² Resolution #58/2021 of the Central Election Commission of Georgia, September 3, 2021, Article 2, paragraph 2.

¹⁶³ Ibid., Article 3, paragraph 1.

¹⁶⁴ Ibid., Article 5, paragraph 1.

¹⁶⁵ Ibid., Article 8, paragraph 2.

The voting process showed that the use of electronic technologies did not reduce either the voting time or the time for summarizing the election results, as there was no electronic voter identification mechanism, and the votes were counted manually for apparatus testing purposes.

The second round of local self-government elections on October 30, 2021, was again conducted by electronic means of electoral procedure in the Krtsanisi constituency. Unlike the first round, GYLA observed a technical problem in the system in two cases. In one case,¹⁶⁶ the bug was fixed after a technical team was called. At the other one, the use of an incorrectly installed voting machine was stopped.¹⁶⁷

To check the accuracy of the apparatus, the manual counting of the ballots and the comparison with the results printed by the apparatus in both the first and second rounds showed an almost 100% correspondence between the apparatus and the manual counting results. The only exceptions are cases where the voter has clearly expressed their will, and the apparatus has considered these ballots as invalid ones. The total rate of such cases did not exceed 1%.

Conclusions and Recommendations

The use of electronic means in electoral processes has a number of advantages, such as simplifying the process, increasing efficiency, and avoiding human error. Nevertheless, it is important that electronic technologies be introduced in a way that does not inspire distrust in the electoral process. Therefore, the accompanying shortcomings of electronic technologies should be avoided as much as possible.

As a result of monitoring the processes, GYLA believes that it is important to consider the following general and specific recommendations when introducing electronic technologies at the next stage:

- The legislative framework should clearly regulate the use of any new voting technology in the electoral process;
- Voting guarantees must be observed when voting by electronic means, as is the case with the traditional method of voting;
- In parallel with the introduction of e-elections, an awareness-raising campaign is desirable - the population should have confidence in the use of technology in elections;
- Start preparing legislative and policy frameworks for e-elections within a reasonable time before the elections, including conducting a pilot, focusing on training PEC members;
- The introduction of any electronic voting technology should take into account good practices and standards of the Council of Europe in the field of electronic voting;¹⁶⁸

¹⁶⁶ Polling station #10, Krtsanisi.

¹⁶⁷ Polling station #32, Krtsanisi.

¹⁶⁸ Explanatory Memorandum to Recommendation CM/Rec (2017)5 of the Committee of Ministers to member States on

- It is desirable to improve the quality of the paper used to print the ballot, and the dimensions should be precise so that the machine can read it smoothly; It should be impossible to notice the dots on the back of the ballot paper so not to violate the secrecy of the ballot;
- The apparatus should be able to return unsealed ballot papers, thus further improving the share of real ballots and not losing the votes of citizens;
- For the next elections, it is recommended to introduce an electronic voter identification mechanism together with the electronic vote-counting system and replace the marking procedure.

GYLA continues to study the use of e-elections and will offer updated recommendations to the public in the future.

5. Mandatory Recount of Results

In accordance with the agreement of April 19, the legislative changes adopted on July 28, 2021, established the rule of the mandatory recount of ballot papers.¹⁶⁹ DEC's were obliged to randomly select and re-count the ballot papers of 5 polling stations in the territory of each electoral district no later than the 6th day after the polling day.¹⁷⁰ The aim of the novelty was to increase the population's confidence in the election results.

The CEC resolution determined the additional rules necessary to ensure the recount.¹⁷¹ The process of recounting the results of each precinct is carried out by 5 persons - the chairperson of the respective precinct election commission,¹⁷² 1 relevant PEC member appointed by DEC using a lottery principle and 1 member appointed by the parties, 1 member elected by the CEC using a lottery principle from the district election commission and 1 member elected by the parties.¹⁷³

During the counting, the first counter takes the ballot paper, checks the authenticity of the ballot paper,¹⁷⁴ announces who is being voted for,¹⁷⁵ and holds the ballot paper in such a way that the video recorder can tape the front page of the ballot paper.¹⁷⁶ One type of ballot paper

Standards for e-voting, accessible: <https://rm.coe.int/168071bc84>, updated: 20.05.2022.

¹⁶⁹ "A WAY AHEAD FOR GEORGIA", EU Delegation to Georgia, official website, 19.04.2021, accessible: <https://bit.ly/3frBggU>, updated: 21.02.2022.

¹⁷⁰ Election Code of Georgia, Article 21, subparagraph "d²".

¹⁷¹ CEC Resolution #40/202, on Determining the Time and Rule of Re-Counting the Voting Results by District Election Commissions.

¹⁷² "In case of inability to participate, the Deputy Chairperson of the relevant precinct election commission, and in case of their inability to participate, the person appointed by lot from the members of the PEC elected by the DEC, automatically performs the function of first counter."

¹⁷³ CEC Resolution #40/202, on Determining the Time and Rule of Re-Counting the Voting Results by District Election Commissions. Article 4, paragraph "c", subparagraphs "c.a)", "c.b)", "c.c)".

¹⁷⁴ CEC Resolution #40/202, on Determining the Time and Rule of Re-Counting the Voting Results by District Election Commissions. Article 7, paragraph a, subparagraph b.

¹⁷⁵ Ibid, paragraph a, subparagraph c.

¹⁷⁶ CEC Resolution №55/2021 On Defining the Rule of Video Recording of the Vote Counting Process during the October 2, 2021 Elections of the Municipal Representative Body - Sakrebulo and Self-Governing Town/Self-Governing Community", August 23, 2021, Article 4.

is handed over to the second counter, the second type to the third counter, and the third type of ballot paper to the fourth counter.¹⁷⁷ They pass invalid ballot papers, suspicious ballot papers, and unidentified sample ballots to the fifth counter.¹⁷⁸ The counters arrange the ballot papers separately, according to the votes cast for each election subject.¹⁷⁹ After the sorting, the members of the commission decided by a majority of votes the issue of the authenticity of the ballot papers considered suspicious.¹⁸⁰ The counters then count the votes of the election subjects and the invalid ballot papers separately.¹⁸¹

After the recount of the ballot papers in each polling station, a recount results report is drawn up, which reflects the results of the recount and is signed by the relevant counters.¹⁸² Based on the report, the District Election Commission makes an ordinance: to leave the voting results unchanged and, in case of change, to change the data of the summary protocol/protocols of the voting results in accordance with the recount report.¹⁸³

The random selection of polling stations does not take into account the polling stations where the electronic ballot counter was located, as well as the polling stations created for medical institutions and isolated voters.¹⁸⁴

After the first round of elections, on October 3, the district election commissions identified precincts by a lot where a recounting should have occurred, and the recount of ballot papers took place on October 4 (the third day after the elections) within the legal deadline. Ballot papers from 360 polling stations in 72 constituencies were counted. Data did not change in the case of 239 (66.7% of precincts) precincts. Data are slightly changed in 121 polling stations (33.3% of polling stations).¹⁸⁵ In addition, 258 precincts were recounted on the recommendation of the CEC chairperson,¹⁸⁶ while 194 precincts were recounted on the initiative of complaints and, in some cases, district election commissions.¹⁸⁷ After the first round, a total of 812 precincts were recounted.

Before the second round of elections, on October 16, at the CEC session, Davit Kirtadze, a "CEC-appointed member of the United National Movement," put forward an initiative that

¹⁷⁷ CEC Resolution #40/202, on Determining the Time and Rule of Re-Counting the Voting Results by District Election Commissions. Article 7, paragraph a, subparagraph "d".

¹⁷⁸ Ibid, paragraph a, subparagraph "e".

¹⁷⁹ Ibid, Article 7, paragraph "d", subparagraphs "a", "b", "c".

¹⁸⁰ Ibid, subparagraph "c".

¹⁸¹ Ibid, Article 7, paragraph "d".

¹⁸² Ibid.

¹⁸³ Ibid, Article 10.

¹⁸⁴ Ibid, Article 2, Paragraphs "a" and "a1".

¹⁸⁵ "On the recommendation of the CEC Chairperson, the results of 258 precinct election commissions were counted", CEC official website, October 10, 2021, accessible: <https://cutt.ly/WT7urLF>, updated: 30.11.2021.

¹⁸⁶ Ibid., Recommendation of the Chairperson on the Criteria for Selection of Precincts: "1) Complaints requesting the recount/revision of results were submitted by the observer organizations with many years of experience in election observation and which conducted a large-scale observation mission in the October 2 elections and at the same time, publish their election-related reports after the election; 2) No complaints were filed by the above-mentioned organizations, but the summary protocols record a high number of invalid ballot papers by specific constituencies; 3) As of October 9, the sum of invalid ballots and actual votes in the summary protocols exceeded the number of voters participating in the voting by 5.

¹⁸⁷ "On the recommendation of the CEC Chairperson, the results of 258 precinct election commissions were counted", CEC official website, October 10, 2021, accessible: <https://cutt.ly/WT7urLF>, updated: 30.11.2021.

would have been better if the lottery had been identified the polling stations and they had been recounted on the same day.¹⁸⁸ The members of the commission agreed with the initiative. After the end of the second round, on November 1, at 11 a.m., the district election commissions conducted a lottery, and on the same day, at 17:00, the ballot counting process began.

At the initiative of the CEC Chairperson, instead of the mandatory 5 precincts, 7 precincts were identified in each district.¹⁸⁹ On October 1, the results of 201 polling stations were mandatorily counted.¹⁹⁰ On the same day, CEC member Ivane Norakidze addressed a briefing to the district election commissions if video-recording was not carried out in more than 2 polling stations at the constituencies,¹⁹¹ 2 polling stations should have been selected randomly in each of them and recounted. And if there were 2 or fewer such precincts in constituencies, all of them should have been automatically recounted.¹⁹² As a result, district election commissions recounted 52 polling stations on November 2.¹⁹³

A total of 274 polling stations were recounted in the second round of elections.¹⁹⁴ The amendments made as a result of the recount did not affect the election results.

The diligence of the election administration to evaluate the pragmatic number of precincts on its own initiative, except in cases provided by law, should be positively assessed.

The results of the recount in the polling stations observed by GYLA did not reveal any significant shortcomings related to the summary protocols. However, the recount process was inconsistent.

According to the ordinance, the process of recounting the ballots involves a comprehensive recount of the ballots, both quantitatively and in terms of the will expressed by the voter;¹⁹⁵ however, in practice, the process was inconsistent. It should also be noted that the resolution does not mention the issue of recounting voter signatures, on the basis of which in the constituencies where GYLA observed the process, the recount of signatures was almost non-existent.

¹⁸⁸ CEC meeting, October 16, 2021, video recording, accessible: <https://cutt.ly/LT7jtLe>, updated: 30.11.2021.

¹⁸⁹ "I would like to address the district election commissions with an important initiative and recommendation - instead of the mandatory 5 polling stations, to identify and recount the results of 7-7 polling stations," CEC official website, October 31, 2021, accessible: <https://cutt.ly/GT7kbgn>, updated: 30.11.2021.

¹⁹⁰ "Statistics of Counting the Data of the Second Round of Municipal Elections", CEC Official Website, November 2, 2021, accessible: <https://cutt.ly/AT7zEhQ>, updated: 30.11.2021.

¹⁹¹ In the second round of elections, no video was recorded in 292 polling stations where there were less than 300 voters.

¹⁹² CEC member Ivane Norakidze held a briefing today and addressed a new recommendation to the district election commissions, the official website of the CEC, November 1, 2021, accessible: <https://cutt.ly/cYx0kb2>, updated: 07.12.2021.

¹⁹³ "Statistics on the Second Round of the October 30 Elections", CEC Official Website November 3, 2021, accessible: <https://cutt.ly/HYx3IA5>, updated: 07.12.2021.

¹⁹⁴ "Information on the recount of polling station data on the basis of complaints", CEC Official Website, November 5, 2021, accessible: <https://cutt.ly/AT7xH5j>, updated: 30.11.2021.

¹⁹⁵ CEC Resolution of July 26, 2021, №40/2021 "On Determining the Time and Rule of Re-Counting the Voting Results by the District Election Commissions", Article 7.

It should be good practice for counters to open ballot papers tied to stacks, check the will expressed by the voter one by one, check the presence of the seal and signature, loudly declare the will of the voter, and show the ballot paper to the camera.

It is noteworthy that different practices were observed in the same recount centers with respect to different precincts. For example, during the counting of polling stations in the Samgori constituency, 2 polling stations were fully counted, while in other cases, the counters did not show the ballot paper to the camera. Therefore, the observer could not identify the will expressed by the voter. In some cases, the voters' will was not even checked by counters, and only the ballots were counted quantitatively.

The decree made it possible to re-count the voting results of several precincts at the same time, in the same building.¹⁹⁶ Conducting the recounting process in one space is, of course, logical, although the simultaneous recounting of 5 and, in some cases, 7 precincts makes it difficult for observers to observe the process properly. At the same time, in some cases, district election commissions restricted the free movement of GYLA observers at the counting station, allowing observers to monitor only one precinct. In the first round of elections, during the recount of the 47th precinct in the Chughureti district, a GYLA observer observed a case when the chairperson of the Precinct Election Commission refused to award a canceled ballot paper to an opposition party. The candidate of the Georgian Dream was crossed out on the ballot paper, and the candidate of one of the opposition parties was marked. According to the chairperson of the precinct election commission, such an action of the voter (crossing out of the candidate) insulted the Georgian Dream; therefore, by their personal decision, the ballot paper was considered invalid. In their position, changing this decision was a matter of their "dignity," and they would not agree to it. Following the recount process, the district election commission considered the issue and assigned the ballot to one of the opposition parties.

The GYLA observer also observed a case when the members of the 31st Precinct Election Commission of Saburtalo, who were to take part in the counting, did not show up, so the District Election Commission instructed the counting commission of another precinct to count the votes. In the first round of elections, after the recount of the 5th, 43rd, 45th, 50th, and 78th precincts of the Isani district, the District Election Commission, in accordance with the resolution, did not discuss the issue of the validity of the disputed ballot papers on the spot and in all cases, ballot papers would be moved separately, for consideration at a District Election Commission meeting, at the District Building. In the case of the 78th precinct, 8 ballots were moved from invalid to "suspicious" because some of them were questioned about their authenticity. The questionable ballot papers were taken on the same day at the district commission meeting, although it is noteworthy that all eight ballot papers were not considered at the meeting, nor was the observer given the opportunity to clarify the situation. In practice, the recount procedure was divided into two parts, and at the moment of transferring the ballots from the recount center to the District Election Commission (in an unobserved environment), the decision was changed, as a result of which part of the ballots were no longer submitted to the commission. A similar case was observed in 3 other polling

¹⁹⁶ CEC Resolution #40/2021, on Determining the Time and Rule of Re-Counting the Voting Results by District Election Commissions, Article 5.

stations in the Isani district; some of the ballot papers considered suspicious at the counting stage could not be found at the commission session.

Dividing a single procedure in terms of both time and location is impractical and increases the likelihood of making a mistake. The risk of manipulation when moving documents also increases. It is also not clear from the current practice in which case the disputed issue should be resolved on the spot and in which case the issue will be moved to the District Election Commission for resolution. A verbatim reading of the resolution shows that the District Election Commission is making an ordinance on changing the data of the summary protocol/protocols of the voting results on the basis of the annex/report. The resolution does not allow the counting process to be continued at another location at the session of the District Election Commission. Such practices also make it difficult to observe the process.

Compliance with COVID regulations, testing of persons involved in the process, and other safety measures in counting centers should be positively assessed.

According to GYLA, it would be better for the district election commissions to ensure the recount process. According to the Election Code of Georgia, the recount of precincts is the responsibility of the District Election Commission.¹⁹⁷ The selection of PEC members as counters goes against the purpose of the norm and means that it is again up to the PECs to verify their own summary protocol and not to its superior body, although the final decisions are made by the DEC. As a result of the reform, given the increased number of commission members, the DEC really has the human resources to do so. Such an approach will increase the credibility of the recount process and make it easier for the election administration to provide logistical support to the process, to introduce uniform standards.

6. Video Recording of Counting Results

On June 28, an amendment to the Election Code of Georgia empowered the election administration to regulate and then implement a video-recording project of the vote-counting process.¹⁹⁸ According to the resolution, the Precinct Election Commission is obliged to provide audio-video recordings of the vote-counting process in such a way that the ballot counting process and the place of posting ballot papers are fully visible.¹⁹⁹ It is the responsibility of the chairperson of the precinct election commission to select a favorable position for the video camera.²⁰⁰

The Precinct Election Commission is obliged to ensure the recording of the ballot counting process from the moment of opening the ballot box to the moment of sealing the ballot piles.²⁰¹

¹⁹⁷ Election Code of Georgia, Article 21, subparagraph “d2”.

¹⁹⁸ Election Code of Georgia, According to Article 203², the CEC was authorized to use electronic technologies in the next municipal elections, including video recording of votes.

¹⁹⁹ CEC Resolution №55/2021 On Defining the Rule of Video Taping of the Vote Counting Process during the October 2, 2021 Elections of the Municipal Representative Body - Sakrebulo and Self-Governing Town/Self-Governing Community, August 23, 2021, Article 1, paragraphs “a” and “b”.

²⁰⁰ Ibid, Article 6.

²⁰¹ Ibid, Article 2.

According to the procedure, the first counter receives the ballot paper from a special envelope, announces who the ballot is for, as well as declares the ballot papers considered invalid/suspicious, and then holds the ballot paper in such a way that the video recorder can tape the front page of the ballot paper.²⁰²

The video recording process is carried out by a member of the Precinct Election Commission, elected by the district election commission, and elected by the opposition parties.²⁰³ And "If a member of the precinct commission identified by lot refuses to perform the function assigned to them, the chairperson of the district election commission shall determine the person authorized to ensure the procedure in agreement with the members of the precinct election commission (meaning persons appointed by opposition parties)."²⁰⁴

The CEC is obliged to upload all the video recordings of the vote-counting process on the video recording devices to the Internet no later than 10:00 am on the 5th day after the election day.²⁰⁵ The videos were on the Internet till December 31, 2021.²⁰⁶

Video recording of the vote-counting process is provided in polling stations where the number of registered voters exceeds 300 voters.²⁰⁷ Video recording was not carried out in the polling stations where the voting process was conducted electronically.

On August 27, the Georgian Dream-Democratic Georgia political union handed over about 3,700 video cameras to the CEC free of charge, based on a lending agreement.²⁰⁸

Through the link on the CEC website, most of the records (87%) became available on the third day after the elections (October 5).²⁰⁹ In the first round of elections, the recording was scheduled for 3,198 polling stations,²¹⁰ but as of October 26, 312 polling stations could not be uploaded.²¹¹

In the case of the second round, video recording was supposed to be carried out at 1750 polling stations.²¹² The videos were uploaded to the relevant platform on November 1, 2 days after the elections, only for 1461 precincts.²¹³ In case of 289 polling stations, the recordings were not made.²¹⁴

GYLA welcomes giving more publicity to the vote-counting process. Nevertheless, in a number of cases, technical malfunctions reduced their effective use. GYLA observers observed flaws

²⁰² Ibid, Article 4.

²⁰³ Ibid, Article 8, paragraph 2.

²⁰⁴ Ibid, paragraph 3.

²⁰⁵ Ibid, Article 10.

²⁰⁶ Ibid, Article 14.

²⁰⁷ Ibid, Article 15.

²⁰⁸ "Cameras for video recording of the CEC vote counting process have been provided", the CEC official website, 27.08.2021, accessible: <https://cutt.ly/LYclhYn>, updated: 07.12.2021.

²⁰⁹ "CEC member Ivane Norakidze held a briefing regarding the video recording of the vote count", CEC official website, October 5, 2021, accessible: <https://cutt.ly/OYg8ZC4>, updated: 05.12.2021.

²¹⁰ #03-01/596 letter from the Central Election Commission (CEC), June 6, 2022.

²¹¹ Ibid.

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.

during the recording process as well as afterward while observing the video recordings. Basically, a negative trend was observed in terms of ballot resolution. For the most part, the ballot papers did not show the ballot taken by the counter, so it was impossible to discern who the voter was voting for. Often, this was due to the fact that the camera was standing at a long distance, the room was not well lit, or the recording quality was low.

GYLA considers it important to give more legal significance to the record. In particular, uploading them in a timely manner so that those involved can use the material as evidence when reviewing complaints. In addition, it is necessary to have a lever that will enable the parties involved to hold the relevant persons liable for any irregularities recorded in the records. This will greatly increase confidence in the process of counting the election results.

7. Gender and Elections

Gender Quotas at the Local Level

Election legislation provides for a gender quota mechanism in the composition of the Parliament and local self-government Sakrebulo.²¹⁵ According to this rule, political parties are obliged to submit a party list to the CEC, which will have one in four in the case of the Parliament and one in three in the Sakrebulo elections different gender candidates. The gender quota is mandatory, and in case of its non-observance, the party list will not be registered.

Gender quotas were also supported in the Parliament by the Constitutional Court, which considered increasing the representation of women as a legitimate goal.²¹⁶ In its decision, it pointed out that quotas are one of the most effective mechanisms for achieving results, which, at least in a certain percentage, ensured women's representation.²¹⁷ At the same time, the court declared unconstitutional the content of the election norm, which provided for the inclusion of one man in every four on the list.²¹⁸

The 2021 reform changed the gender ratio in the proportional lists of local self-government elections. Under the change, at least one in three candidates on the party list must be of the opposite sex. Thus, a standard that required parties to have every second candidate on the list be of a different sex has changed. It should be noted that the quota was approved by the parliament in the ratio of "one to two" in July 2020, and in June 2021, it was reduced from "three to one," thus the implementation of the "one in two" quota in the local elections was practically missed.

Prior to the 2021 elections, the gender quota mechanism was limited to regulating the submission of a list by a party. It was not interested in the final result (gender balance in the representative body). Some parties took advantage of the loopholes left in the law and

²¹⁵ Election Code of Georgia, Article 203, parts 2 and 8.

²¹⁶ Judgment of the Constitutional Court of Georgia №3/3/1526 of September 25, 2020 in the case NPLE Political Union of Citizens the New Political Center, Herman Sabo, Zurab Girchi Japaridze and Ana Chikovani v. Parliament of Georgia, II-38.

²¹⁷ Ibid, II-58.

²¹⁸ Ibid, III-2.

sidestepped the requirement for gender quotas. Thus, it became necessary to regulate the issue. The 2021 amendment defines the locking mechanism: if a member of the Sakrebulo elected by the proportional electoral system is terminated prematurely, they will be replaced by their successor, a member of the same sex, within 2 weeks.²¹⁹ If there is no candidate of the same sex in the submitted party list, the mandate is revoked.²²⁰

A few months before the 2021 elections, the European Georgia - Movement for Freedom political party appealed to the Constitutional Court against the local gender quota system. The party also challenged the lock-in mechanism, which provides for the abolition of the mandate in the absence of a replacement candidate of the same sex.²²¹ The court found that there was no argument in the lawsuit that would convince it of the merits of the request to declare the quota unconstitutional and found the plaintiff's position to be unfounded.²²²

Gender Statistics in the 2021 Elections

Of the 20,623 candidates registered under the Proportional Electoral System for the October 2, 2021 elections, 8,766 were women, representing 42.51% of the total,²²³ while out of 2,771 majoritarian candidates, 488 (17.61%).²²⁴ Out of 40 candidates for mayor of 5 self-governing cities, only 7 were women (17.5%), and out of 199 candidates for mayor of 59 self-governing communities - 18 (9.05%).²²⁵

As for the results, 441 out of 1,404 members elected by the proportional system of the Sakrebulo throughout Georgia are women (31.4%).²²⁶ Out of 664 members of the Sakrebulo elected by the majoritarian system, only 50 (7.5%).²²⁷ One female mayoral candidate from 5 self-governing cities won, while two in 59 self-governing communities won.²²⁸

Despite the positive results in the proportionate section, the above statistics once again highlight the under-representation of women in public positions.

GYLA supports gender quotas and believes that it ensures inclusive, balanced, and pluralistic representation. According to GYLA, the gender quota should be based on the principle of "one in two" until a more balanced representation is ensured.

²¹⁹ Ibid, part 10.

²²⁰ Ibid.

²²¹ Judgment of the Constitutional Court of Georgia N3/2/1647 of October 21, 2021 in the case of the political union of citizens "European Georgia-Movement for Freedom", Nino Todria, Martha Kardava, Nino Ordenidze and others (12 plaintiffs in total) against the Parliament of Georgia.

²²² Ibid, II-48.

²²³ Gender Statistics of Candidates Registered for October 2, 2021 Local Self-Government Elections, "Gender Portal" - official website of the Central Election Commission, <https://bit.ly/34Zjb8u>, updated: 15.02.2022.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

GYLA's Findings in the Framework of the Short-Term Gender Observation Mission

As part of its short-term observation mission, GYLA monitored the participation of women in the voting process and revealed facts of possible discrimination in the precincts.

GYLA observers, through a pre-designed special questionnaire, examined the situation in the polling stations in the following areas:

- Cases of voting by the family at the polling station, including entry into the booth with the family members;
- Cases where a man, while voting by a family, would decide who to vote for a woman;
- Cases of any discrimination on the grounds of gender (e.g., discrimination on the grounds of the gender of a female observer/commission member/party representative).

In total, there were cases of the entry of family members into the booth together - 22; Decision-making by a man when voting by family - 4; Gender discrimination - 1 case. The data are based on the results of observations at 102 precincts.

GYLA also observed the gender balance among observers in these precincts. In particular, the representation of international, local observers, and election subjects at the polling stations was distributed in terms of gender as follows:

- 62 female observers among international observers and 68 male observers;
- 389 female observers and 231 male observers among local observers;
- Among the representatives of election subjects, 246 were female, and 147 were male observers.

Thus, the gender balance rate among observers is positive. However, the problem is the fact that the family votes jointly in the polling stations, as well as the decision-making process, is done by the men. The latter is quite challenging to identify, which indicates that the full realization of women's suffrage is a problem in some cases.

PART II - PRE-ELECTION ENVIRONMENT

1. Misuse of Public Resources

1.1. Ignoring the Demand for Separation of the State and the Ruling Party

The OSCE Copenhagen Document calls for "a clear separation of the state and the political parties."²²⁹ The Georgian Dream failed to adhere to this principle during the pre-election campaign.

The head of the country's government, Irakli Gharibashvili, while talking about the government's initiatives constantly appealed to the role and financial contribution of the party's founder and leader, Bidzina Ivanishvili, when presenting the Georgian Dream's mayoral candidates. Examples of these were when the Prime Minister spoke about a joint project of Cartu and the state, the restoration of the Nokalakevi archeological complex; Or the money of the Cartu Foundation spent on the renovation of the Senaki State Theater; Also, when the Prime Minister recalled the territories restored by the decision of Bidzina Ivanishvili in Khobi and the construction of a church; Or when the head of government highlighted the huge sums of money spent by Bidzina Ivanishvili on the construction of Kutaisi International University.²³⁰ Such a reference was also registered on the official Facebook page of the Georgian government.²³¹

Mentioning Bidzina Ivanishvili's funded projects during party events during the campaign made it difficult for voters to draw the line between the state and the ruling party. This created the impression that what the state is responsible for, on which the taxpayer's money is spent, is subject to the good will of the party and is linked to charity. In doing so, the majority gained an unnatural advantage, which prevented the campaign from being conducted on equal terms.

1.2. Misuse of Public Resources and Illegal Participation in the Agitation of Public Officials

Electoral legislation prohibits the use of administrative resources during the pre-election campaign period.²³² The law establishes a list of persons who are prohibited from participating in agitation, including public servants (during working hours or when they are directly exercising official authority).²³³ In addition to the election law, the principle of political neutrality and impartiality of the civil service is established by another norm, which prohibits

²²⁹ Organization for Security and Co-operation in Europe, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen: Organization for Security and Co-operation in Europe, 1990), para 5.1, accessible: <https://bit.ly/3vzFHWU>, updated: 01.03.2022.

²³⁰ Latsabidze M. et al., II Interim Report of the 2021 Local Self-Government Election Observation Mission, August-September (Tbilisi, Georgian Young Lawyers' Association, 2020), pp. 12-13, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3DeIH7I>, updated: 01.03.2022.

²³¹ Ibid.

²³² Election Code of Georgia, Article 48, part 1.

²³³ Ibid., Article 45, part 4.

a public servant from participating in agitation and pre-election campaign during working hours or using their official position.²³⁴

The 2021 amendments expanded the list of persons banned from participating in pre-election agitation to prevent the misuse of administrative resources. In particular, the amendments introduced the term "public servant" and prohibited them from agitation during business hours or when he/she directly exercised official powers.²³⁵ A "public servant" is defined in the Law on Public Service, and it covers a wide range of public servants.²³⁶ In addition, "public school teacher" was defined, and it also included "a director, a caregiver-pedagogue, a caregiver, and a teacher of a pre-school educational institution or a general educational institution established by the State or a municipality, or another person employed there."²³⁷ The amendments additionally prohibit "public servants, employees of legal entities under public law, employees of non-profit (non-commercial) legal entities established by the State or a municipality, directors, caregiver-pedagogues, caregivers, and teachers of pre-school educational institutions and general educational institutions established by the State or a municipality, or other persons employed there to meet together on account of official matters."²³⁸

Prior to the adoption of these amendments, the OSCE and the Council of Europe Group of States against Corruption (GRECO) pointed to issues such as the ability of high-ranking officials to campaign unrestrictedly, also, the lack of an effective body for the prevention of the use of the administrative resources, which will review complaints, investigate cases of misuse of administrative resources and take appropriate action.²³⁹ The OSCE recommends that the legal and institutional framework be improved and that the participation of high-ranking officials, including mayors, in the election campaign be strictly regulated.²⁴⁰ However, no changes have been made to the law in these areas.

GYLA also pointed to the problem of misuse of administrative resources.²⁴¹ The agitation of public servants and their equals during business hours remains a problem. The reform did not envisage a change in this direction either.²⁴²

Overall, changes to the legislation to prevent misuse of administrative resources are welcome; however, they are insufficient. Thus, according to GYLA, the legal framework of the administrative resource should be revised to eliminate the existing shortcomings and

²³⁴ Law of Georgia on Public Service, Article 15.

²³⁵ Election Code of Georgia, Article 45, part 4, subparagraph "h".

²³⁶ Law of Georgia on Public Service, Article 3, subparagraph "c".

²³⁷ Election Code of Georgia, Article 45, part 4, subparagraph "j".

²³⁸ *Ibid.*, Article 48, part 1, subparagraph "d".

²³⁹ Georgia Parliamentary Elections 31 October 2020: ODIHR Limited Election Observation Mission Final Report (Warsaw: OSCE/ODHIR, 2021), p. 29, accessible: <https://bit.ly/32QHQRh>, updated: 15.04.2022.

²⁴⁰ *Ibid.*, pp. 26-27.

²⁴¹ Latsabidze M., Kighuradze K., Georgian Parliamentary Election Observation Mission 2020, Pre-Election Environment, Election Day and Post-Election Monitoring Report (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 28-29, website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3kfjVMg>, updated: 15.04.2022.

²⁴² *Ibid.*

disadvantages and to be more in line with international standards. To this end, one of GYLA's recommendations is the following:

Legislation should provide for effective mechanisms against online agitation, in particular, the concept of agitation should be specified, and it should be specified that it includes the dissemination of political calls through the personal page of a social network.

During the pre-election campaign, GYLA sent complaints to the election administration about the violation of the rules of misuse of administrative resources (more details are discussed in a separate section).²⁴³ In addition, shortly before the start of the official campaign, GYLA registered cases of using public funds for partisan purposes, which is not a violation of the law, but a bad practice. An example of this is when the Government of Georgia, on August 2 - one day before the start of the campaign - passed a decree that would provide families with state co-financing of a mortgage loan in case of the birth of their first and second children.²⁴⁴ During the campaign, such an initiative is considered the use of administrative resources, which is prohibited by law.²⁴⁵ The use of public resources for electoral purposes in the run-up to the elections was also revealed in the official Facebook pages of the government in support of the ruling party.²⁴⁶ At this time, the ban on the use of administrative resources has not yet taken effect, and the law has not been violated, although GYLA considers such cases to be a bad practice, as such actions give the majority an unjustified advantage and create substantially unequal conditions for other parties.

1.2.1. Activities of the Interagency Commission for Free and Fair Elections

An interagency commission is established to prevent and respond to violations of election legislation by public servants.²⁴⁷ The commission is established during the election period, and it ceases its activities from the day of the official announcement of the final election results.²⁴⁸ Its composition and regulations are approved by the Minister of Justice.²⁴⁹ The commission meets at the invitation of the chairperson, as needed, but not less than once every two weeks and at least once a week after the expiration of the registration period for election subjects.²⁵⁰ The sessions discuss the information disseminated in the media on public officials regarding the violations of the election legislation, as well as the information provided to the Commission by election subjects and observer organizations.²⁵¹ In case of confirmation of the fact of violation, the Commission is authorized to make a recommendation to any public

²⁴³ See 1.2.2 GYLA Complaints and Responses to Violations.

²⁴⁴ Latsabidze M. et al., I Interim Report of the 2021 Local Self-Government Election Observation Mission, May-July (Tbilisi, Georgian Young Lawyers' Association, 2020), p. 8, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3ILGi4x>, updated: 15.04.2022.

²⁴⁵ Ibid.

²⁴⁶ Ibid., pp. 9-10.

²⁴⁷ Election Code of Georgia, Article 48, part 3.

²⁴⁸ Ibid., parts 4 and 4¹.

²⁴⁹ Ibid., part 5.

²⁵⁰ Ibid.

²⁵¹ Ibid., part 7.

servant, administrative body, and the CEC with a request to take appropriate measures within a reasonable time.²⁵²

In accordance with the law, the Interagency Commission for the 2021 Self-Government Elections was established on June 29.²⁵³ According to the statute, it included high-ranking officials, representatives of ministries and agencies, including representatives of the Central Election Commission and the State Inspector's Office.²⁵⁴ The latter was not part of the 2020 Election Commission.

In order to prevent the use of administrative resources before the elections, the CEC signed a memorandum with the interagency commission and 18 local non-governmental organizations.²⁵⁵ GYLA joined it. However, it should be noted that GYLA's offer to define online agitation under the memorandum was not considered this year either, and the memorandum still sidestepped the issue.²⁵⁶

GYLA did not participate in the activities of the interagency commission and remained in a boycott mode. However, the organization remotely monitored the activities of the commission. The Interagency Commission met a total of 14 times during the campaign period. The minutes of the commission meeting is publicly available; however, they were often published on the ministry's website a few days late. Various issues were discussed here, including the use of public resources, cases of voter bribery, violence, threats, pressure, intimidation, and persecution, as well as possible dismissals on political grounds.²⁵⁷ In reviewing the facts, the Commission was, in some cases, subjective and ignored important circumstances related to the case.²⁵⁸

Three days before the elections of the representative and executive bodies of the municipality, the commission issued 2 non-binding recommendations for teachers²⁵⁹ and public servants²⁶⁰ and called on them to refrain from participating in the agitation.²⁶¹ In order to prevent controversy and conflict during the pre-election campaign, the Commission also

²⁵² *Ibid.*, part 9.

²⁵³ Order №728 of the Minister of Justice of Georgia of June 29, 2021, on the Establishment of an Interagency Commission for Free and Fair Elections and the Approval of the Statute, official website of the Ministry of Justice of Georgia, accessible: <https://bit.ly/3uDdiXL>, updated: 25.03.2022.

²⁵⁴ *Ibid.*

²⁵⁵ Memorandum of Understanding on the Use of Administrative Resources for the October 2, 2021, Elections, 08.09.2021, official website of the Central Election Administration, accessible: <https://bit.ly/3KWtUR4>, updated: 15.04.2022.

²⁵⁶ GYLA Recommendations on the Activities of the Interagency Commission. See Latsabidze M., Kighuradze K., Georgian Parliamentary Election Observation Mission 2020, Pre-Election Environment, Election Day and Post-Election Monitoring Report (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 30-31, website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3kfjVMg>, updated: updated: 15.04.2022.

²⁵⁷ For more details, see Kruashvili N. et. al., Newsletter № 23, August 2021 (Tbilisi, Georgian Young Lawyers' Association, 2021), pp. 11-13, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3LirMmv>, updated: 15.04.2022.

²⁵⁸ *Ibid.*

²⁵⁹ Interagency Commission for Free and Fair Elections September 29, 2021, Recommendation to teachers.

²⁶⁰ Recommendation of the Interagency Commission for Free and Fair Elections of 29 September 2021 to public officials.

²⁶¹ *Ibid.*, Interagency Commission for Free and Fair Elections September 29, 2021, Recommendation to teachers.

addressed a recommendation to the election subjects participating in the elections.²⁶² According to GYLA, these recommendations should have been issued earlier, as their issuance 3 days earlier is less effective.

Overall, the activities of the Interagency Commission do not have a clear mandate, and it is limited to making recommendations, which is not enough to address the existing challenges. According to the OSCE/ODIHR and GRECO recommendations, it is important to take measures to prevent the misuse of administrative resources, including tightening sanctions for the misuse of administrative resources and appointing one body to deal with complaints about the misuse of administrative resources, investigate these cases and take appropriate action.²⁶³

According to GYLA, in order to prevent the use of administrative resources, the interagency commission should be abolished, and the relevant competence should be transferred to the CEC.

1.2.2. GYLA Complaints and Response to Violations

GYLA filed complaints with the election administration on 6 cases during the pre-election period. Out of these, 1 was upheld, 4 were not upheld, and GYLA terminated the dispute on 1 fact.²⁶⁴ 5 of GYLA's complaints related to the use of administrative resources, and 1 to violation of the rules of participation in agitation. More detailed information about these cases is discussed below.

1. The fact of using administrative resources was observed by GYLA in Batumi when chairs were delivered to the Georgian Dream's Adjara central office by a vehicle owned by Batumi Water Ltd. GYLA assessed this action as a violation of the rule of using administrative resources by the ruling party and filed a complaint to the Batumi District Election Commission.²⁶⁵ The district commission rejected the complaint.²⁶⁶ The organization appealed against this refusal to the Batumi City Court. In assessing the case, the judge relied on the argument that Batumi Water Ltd, within the scope of its statutory authority, has the right to carry out any activity that does not contradict the law in order to make a profit.²⁶⁷ It found that services were provided to the ruling political party in exchange for remuneration, as evidenced by the relevant acceptance and payment receipts. According to the court, the argument that

²⁶² Recommendation of the Interagency Commission for Free and Fair Elections of 29 September 2021 to public officials.

²⁶³ Venice Commission, OSCE/ODIHR, Joint Urgent Opinion on Draft Amendments to the Election Code, CDLPI (2021)005 (Strasbourg: Council of Europe, 2021), accessible: <https://bit.ly/3hFOk4R>, updated: 25.03.2022.

²⁶⁴ GYLA made an appeal on the Vejin administrative unit on sharing pre-election agitation information on its official Facebook profile in favor of the Georgian Dream. However, it was found that this profile was not official. GYLA has stopped disputing this fact.

²⁶⁵ Complaint №79-29 of Georgian Young Lawyers' Association, August 17, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3JWuP2p>, updated: 15.04.2022.

²⁶⁶ Decision №79/54 of the Batumi District Election Commission, August 27, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3uPTRvS>, updated: 15.04.2022.

²⁶⁷ Resolution №4-1718/21 of the Administrative Cases Panel of the Batumi City Court, September 3, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3MbE28F>, updated: 15.04.2022.

the LLC was established by the Batumi City Hall cannot be used to prove the use of administrative resources, as the services provided did not result in the free, arbitrary use of the vehicle by a private law entity.²⁶⁸ GYLA appealed the decision of the Batumi City Court to the Court of Appeals.²⁶⁹ The Court of Appeals ruled to reject the plaintiff's claim and leave the judgment unchanged.²⁷⁰ It shared the arguments of the lower court and additionally pointed out in the legislative record that administrative resources are used only in the process of pre-election agitation and campaigning.²⁷¹ In this case, it does not understand what kind of agitation campaign led to the transfer of seats in the party office, which put other election subjects in unequal conditions and endangered the democratic electoral process.²⁷² In its opinion, since the agitation event was not held, the discussion on the services provided by Batumi Water Ltd considered as the use of prohibited administrative resources loses its meaning.²⁷³

Any person entitled to participate in pre-election agitation during the pre-election campaign is prohibited from using administrative resources in the pre-election agitation and campaign process to support or oppose any political party, election subject candidate, election subject; Among them, the use of vehicles owned by state authorities or municipal bodies is prohibited.²⁷⁴ According to the teleological explanation of the law, the vehicle owned by Batumi Water is the property of a municipal body, as it is a legal entity of private law/municipality established by the municipality²⁷⁵, and the activities of the Ltd, including the purchase of vehicles, are financed by public funds. As for the circumstance that the service was rendered in return for payment and an invoice was submitted, this does not constitute a circumstance precluding liability. In addition, appealing to an agitation measure when using administrative resources, according to GYLA, is a narrow interpretation of the law. The "agitation and campaign process" has a much broader content, and any action taken to plan party activities during the pre-election period should be considered as such.

In view of all the above, GYLA considers that the fact mentioned in the complaint constitutes a violation of the rule of use of administrative resources, while the act adopted by the court is ungrounded and does not comply with the election legislation.

2. Another fact of the use of administrative resources by the majority is related to the gathering of public servants, which as a result of the recent reform, was directly prohibited by law. The case concerns Zviad Mkheidze, the then-mayor and also mayoral candidate of Ambrolauri, who met with the staff of the Cleaning and

²⁶⁸ Ibid.

²⁶⁹ Appeal of the Georgian Young Lawyers' Association, September 13, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/37jzkqV>, updated: 15.04.2022.

²⁷⁰ Resolution of the Kutaisi Court of Appeal on the case №4/a-392-2021.

²⁷¹ Ibid.

²⁷² Ibid.

²⁷³ Ibid.

²⁷⁴ Election Code of Georgia, Article 48, part 2, subparagraph "c".

²⁷⁵ List of municipal organizations on the website of Batumi City Hall, Batumi Water, accessible: <https://bit.ly/3iTxb81>, updated: 15.04.2022.

Improvement Service and the Maintenance Center of the Water Supply Network in Ambrolauri Municipality during the pre-election campaign, which was later spread on Facebook as a campaign.²⁷⁶ GYLA appealed the incident to the District Election Commission as a violation of the ban on the use of administrative resources.²⁷⁷ The complaint was not upheld.²⁷⁸ Based on the explanations of the directors of the NPLeS and the letter of the Mayor of Ambrolauri Municipality, the Commission considered that this was a meeting with the population and the presence of the NPLeS staff was not planned in advance.²⁷⁹

According to GYLA, the form and content of this meeting is an example of a business meeting, and the information received only based on the explanation of the meeting organizers could not be enough to make an objective decision. Transparency International Georgia has appealed the decision of the District Election Commission to the Ambrolauri District Court.²⁸⁰ The court clarified that the DEC had failed to properly perform its duties under the law and had not questioned all persons who might have had information about the case.²⁸¹

Eventually, the case was returned to the Election Commission for consideration,²⁸² which GYLA assesses positively. However, unfortunately, the district commission made the same decision as a result of the retrial.²⁸³

3. One case is related to sharing party posts through a Facebook page. NPLe Ambrolauri Ucha Japaridze Art School²⁸⁴ shared on its Facebook page the posts in support of the Georgian Dream and the party's mayoral candidate Zviad Mkheidze in Ambrolauri.²⁸⁵ Ambrolauri Art School is financed from the budget of Ambrolauri Municipality.²⁸⁶ Municipal organizations funded by the state budget are prohibited from using communication or information media for agitation purposes.²⁸⁷ GYLA filed a complaint with the District Election Commission about this fact.²⁸⁸ The complaint was not upheld.²⁸⁹ It relied on letters from the Art School and City Hall,

²⁷⁶ The caption "Georgian Dream" and the candidate's election number appear at the beginning of the video.

²⁷⁷ Complaint №44-23 of the Georgian Young Lawyers' Association, August 19, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3xD5bNR>, updated: 15.04.2022.

²⁷⁸ Statement №44/40 of Ambrolauri District Election Commission, August 29, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3Oq39H0>, updated: 15.04.2022.

²⁷⁹ Statement №44/40 of Ambrolauri District Election Commission, August 29, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3Epv7xl>, updated: 15.04.2022.

²⁸⁰ Decision #04/81-21 of the Ambrolauri District Court, 10 September 2021.

²⁸¹ Ibid.

²⁸² Ibid.

²⁸³ Decision #44/85 of the Ambrolauri District Election Commission, September 28, 2021.

²⁸⁴ The mentioned art school is financed from the budget of Ambrolauri municipality.

²⁸⁵ Ambrolauri Art School official Facebook page, accessible: <https://bit.ly/3ItNjxl>, updated: 15.04.2022.

²⁸⁶ Resolution of Ambrolauri Municipality Sakrebulo №14 December 30, 2020, Ambrolauri Municipality 2021 Budget, Culture, Youth and Sports: NPLe Extra-curriculum Art Educational Institution, Ambrolauri Ucha Japaridze Art School, Program Code:0502 0103.

²⁸⁷ Election Code of Georgia, Article 48, part 1, subparagraph "b".

²⁸⁸ Complaint of the Georgian Young Lawyers' Association №17-168, September 17, 2021, official website of the Central Election Commission, <https://bit.ly/3uVoErt>, updated: 15.04.2022.

²⁸⁹ Decision №44/84 of the Ambrolauri District Election Commission, September 28, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3vMqv11>, updated: 15.04.2022.

stating that the page in the social network Facebook does not represent official state-funded social media, the social network has no administrator, and the information was shared online via the internet purchased with personal funds.²⁹⁰

GYLA has appealed the case in court. The court shared GYLA's positions and assessed this fact as a violation of the law, which is welcome.

4. GYLA filed a complaint about the use of the Georgian Dream agitation attributes during the rehabilitation of the drinking water network in the village of Nakalakevi, Aspindza Municipality; The district commission did not uphold this complaint as NDS Construction Ltd was working on the rehabilitation of the drinking water network in Aspindza district by a subcontractor company, Friendship-5 Ltd, which was not funded by the state, but was financed by NDS Construction Ltd under a contract; The decision also states that the Georgian Dream's T-shirts were worn by workers only for the use of work clothes and not for agitation.²⁹¹
5. The fact of illegal participation in the agitation was related to the participation of the opposition CEC member - Davit Kirtadze, in the event of the mayoral candidate of the United National Movement - Nika Melia. The district commission relied on a letter from Davit Kirtadze, who explained that he had met Nikanor Melia by chance on Rustaveli Avenue, simply greeted him and said goodbye after about a minute of communication. According to the CEC, in order for a member of an election commission to be considered an administrative offense for participating in agitation, it is necessary to carry out specific, clear, and actually committed behavior that falls within the definition of agitation defined by the Election Code.²⁹² GYLA appealed against this decision in Tbilisi City Court. The court rejected the lawsuit and agreed with the CEC decision that the given photo material as evidence was not enough to prove the fact of agitation by Davit Kirtadze.²⁹³ According to GYLA, the election administration in the above case was guided by the low standard of evidence and relied on the explanations of the defendants, so the authenticity of these explanations was not further investigated. Such an approach does not contribute to the proper enforcement of the law and the prevention of such actions in the future.

The problem of using administrative resources is largely caused, on the one hand, by the improper observance of the law and, on the other hand, by the improper response to the facts of violation of administrative resources. Although regulations have been tightened and the circle of agitators has been restricted - which is to be welcomed, these changes are not enough to prevent and respond effectively to the usage of the administrative resources.

²⁹⁰ Decision №44/84 of the Ambrolauri District Election Commission, September 28, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3jP2W1Z>, updated: 15.04.2022.

²⁹¹ Decision № 39/71 of Aspindza District Election Commission of October 3, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3M9A9Ry>, updated: 15.04.2022.

²⁹² Decision №01-02/1547 of the Central Election Commission, October 7, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/36pcSvM>, updated: 15.04.2022.

²⁹³ Resolution №6/6432-21 of the Administrative Cases Panel of the Tbilisi City Court, October 13, 2021, official website of the Central Election Commission, accessible: <https://bit.ly/3uS53s6>, updated: 15.04.2022.

For the effective enforcement of the norms governing administrative resources, it is important that the election administration and the courts ensure a consistent and correct interpretation of the law when resolving disputes.

1.3. Prohibition of the Use of Budget Funds

Adding New Programs/Increasing Welfare Benefits

During the election campaign, it is prohibited to implement projects/programs that were not previously provided for in the state, autonomous republic, or municipality budget.²⁹⁴ Exceptions are projects/programs that are funded within the budget allocations at least 60 days before election day, as well as with funds allocated by donors.²⁹⁵ It is also prohibited to increase the amount of welfare benefits (pensions, hardship allowances, allowances, etc.), during the same period, except in cases already provided by law.²⁹⁶ These regulations do not apply to measures to eliminate the consequences of natural disasters or other force majeure circumstances.²⁹⁷ During the 2021 election campaign, the budget of Kvareli Municipality was increased by 1,193,300 GEL in terms of grants.²⁹⁸ This was directly proportional to the increase in costs, and 1,197,300 GEL was added to the infrastructure development program.²⁹⁹ According to the Mayor of Kvareli Municipality, this increase was caused by an amendment to the relevant government decree, according to which Kvareli Municipality was allocated GEL 2,500,000 to eliminate the damage caused by natural disasters.³⁰⁰ GYLA believes that the case of Kvareli Municipality, in this case, is not a violation of the law, as these projects were implemented as a natural disaster elimination measure, which is an exceptional situation.

During the 2021 election campaign, the amount of welfare benefits in the budget was increased by 3 municipalities:

- Akhaltsikhe Municipality - GEL 7,200;³⁰¹
- Tsageri Municipality - 3 000 GEL;³⁰²
- Tkibuli Municipality - 1 000 GEL.³⁰³

²⁹⁴ Election Code of Georgia, Article 49, part 3.

²⁹⁵ Ibid.

²⁹⁶ Ibid., part 4.

²⁹⁷ Ibid., part 5.

²⁹⁸ №20 Resolution of the Kvareli Municipality Sakrebulo, September 13, 2021 "On Approval of the 2021 Budget of Kvareli Municipality", On Amendments to the Resolution №23 of Kvareli Municipality Sakrebulo of December 22, 2020.

²⁹⁹ Ibid.

³⁰⁰ Letter №88-882131530 of Kvareli Municipality, November 11, 2021.

³⁰¹ Resolution №16 of Akhaltsikhe Municipality Sakrebulo, September 24, 2021 "On Approval of the 2021 Budget of Akhaltsikhe Municipality", Akhaltsikhe Municipality Sakrebulo Resolution №24 of December 14, 2020.

³⁰² Resolution №19 of Tsageri Municipality Sakrebulo, September 1, 2021 "On Approval of the 2021 Budget of Tsageri Municipality", on Amending the Resolution №24 of December 30, 2020, of Tsageri Municipality Sakrebulo.

³⁰³ №9 Resolution of Tkibuli Municipality Sakrebulo, August 9, 2021 "On Approval of the Program Budget of Tkibuli Municipality for 2021", On Amendments to the Resolution №18 of the Tkibuli Municipality Sakrebulo, December 25, 2020.

Akhaltshikhe Municipality named the transfer of the sick leave reimbursement funds from the article on remuneration to the article on social security as the reason for the budget changes.³⁰⁴

According to Tsageri Municipality, the increase was caused by the fact that the social security item reflected the amount spent from the municipal budget reserve fund, which, in its content, belonged to the social item according to the economic classification of spending.³⁰⁵

The letter of the Mayor of Tkibuli Municipality reveals that the 2021 program budget of Tkibuli Municipality has a sub-program for social assistance and care for the elderly over 100 years of age, which provides services to the lonely and single elderly registered in Tkibuli; Due to the sharp change in food prices, the amount allocated in the third quarter was not enough to buy the products belonging to August and September, and therefore it became necessary to make appropriate changes in the budget.³⁰⁶

According to GYLA, Akhaltshikhe, Tsageri, and Tkibuli, municipalities violated the law by increasing the funds allocated for social assistance in the budgets during the campaign. The substantiation of none of the municipalities is related to a force majeure circumstance.

Changes in the budget in the areas of "subsidy," "grant," "remuneration," and "other expenses."

It is not a violation to change the budget in the direction of "subsidies," "grants," "remuneration," and "other expenses" in the pre-election period; however, this may potentially affect the use of public resources in the pre-election process for electoral purposes. **Therefore, amendments to these articles ("Subsidy," "Grant," "Remuneration," and "Other Expenses") should also be restricted and only possible in a force majeure situation.**³⁰⁷

The funds provided for the **subsidy** have been increased in 3 municipalities:

- Baghdati Municipality - 87 000 GEL;³⁰⁸
- Marneuli Municipality - 532 300 GEL;³⁰⁹
- Kvareli Municipality - 94 300 GEL.³¹⁰

According to the Mayor of Baghdati Municipality, the change in the budget was caused by an increase in the subsidy of the NPLE Baghdad Improvement, Cleaning, and Municipal Services

³⁰⁴ Letter of Akhaltshikhe Municipality №12-122129455, October 21, 2021.

³⁰⁵ Letter of Tsageri Municipality, October 5, 2021.

³⁰⁶ Letter of Tkibuli Municipality №74-74212706, September 27, 2021.

³⁰⁷ Free, non-refundable transfers to NNLEs established by the municipality to meet current goals.

³⁰⁸ Resolution №15 of Baghdati Municipality Sakrebulo, September 24, 2021 "On Approval of the 2021 Budget of Baghdati Municipality" On Amendments to the Resolution №23 of the Baghdati Municipality Sakrebulo, December 25, 2020.

³⁰⁹ Resolution №31 of the Marneuli Municipality Sakrebulo, September 15, 2021, on the amendment to the Resolution №1 of the Marneuli Municipality Sakrebulo on the Approval of the 2021 Budget of the Marneuli Municipality January 26, 2021.

³¹⁰ №20 Resolution of Kvareli Municipality Sakrebulo, September 13, 2021, On Approval of the 2021 Budget of Kvareli Municipality, on amending the Kvareli Municipality Sakrebulo Resolution №20, December 22, 2020.

Union".³¹¹ Part of this amount was spent on labor costs for the rehabilitation of the roofs of apartment buildings, and part - was spent on fuel.³¹²

According to the reply letter of the Mayor of Marneuli Municipality, the increase was caused by the unplanned expenses of Marneuli Softskali Ltd, established by Marneuli Municipality - by the increase in electricity tariff.³¹³ In the light of the fact that Ltd. Softskali supplies water to the population at an unchanged tariff approved by the GNERC, the difference between expenditures and revenues increased, which in turn led to an increase in subsidies.³¹⁴

According to the letter of Kvareli Municipality, the allocated funds were spent on liquidation of the damage caused by natural disasters, in particular for engineering works.³¹⁵

The subsidy is funding for the municipal NPLEs and LTDs. The standard of publicity of expenditures of legal entities in the municipality is low compared to the municipality. The increase in their funding allows for pre-election manipulations. The need to increase subsidy funding during the pre-election period needs to be substantiated, which, according to GYLA, Baghdad Municipality has not done. The situation is different in the case of Marneuli municipality, which indicated a specific circumstance. This is an understandable reason that the transfer of a new facility, and the increase in the price of electricity, actually leads to an increase in costs. The explanation of Kvareli municipalities about the budget increase is also satisfactory.

The increase in funds in the direction of **other expenditures**³¹⁶ was revealed in 4 municipalities:

- Akhaltsikhe Municipality - GEL 7,300;³¹⁷
- Lanchkhuti Municipality - 2300 GEL;³¹⁸
- Kvareli Municipality - 988 600 GEL;³¹⁹
- Tsageri Municipality - 6630 GEL.³²⁰

³¹¹ Letter №66-6621302201 of Baghdati Municipality, October 29, 2021.

³¹² Ibid.

³¹³ Letter №32-322128848 of Marneuli Municipality, October 15, 2021.

³¹⁴ Ibid.

³¹⁵ Letter №88-882130846 of Kvareli Municipality, November 4, 2021.

³¹⁶ Considered the Mayor's Reserve Fund, which funds non-programmed contingencies (mostly non-programmatic social assistance).

³¹⁷ Resolution №16 of Akhaltsikhe Municipality Sakrebulo, September 24, 2021 "On Approval of the 2021 Budget of Akhaltsikhe Municipality", on Amending the Resolution №24 of Akhaltsikhe Municipality Sakrebulo, December 14, 2020

³¹⁸ Resolution №22 of Lanchkhuti Municipality Sakrebulo, September 27, 2021 "On Approval of the 2021 Budget of Lanchkhuti Municipality", on Amending the Resolution №21 of December 25, 2020, of Lanchkhuti Municipality Sakrebulo.

³¹⁹ №20 Resolution of the Kvareli Municipality Sakrebulo, September 13, 2021 "On Approval of the 2021 Budget of Kvareli Municipality", on Amendments to the Resolution №23 of Kvareli Municipality Sakrebulo of December 22, 2020.

³²⁰ Resolution №19 of Tsageri Municipality Sakrebulo September 1, 2021 "On Approval of the 2021 Budget of Tsageri Municipality", on Amending the Resolution №24 of December 30, 2020, of Tsageri Municipality Sakrebulo.

According to Akhaltsikhe Municipality, the increase in other expenditures was due to the office expenditures (the faction was left by two deputies, the chairperson and the deputy, and was added to the office expenditures of the deputies).³²¹

In the case of Lanchkhuti Municipality, the increase was due to the reduction of non-financial assets of project documentation and expert services by 2300 GEL, as a result of which the other costs were increased by 2300 GEL, i.e., internal shifts were made within the approved appropriations.³²²

According to the letter provided by the Mayor of Kvareli Municipality, the increase was caused to eliminate the damage caused by natural disasters in Kvareli Municipality.³²³

In Tsageri municipality, the increase in other expenditures is reflected in the fact that it reflects the amounts spent from the municipal budget reserve fund, which in terms of their content and economic classification items are "other expenditures."³²⁴

According to GYLA, the explanation of Kvareli, Akhaltsikhe, and Lanchkhuti municipalities about the budget increase is satisfactory. And the definition is vague in the case of Tsageri municipality.

During the pre-election period, the articles of remuneration and grants were not changed in any of the municipalities. The organization positively evaluates this fact.

2. Voter Bribery

Election law prohibits vote-buying by a political party or candidate. Voter bribery is widely regulated; the law prohibits not only the transfer of funds, material values, delivery-distribution, and discounted supply to citizens, as well as the promise of their transfer regardless of value. The regulations of the Electoral Code apply during the pre-election campaign period,³²⁵ and the law on political unions of citizens also applies during the non-election period.³²⁶ Criminal liability is provided for this offense.³²⁷

GYLA registered a total of 9 cases of voter bribery during the pre-election campaign. Most of these cases are related to the Georgian Dream. Examples of this are:

- In Tsalenjikha, a post in support of Georgian Dream mayoral candidate Goga Gulordava was shared on the Facebook page with the headline - "Charity Days Begin"³²⁸ The attached photos showed the fact that the party activists bought food

³²¹ Letter №12-122129455 of Akhaltsikhe Municipality, October 21, 2021.

³²² Letter №05-302129848 of Lanchkhuti Municipality, October 25, 2021.

³²³ Letter №88-882130846 of Kvareli Municipality, November 4, 2021.

³²⁴ Letter of Tsageri Municipality on October 5, 2021.

³²⁵ Election Code of Georgia, Article 47, part 1.

³²⁶ Organic Law of Georgia on Political Associations of Citizens, Article 25².

³²⁷ Criminal Code of Georgia, Article 164¹.

³²⁸ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, pp. 20-21.

and handed it over to the citizens;³²⁹ According to the prosecutor's office, an investigation is underway.³³⁰

- A citizen's thank-you post was spread on the social network, where they thanked Levan Gamrekeli, the majoritarian candidate of the Georgian Dream in Khashuri Sakrebulo, for his firewood supply.³³¹ An additional letter of thanks was issued stating that Levan Gamrekeli had funded the operation for one of the people;³³² According to the prosecutor's office, within the framework of the pre-investigation case, this fact was not confirmed, and, consequently, the investigation was not launched.³³³
- Tite Mgeladze, a majoritarian candidate of the Georgian Dream, bought water tanks with his own money during the pre-election campaign in Dzimiti, Askani, and Nagomri constituencies and donated them to one of the villages. The mentioned fact was confirmed by Tite Mgeladze himself.³³⁴ According to the prosecutor's office, this fact is being investigated. However, the investigation has not been launched.³³⁵
- The Main Channel broadcast a telephone recording in which a citizen of Ozurgeti, allegedly talking to Archil Talakvadze's assistant, said that they had been promised early release of their son from prison in exchange for mobilizing voters.³³⁶ GYLA has no information about the investigation of this fact.

One case of bribery was reported by an opposition party:

- Young activists of the political union For Georgia, dressed in pro-party colors and T-shirts, rebuilt a volleyball court in the town of Jvari, and cleaned and tidied up the surrounding area.³³⁷ An investigation has been launched into this case.³³⁸

GYLA also registered several problematic pre-election initiatives related to the statements made by the majority and some opposition parties in order to prevent COVID-19. Examples of this are:

- The European Georgia has launched a hotline to assist the population in the vaccination process.³³⁹ The party said that through the hotline, those residents who do not have access to relevant internet services or who do not have relevant knowledge about vaccination would be assisted by party representatives in registration,³⁴⁰
- The leader of the Georgian Dream, Mamuka Mdinardze, said at the briefing that the party offices would help the population register for the vaccine;³⁴¹

³²⁹ Ibid.

³³⁰ Letter N13/62566 of the General Prosecutor's Office of Georgia, October 13, 2021.

³³¹ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, pp. 21-22.

³³² Ibid.

³³³ Letter N13/68554 of the General Prosecutor's Office of Georgia, November 12, 2021.

³³⁴ Latsabidze M. et al., Interim Report III of the 2021 Election Long-Term Observation Mission, p. 11.

³³⁵ Letter N13/68554 of the General Prosecutor's Office of Georgia, November 12, 2021.

³³⁶ Latsabidze M. et al., IV Interim Report of the 2021 Election Long-Term Observation Mission, p. 2.

³³⁷ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, pp. 21-22.

³³⁸ Letter N13/62566 of the General Prosecutor's Office of Georgia, October 13, 2021.

³³⁹ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 20.

³⁴⁰ Ibid.

³⁴¹ Ibid.

- The party Lelo for Georgia disseminated information about the launch of a hotline, which would help citizens to register for vaccinations and provide medical advice;³⁴²
- Davit Kirkitadze, the United National Movement (UNM) party's Rustavi mayoral candidate, said that due to public transport restrictions, Rustavi residents could get free transportation to and from their vaccination points and return home from their volunteers.³⁴³

According to GYLA, only one of the above-mentioned initiatives by the United National Movement related to COVID-19 has been investigated.³⁴⁴ Regarding the other facts, the prosecutor's office did not call GYLA for information about the start of the investigation.³⁴⁵ It is unclear on what basis such differentiation took place, while other parties, including the majority, offered services to citizens in the form of free registration or relocation, thus violating the requirements of the law.³⁴⁶

In total, according to the information of the Prosecutor's Office,³⁴⁷ out of 9 cases of voter bribery registered by GYLA,³⁴⁸ no investigation has been launched - in 5 cases.³⁴⁹ This practice shows that there is no timely and appropriate response to electoral crimes, which deprives voters of the opportunity to express their will freely and prevents the prevention of future electoral crimes. Also, the timely awareness of the public about the ongoing investigations is problematic.³⁵⁰ Thus, the state's response to electoral crimes is unsatisfactory and does not contribute to a free pre-election environment.

GYLA calls on the Prosecutor's Office: a) to launch an investigation into cases where there are obvious signs of a criminal offense, b) to ensure a timely response to criminal offenses, and to conduct the investigation impartially and objectively c) to inform the public in a timely manner.

3. Coercion, Attacks, and Violent Acts

During the pre-election campaign, confrontations between political opponents took the form of coercion, threats, physical confrontation, and violence. Incidents of criminal offenses have been reported by GYLA in various regions across the country, which have generally prevented the campaign from being conducted in a calm and peaceful environment. The political climate has deteriorated, especially with the approach of Election Day, and tensions have also intensified. On September 20, in Rustavi, Ivane Gvelesiani, a supporter of the United National

³⁴² Ibid.

³⁴³ Ibid.

³⁴⁴ Letter N13/62566 of the General Prosecutor's Office of Georgia, October 13, 2021.

³⁴⁵ Ibid.

³⁴⁶ Organic Law of Georgia on Political Associations of Citizens, Article 25², paragraph 1.

³⁴⁷ Letters N13/62566, October 13, 2021 and N13/68554, November 12, 2021 of the General Prosecutor's Office of Georgia.

³⁴⁸ GYLA has no information about the investigation of one case (case of release of a prisoner in exchange for mobilizing votes).

³⁴⁹ According to the prosecution, these cases were either not confirmed or did not contain signs of a crime.

³⁵⁰ GYLA applied to the Prosecutor's Office on March 31, 2022, for updated information on alleged crimes of voter bribery, however, it has not received a response so far (as of May 30, 2022).

Movement, was attacked, as a result of which he broke his facial bones and suffered a concussion.³⁵¹ According to the Ministry of Internal Affairs, an investigation was launched into this fact under the article of violence³⁵², and a number of investigative actions were carried out, and a forensic procedure was appointed.³⁵³ Currently, the investigation is ongoing.³⁵⁴ The next day after the incident, during the pre-election meeting of the opposition mayoral candidate of Dmanisi Municipality, his supporters and the Georgian Dream supporters physically confronted each other, during which two people were wounded.³⁵⁵ The U.S. embassy responded to the incident by condemning the violent, politically motivated attacks.³⁵⁶ According to the Ministry of Internal Affairs, the investigation is underway on charges of group violence³⁵⁷ and intentional grievous bodily³⁵⁸ harm.³⁵⁹ According to the Ministry of Internal Affairs, a number of investigative/procedural actions were carried out, and one person was arrested and charged.³⁶⁰ The case is currently under investigation.³⁶¹ The Dmanisi incident was followed by a heated confrontation between the leaders of the Georgian Dream and the United National Movement in Tbilisi, which GYLA described as petty hooliganism.³⁶² During the campaign, GYLA also recorded other cases of petty hooliganism.³⁶³

Particularly disturbing were the widespread instances of pressure on opposition candidates, their supporters, and voters. The mayoral candidate for the party For Georgia in Imereti and a member of the proportional list in Adjara spoke publicly about the pressure on them. In particular, Akaki Bezhanidze, a candidate on the Keda proportional list, said that he had been threatened with death in order to leave the party list, while Dali Dagidze, a candidate for the Shuakhevi proportional list, said that Pridon Putkaradze's representative had asked her to leave the list and after the refusal, threatened to destroy the property of her husband.³⁶⁴ Zviad Tepnadze, the Khashuri mayoral candidate of the same party, said he had been threatened with burning his personal and company-owned cars and real estate and suspending his business. According to the Ministry of Internal Affairs, all the above-mentioned facts are being investigated under the article³⁶⁵ of coercion.³⁶⁶

³⁵¹ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 27.

³⁵² Criminal Code of Georgia, Article 126, part 1.

³⁵³ Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

³⁵⁴ Ibid.

³⁵⁵ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 27.

³⁵⁶ US Embassy in Georgia, official website, accessible: <https://bit.ly/3kzPhw5>, updated: 15.04.2022.

³⁵⁷ Criminal Code of Georgia, Article 126¹, subparagraph "b".

³⁵⁸ Ibid., Article 117, part 1.

³⁵⁹ Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

³⁶⁰ Ibid.

³⁶¹ Ibid.

³⁶² Ibid.

³⁶³ A verbal confrontation took place in Vani over the nomination of a common opposition candidate. A citizen who was swearing and cursing Gigi Ugulava and Mikheil Saakashvili drove by in a car, which led to a verbal confrontation between him and the opposition supporters. The footage shows how the sides swore at each other. According to the Ministry of Internal Affairs, administrative proceedings have been initiated in connection with the mentioned fact.

³⁶⁴ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 23.

³⁶⁵ Criminal Code of Georgia, Article 150.

³⁶⁶ Ibid.

Opposition candidates also came under pressure from the United National Movement. Majoritarian candidate Givi Mgeladze³⁶⁷ was allegedly asked by unknown persons to withdraw his candidacy, and in return, they promised him a comfortable life.³⁶⁸ Revaz Gvilia, a member of the same party, spoke out against the pressure, saying that he had been called to the Georgian Dream headquarters and asked to work for the Georgian Dream.³⁶⁹ According to him, during the meeting with the high-ranking officials, his mobile phone was taken off, and a post was posted on his Facebook page, where it was written that he was leaving the party because of the connections between the National Movement and Giorgi Gakharia.³⁷⁰ GYLA applied to the Ministry of Internal Affairs regarding the investigation of these facts but did not receive any information about the mentioned facts.

A few days before the elections, Ana Tsitlidze, a member of the United National Movement, accused members of the Georgian Dream's headquarters of confiscating ID cards from citizens during the pre-election period.³⁷¹ Video footage of Georgian Dream representative Makvala Antia and Zugdidi Theater actor Merab Kakalia was made public at the same briefing.³⁷² The footage shows dozens of ID cards that allegedly belonged to UNM voters.³⁷³ According to the Ministry of Internal Affairs, there were reports of confiscation of identity cards for several citizens and their families; however, the Ministry of Internal Affairs said that these facts were not confirmed, and the investigation was not launched accordingly.³⁷⁴ According to GYLA, this case contains signs of a criminal offense, and it was necessary to launch an investigation into it.

Cases of alleged politically motivated attacks have been reported in Ozurgeti. In one case, citizen Levan Tavdishvili was physically assaulted for his opposition views.³⁷⁵ According to the victim, the reason for the attack on him was the criticism of the Georgian Dream.³⁷⁶ According to the Ministry of Internal Affairs, the investigation was launched under the article³⁷⁷ of violence.³⁷⁸

GYLA also received reports from the ruling party of attacks on their members. For example, in Khashuri municipality, Nona Grigalashvili, an agitator of the Georgian Dream, was allegedly verbally and physically abused by Jondo Kapanadze, the majoritarian candidate of the Tsagveri party For Georgia.³⁷⁹ According to the Ministry of Internal Affairs, the case is being

³⁶⁷ GYLA representative talked to Givi Mgeladze, who confirmed this information.

³⁶⁸ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 24.

³⁶⁹ Ibid.

³⁷⁰ Ibid.

³⁷¹ Latsabidze M. et al., Interim Report III of the 2021 Election Long-Term Observation Mission, p. 6.

³⁷² Ibid.

³⁷³ Ibid.

³⁷⁴ Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

³⁷⁵ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 27.

³⁷⁶ Ibid.

³⁷⁷ Criminal Code of Georgia, Article 126, part 1.

³⁷⁸ According to the information of the Ministry of Internal Affairs, investigative actions were carried out: witnesses were interrogated, medical examination was conducted, See Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

³⁷⁹ Latsabidze M. et al., Interim Report III of the 2021 Election Long-Term Observation Mission, p. 5.

investigated under the article³⁸⁰ of violence.³⁸¹ In the second case, Rovshan Iskandirov, a majoritarian candidate of the Georgian Dream, was beaten in the village of Sadakhlo in Marneuli Municipality.³⁸² An investigation has been launched into the case on charges³⁸³ of gang violence.³⁸⁴ In the Ozurgeti municipality, Vladimer Chavleishvili, a member of the ruling party from the ruling party, accused the independent mayoral candidate of the Ozurgeti municipality of threats and physical violence.³⁸⁵ The Ministry of Internal Affairs launched an investigation under the article³⁸⁶ on violence.³⁸⁷ An investigation has been launched into the case, and an investigation is ongoing.³⁸⁸

Aggressive forms of the campaign were manifested in other directions as well, including damage to office and personal belongings and destruction of agitation materials. For example, shooting the cars of the two members of the party For Georgia.³⁸⁹ According to the Ministry of Internal Affairs, the investigation into the fact of damaging the car of the mayoral candidate in Tsageri for the party For Georgia was launched under the article of damaging someone else's property³⁹⁰ and was later reclassified to damaging someone else's property³⁹¹ and using a firearm^{392, 393}. The investigation into the shooting of the car of the majoritarian candidate of Lagodekhi Sakrebulo of the same party is underway under the article of damaging someone else's property.³⁹⁴

An example of an aggressive campaign can be cited when the words "murderers" and other obscene words were written on the doors of the office of the political union Droa in Zugdidi. According to the Ministry of Internal Affairs, administrative proceedings have been launched on this fact.³⁹⁵

³⁸⁰ Article 126.

³⁸¹ According to the Ministry of Internal Affairs, all necessary investigative/procedural actions are being carried out in this case, including the examination of witnesses, the inspection of the scene and the appointment of a forensic examination. See Letter of the Ministry of Internal Affairs of Georgia, December 2, 2021.

³⁸² Latsabidze M. et al., Interim Report III of the 2021 Election Long-Term Observation Mission, p. 5.

³⁸³ Article 126¹, subparagraph "b".

³⁸⁴ According to the Ministry of Internal Affairs, all necessary investigative/procedural actions are being carried out in this case, See Letter of the Ministry of Internal Affairs of Georgia, December 2, 2021.

³⁸⁵ Latsabidze M. et al., II Interim Report of the 2021 Election Long-Term Observation Mission, p. 28.

³⁸⁶ Criminal Code of Georgia, Article 126, part 1.

³⁸⁷ Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

³⁸⁸ Ibid.

³⁸⁹ On September 24, the car of Salome Gongadze's, the majoritarian candidate of the Lagodekhi Sakrebulo for the Party for Georgia, car tires were shot; On September 25, the car of Tsageri mayoral candidate Besarion Bendeliani was shot at. Bendeliani connects the incident with his pre-election campaign. According to the Ministry of Internal Affairs, the investigation was launched on charges of damaging someone else's property and illegal possession of a firearm.

³⁹⁰ Article 187, part 1.

³⁹¹ Ibid.

³⁹² Article 236, part 2.

³⁹³ According to the Ministry of Internal Affairs, investigative actions were carried out, in particular, the witnesses were interrogated, the scene was inspected, and a ballistic examination was appointed. See Letter of the Ministry of Internal Affairs of Georgia, December 2, 2021.

³⁹⁴ Article 187, part 1.

³⁹⁵ Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

GYLA has registered dozens of cases of damage to banners and posters.³⁹⁶ In this case, the targets were both the opposition and the ruling party. The damages to the United National Movement mayoral candidate Nika Melia's banner in Tbilisi and the party's mayoral candidate Gigi Ugulava's election banner in Poti are being investigated³⁹⁷ for damaging someone else's property.³⁹⁸ In both cases, a number of investigative actions were carried out, and a commodity examination was appointed; The investigation is still ongoing.³⁹⁹ The investigation has started on stealing an election banner of the United National Movement mayoral candidate Misha Bolkvadze in Khelvachauri under the article⁴⁰⁰ of theft.⁴⁰¹ According to the organization, other cases of damage to agitation materials have not reached the intensity⁴⁰² of criminal offenses.⁴⁰³

Politically motivated physical attacks were also a significant challenge in the run-up to the second round. For example, on October 13, in Tbilisi, Nika Bachilava, a member of the United National Movement, was physically assaulted. The next day, Vakhtang Keadze, the chairperson of the Rustavi branch of the European Georgia party, was attacked. According to Keadze, he was preparing to go to a rally in support of Mikheil Saakashvili when more than 50 people surrounded him, and three people physically assaulted him.⁴⁰⁴ On the same day, during a rally planned by the United National Movement in Tbilisi, supporters coming from the regions were met by opponents at several locations.⁴⁰⁵ The footage shows them swearing at people sitting in cars, throwing brooms and flag poles.⁴⁰⁶ Similar cases were reported in Abasha, Kutaisi, Samtredia, Rustavi, Gori, and Telavi.⁴⁰⁷ The confrontation in Rustavi was disturbing when supporters and opponents confronted each other verbally and physically at the headquarters of the United National Movement Rustavi mayoral candidate Davit Kirkitadze.⁴⁰⁸ Shavlego Mandaria, a member of the Rustavi City Council, took part in the confrontation.⁴⁰⁹ The Ministry of Internal Affairs has launched an investigation into these cases under the articles of violence and group violence.

GYLA additionally registered cases when citizens found themselves on the list of a political party without their knowledge.⁴¹⁰ Citizens Koka Kapanadze and Sophio Jojua appeared on the

³⁹⁶ Latsabidze M. et al., II Interim Report of the 2021 Local Self-Government Election Observation Mission, August-September (Tbilisi, Georgian Young Lawyers' Association, 2020), pp. 30-32, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3DelH7I>, updated: 15.03.2022.

³⁹⁷ Ibid., Article 187.

³⁹⁸ Letters of the Ministry of Internal Affairs of Georgia of December 2, 2021, and October 13, 2021.

³⁹⁹ Ibid.

⁴⁰⁰ Article 177.

⁴⁰¹ According to the Ministry of Internal Affairs, investigative actions were carried out, witnesses were questioned, and the scene was inspected. See Letter of the Ministry of Internal Affairs of Georgia, October 13, 2021.

⁴⁰² According to Article 80 of the Election Code, it is an offense to remove, tear down, cover or damage agitation materials. If the value of the damage exceeds 150 GEL, the case qualifies as a criminal offense.

⁴⁰³ Letter of the Ministry of Internal Affairs of Georgia, December 2, 2021.

⁴⁰⁴ Latsabidze M. et al., Interim Report III of the 2021 Election Long-Term Observation Mission, p. 6.

⁴⁰⁵ Ibid., p. 9.

⁴⁰⁶ Ibid.

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid., p. 6.

⁴⁰⁹ Ibid.

⁴¹⁰ Ibid., pp. 11-12.

list of the party Girchi without their consent. Sophio Jojua clarified that she had nothing to do with the party, and Koka Kapanadze, after getting acquainted with the documents, said that his signature on the registration card was forged.⁴¹¹ GYLA believes that these facts probably contain signs of a criminal offense - the production and use of a forged document.

As it turns out, the investigation into the alleged criminal offenses has been delayed, and in almost none of the cases have those responsible been identified (except in unit cases). This practice shows that the relevant agencies do not respond quickly and effectively to such crimes and punish the perpetrators. In the cases where the investigation has not been launched, according to GYLA, there are signs of a criminal offense, and the investigative bodies are obliged to respond. At the same time, the timely awareness of the public about the ongoing investigations is problematic.⁴¹² Overall, it can be said that the state's response to such facts is ineffective and does not contribute to a calm and peaceful pre-election environment.

GYLA calls on law enforcement agencies to launch an investigation into cases where there are obvious signs of a criminal offense. At the same time, investigate the alleged crimes thoroughly, and conduct the process objectively and transparently. It is important that in cases where there is a political motive, the investigation continues with the right qualifications. Also, the public should be informed about the investigation of the cases in a timely manner.

4. Creating Obstacles to the Election Campaign

During the pre-election campaign, GYLA recorded facts that prevented the parties from conducting the campaign fully. This was mainly manifested in the damage to the posters or the refusal to place advertisements. The report also provides information on the non-fulfillment of the duties imposed on them by law by several municipalities. This is related to the publication of the list of buildings allocated for the pre-election campaign and poses difficulties for the parties in conducting agitation.

4.1. Imedi TV Refuses to Broadcast Free Political Advertising of the European Georgia and the National Movement

On August 26, Imedi TV refused to air free political advertising for the opposition political party European Georgia.⁴¹³ The TV station named the hate speech used in the video as the reason for refusing to run the commercial.⁴¹⁴ Imedi TV also notes that the presented video

⁴¹¹ Ibid.

⁴¹² GYLA applied to the Ministry of Internal Affairs on February 25, 2022, for updated information on alleged criminal offenses, however, it has not received a response so far (as of May 30, 2022).

⁴¹³ Imedi Refuses to Run the European Georgia Pre-Election Advertisement - Video, information portal Netgazeti, August 26, 2021, accessible: <https://bit.ly/3ugZPEp>, updated: 30.05.2022.

⁴¹⁴ Ibid.

material contains ridicule and insults, and its content is unethical and unscrupulous.⁴¹⁵ Following the rejection of the advertisement, the European Georgia offered an alternative video to the TV station on September 7, which was again rejected.⁴¹⁶ Imedi also did not run the United National Movement's pre-election video, which it received from the party on September 17.⁴¹⁷ According to the TV station, they could not broadcast material that contained signs of crime, illegal actions, and incited crime, as well as aimed at inciting disorder and anti-social action.⁴¹⁸

The National Communications Commission investigated these cases and considered that the content of the advertisements did not contradict the general principles of the Constitution and the requirements of the law. Therefore, it upheld the complaints of both parties and considered that Imedi had violated the rules established by law in both cases. The court shared the commission's argument, pointing out that Imedi TV had no factual or legal basis for refusing to run political parties' pre-election advertisements.

GYLA shares and positively evaluates the decisions of the Communications Regulatory Commission and the court.

4.2. Violation of the Obligation to Publish the List of Buildings and Places Allocated for the Pre-Election Campaign by the Municipality

Municipal bodies are obliged to compile a list of buildings within 5 days after the start of the pre-election campaign where it is possible to conduct a pre-election campaign.⁴¹⁹ They must submit this information to the District Election Commission, which is obliged to make it public within 2 days of its receipt.⁴²⁰ The list of buildings allocated by the municipal authorities should also be published on the CEC website.⁴²¹ All municipalities (except Dedoplistskaro, Mestia, Senaki, Khobi, Tsalenjikha municipalities) have sent information to the CEC about the placement of agitation materials.

Within 5 days from the start of the pre-election campaign, the municipal authorities are obliged to compile a list of buildings on which the placement of agitation material is prohibited, as well as to determine places and/or stands for the placement of agitation material.⁴²² This information is published by the municipal authorities no later than 10 days after the election day is appointed.⁴²³ This list was not sent to the CEC by the municipalities

⁴¹⁵ Resolution of the Administrative Cases Panel of the Tbilisi City Court on the application of an administrative penalty, Case №4/6066-21, 15.09.2021. p. 2.

⁴¹⁶ Giorgi Noniashvili briefing on the complaint against Imedi, official Facebook page of the European Georgia, September 7, 2021, accessible: <https://bit.ly/3CPAQuT>, updated: 30.05.2022.

⁴¹⁷ "Nika Melia - it's time to win", August 15, 2021, accessible: <https://bit.ly/3zPi3Or>, updated: 30.05.2022.

⁴¹⁸ Resolution of the Administrative Cases Panel of the Tbilisi City Court on the application of an administrative penalty, Case №4/6147-21, 19.09.2021, p. 3.

⁴¹⁹ Election Code of Georgia, Article 45, part 9.

⁴²⁰ Ibid.

⁴²¹ Ibid.

⁴²² Ibid., Article 46, part 4.

⁴²³ Ibid., part 5.

of Kaspi, Kareli, Akhaltsikhe, Akhalkalaki, Ninotsminda, and Ambrolauri. These and the municipalities listed above have violated the requirements of the law.

GYLA urges municipalities to abide by the law and not to interfere with the parties conducting their election campaign under normal conditions.

4.3. Legislative Initiative on the Regulation of Hate Speech

On October 4, Alma Ltd., which owns billboards in Tbilisi and the regions, submitted a legislative proposal to parliament.⁴²⁴ Alma Ltd demanded changes in the election legislation, which prohibits the placement of hate speech, unethical, dishonest, and offensive to various persons in the electoral and public-political spheres.⁴²⁵ The purpose of the legislative change in the position of Alma Ltd. was to create a legitimate basis for refusing to place advertisements with similar content.⁴²⁶

The Parliamentary Committee on Legal Affairs positively assessed and accepted the initiative of Alma Ltd.⁴²⁷ The committee considered it appropriate to start discussing the issue, which, they said, would prevent the use of hate speech and propaganda of aggression in the electoral field, as well as the dissemination of defamatory and degrading information.⁴²⁸

The draft law submitted by the members of the ruling party envisages a number of amendments to the Election Code of Georgia and the Law on Broadcasting. Among them, the distribution of TV political advertisements and agitation materials in the public space, which are intended to create a negative attitude towards the election candidate, is prohibited.⁴²⁹ The bill also stipulates that pre-election advertisements may be distributed only by order of an election subject, and the advertisement should not contain the image, name, serial number, and symbols of another political party.⁴³⁰

Both the broadcaster and the pre-election client are responsible for violating these requirements. Distribution of the agitation material in violation of the requirements will result in a fine of 2000 GEL each for the distributor and the distribution customer. The CEC and the Communications Commission are responsible for imposing fines within the scope of their competence.

GYLA, together with partner organizations, responded to this initiative and evaluated it negatively. The joint statement said that the draft law, despite its stated goals, restricts the freedom of political expression enshrined in the constitution, as well as disproportionately interferes with the activities of the media, holding broadcasters accountable for the content

⁴²⁴ №04-10-c legislative proposal of Alma Ltd on October 3, 2021, official website of the Parliament of Georgia, accessible: <https://bit.ly/3Lg6tT2>, updated: 26.04.2022.

⁴²⁵ Ibid.

⁴²⁶ Ibid.

⁴²⁷ Conclusion №2-12868/21 of the Committee on Legal Affairs of the Parliament of Georgia, October 12, 2021.

⁴²⁸ Ibid.

⁴²⁹ Organic Law of Georgia on Amendments to the Organic Law of Georgia “Election Code of Georgia”, draft, official website of the Parliament of Georgia, accessible: <https://bit.ly/3wYSIIA>, updated: 30.05.2022.

⁴³⁰ Ibid.

of political advertising.⁴³¹ Particularly alarming is the introduction of a new concept of a "negative attitude" in the legislation, which is not clear and predictable, which in turn creates risks of misinterpretation of the term in the political context.⁴³² At the same time, the campaign against the election subject is protected by the election legislation, which is in line with international principles, in contrast to the proposed novelty.⁴³³ Finally, strict sanctions are proposed for violating the norms set out in the amendments, which may pose an additional threat to critical political activity, as there is a risk that some broadcasters will refuse to place an advertisement for a political party to avoid a sanction.⁴³⁴

GYLA urges Parliament not to adopt this amendment as it runs counter to the high standard of freedom of expression established by Georgian law, is unpredictable, and does not serve to improve the electoral environment.

5. Dismissal on Political Grounds

In the pre-election period of 2021, the alleged cases of coercion and/or dismissal of public servants due to political views were of a disturbing nature. These cases were mainly related to public officials who had a kinship, friendship, and benevolent relations with members of former Prime Minister Giorgi Gakharia's newly formed For Georgia party,⁴³⁵ as well as officials who expressed sympathy for the party or its leader.

The party For Georgia reported about 100 such cases to GYLA. The organization tried to establish communication with all of them. In about 1/3 of the cases, these individuals either did not want to be publicized (mainly because they were scared), or did not want to start a dispute, or after the initial communication, GYLA was not able to contact them again at all.

Of the individuals whom GYLA spoke to directly and who did not have a problem with publicity, GYLA identified cases of alleged coercion in approximately 1/5 of cases. The coercion, in various forms, was carried out orally. However, in the end, these individuals were not fired.

As part of the dismissals, in some cases, the deputy mayors were fired. The deputy mayor is a political official. Accordingly, they are appointed and dismissed by the Mayor on a personal decision. In about 1/5 of the cases, these individuals wrote the statement/report themselves. Unfortunately, in some cases, political discrimination has been difficult to establish due to difficulties in obtaining evidence. Discrimination was mainly verbal, making it impossible to present evidence. Because of this, some officials started arguing over labor relations.

GYLA, in the conditions of limited resources, started to study the facts where there were obvious signs of political discrimination and/or there was evidence of it. Two of these

⁴³¹ The Coalition for Media Advocacy negatively assesses introducing the new concept in the legislation, so-called a "negative attitude", official website of the Georgian Young Lawyers' Association, 20.10.2021, accessible: <https://bit.ly/3vPyDxM>, updated: 25.04.2022.

⁴³² Ibid.

⁴³³ Ibid.

⁴³⁴ Ibid.

⁴³⁵ On May 29, 2021, the former Prime Minister of Georgia Giorgi Gakharia founded a new political party For Georgia.

people⁴³⁶ were reinstated in the service. GYLA welcomes these decisions; however, according to the organization, in both cases, there were signs of political discrimination. The court should have taken into account the large-scale nature of the cases of coercion on public officials during the pre-election period, which was an important argument to establish reasonable suspicion of discrimination. In such cases, the role of the court is critically important not only in restoring the labor rights of illegally released persons but also in establishing a fair and uniform standard in determining the motive for discrimination.

In other cases, the cases are being heard in court, and in some cases, the trials have not yet been scheduled.

We offer updated information on the progress of cases:

1. The Case of Mindia Davitadze

On June 9, 2021, by order of the Prime Minister, Mindia Davitadze was dismissed from the post of the Chairperson of the Georgian National Center for Intellectual Property - Sakpatenti.⁴³⁷ He appealed the order to the court and demanded reinstatement. He believes that he is a victim of discrimination on political grounds. Mindia Davitadze was appointed to this position on February 25, 2020, by order of the then head of the government Giorgi Gakharia, for a term of 4 years.⁴³⁸

The city court did not uphold Mindia Davitadze's lawsuit. The Court, having discussed the aims of the prohibition of discrimination, clarified that discriminatory treatment is possible only if the persons in relation to a particular legal relationship can be regarded as substantially equal subjects; However, any differentiation towards substantially equal persons cannot be considered discrimination; We must distinguish between objective differentiation and discriminatory differentiation; If discriminatory treatment serves justice, the elimination of inequality, then it cannot be considered discrimination; Thus, the Court finds that the equality requirement is violated when similar, homogeneous cases are treated differently, whereas this is not the case.⁴³⁹

The Court considered that the statements submitted on 5 February and 18 March 2021, submitted to the Administration of the Government of Georgia and on the recommendation of the Public Defender on 4 February 2021 and the instructions of the Labor Inspection Service of 24 May 2021, constituted a precondition for Mindia Davitadze's release; According to the court, it is impossible to establish discrimination in these circumstances. The court clarified in the burden of proof that, given the specifics of discriminatory treatment, the plaintiff bears only the obligation to make a reasonable presumption, while the defendant bears the burden of disproving that presumption. Thus, when instituting a lawsuit, a person must present to

⁴³⁶ Oleg Khubuluri and Tamar Abuladze.

⁴³⁷ Order №224 of the Prime Minister of Georgia of June 9, 2021, on dismissal of Mindia Davitadze, the Chairperson of LEPL Georgian National Intellectual Property Center – Sakpatenti

⁴³⁸ Order №46 of the Prime Minister of Georgia of February 25, 2020, on the appointment of Mindia Davitadze, the Chairperson of LEPL Georgian National Intellectual Property Center – Sakpatenti.

⁴³⁹ Decision №3/4281-21 of the Administrative Cases Panel of the Tbilisi City Court of December 15, 2021.

the court the facts and evidence that give rise to the presumption, while the burden of proof rests with the defendant that discrimination has not taken place. In this case, the court, based on the examination of the existing circumstances, considered that a reasonable assumption could not be made - a presumption on the implementation of a possible discriminatory fact.⁴⁴⁰

On January 26, 2022, the Public Defender submitted the opinion of a friend of the court to the Tbilisi City Court on a case of alleged discrimination on political grounds.⁴⁴¹ In the opinion of a friend of the court, while discussing political motives, the Public Defender drew attention to the tendencies towards the dismissal of people due to political views in the pre-election period of local self-governments and possible violations of labor rights; The Public Defender noted that an important circumstance for the case was to assess whether there was indeed a legal basis for the dismissal of a person; To do so, the court had to examine the terms of communication with the plaintiff under the new government administration and apply the proportionality test; Finally, the Public Defender concluded that there was a reasonable presumption that the reason for Mindia Salukvadze's release was his political affiliation.⁴⁴²

GYLA shares the Public Defender's assessment and considers that the court decision is not properly substantiated and contradicts the principle of distribution of the burden of proof.

GYLA urges the court to a) take all measures to determine whether there was indeed a legal basis for the plaintiff's dismissal and b) to impose the burden of proof on the defendant that they were acting for a lawful purpose.

2. The Case of Oleg Khubuluri

Oleg Khubuluri, who was the Deputy Head of the Administrative and Procurement Service of Gori Municipality, filed a lawsuit against the Gori District Court for annulment of the dismissal order of June 15, 2021, reinstatement in his position, the reimbursement for non-attendance, and with a request to establish the fact of the discrimination against him.

The court discussed Khubuluri's absence from work during working hours on 13 and 14 May 2021⁴⁴³ and held that the excusable circumstances of his absence from work were not substantiated. Thus, he violated the obligations set out in the bylaws. And from 17 May to 26 May 2021, he was temporarily incapacitated and undergoing outpatient treatment, which is one of the legitimate grounds for the suspension of a civil servant under the Civil Service Act. Thus, the court considered Khubuluri's absence from office on May 17, 2021, as excusable, which was confirmed by the relevant information.⁴⁴⁴

As for the story aired on TV Pirveli, the main reason for Oleg Khubuluri's dismissal was the statement in the report, which was considered to have violated the general norms of ethics and behavior in a public institution and caused damage to Gori Municipality.

⁴⁴⁰ Ibid.

⁴⁴¹ Opinion of a friend of the court on the fact of alleged discrimination on the grounds of political views, official website of the Public Defender of Georgia, 09.02.2022, accessible: <https://bit.ly/3K9P3WI>, updated: 15.04.2022.

⁴⁴² Ibid.

⁴⁴³ Decision №140310021004839090 of the Gori District Court of November 24, 2021, p. 18.

⁴⁴⁴ Ibid., p. 19.

The court discussed the existing standards of freedom of expression, which are enshrined in the Constitution of Georgia and the Law on Freedom of Speech and Expression, as well as the scope of its restrictions on public servants.⁴⁴⁵ It further assessed Khubuluri's statement on how it was related to the freedom of expression. It shared the opinion of a friend of the court and considered that this argument fully reflected the position of the court.⁴⁴⁶

The court discussed the scope of freedom of expression in the public service and stated that in the present case, the statement made by Oleg Khubuluri did not unequivocally provide an opportunity to clarify the circumstances to which institution he was referring; However, it was clear that it was related to possible violations of the labor rights of persons employed in state agencies.⁴⁴⁷

The court relied on the Public Defender's arguments on the above issues.

For the period May 15, 2021, information about the persecution, pressure, and dismissal of former Prime Minister Giorgi Gakharia's associates was actively spread. This, naturally, facilitated the public perception of such threats in reality; Therefore, as his position was indicated in the statement by Oleg Khubuluri, this raised suspicions that the conversation was about the Gori Municipality; The combination of the facts so far and the context of the disputed statement constituted a precondition that the phrase conveyed not the facts but the opinion of the applicant's disseminator, his personal attitude towards the events.⁴⁴⁸ At the same time, it was not clear that Khubuluri was driven by personal resentment or the expectation of receiving any kind of benefit, which would call into question his good faith.⁴⁴⁹

According to the Public Defender, against the background of such massive and frequent violations of labor rights on possible political grounds, Oleg Khubuluri commenting on the current events in Gori Municipality and other state agencies is the only effective way to prevent violations of his own and other officials' rights.⁴⁵⁰

The court decided to reinstate Oleg Khubuluri.

3. Tamar Abuladze

The court considered the disputed the formal and material legality of the order on August 25, 2021, of the Chairperson of Akhaltsikhe Municipality Sakrebulo. As well as the plaintiff's request for reinstatement in service and reimbursement for non-attendance and the plaintiff's request to establish the fact of discrimination.⁴⁵¹

The Court clarified that a reference to the relevant discretionary power alone is not sufficient to substantiate the legality of an administrative-legal act and that it is subject to judicial

⁴⁴⁵ Ibid., pp. 21-22.

⁴⁴⁶ Ibid., p. 23.

⁴⁴⁷ Ibid., p. 29.

⁴⁴⁸ Opinion of a friend of the court of the Public Defender №04-2/10222 of 27 October 2021 on the fact of alleged discrimination on the grounds of political views, p. 10.

⁴⁴⁹ Ibid., p. 11.

⁴⁵⁰ Ibid., p. 13.

⁴⁵¹ Decision of Akhaltsikhe District Court of January 17, 2022, 120310121005028739-3/180-22, p. 8.

review as to how that discretionary power was exercised. The administrative body is obliged to exercise discretionary power only for the purpose for which it has been granted this authority. In the exercise of its discretionary powers, the harm done to the protected rights and interests of the person may not substantially outweigh the good for which it was issued. The measures taken may not lead to an unjustified restriction of the legal rights and interests of the person.⁴⁵²

The Court clarified that all decisions in the exercise of public authority must be in accordance with the Constitution and the law. The area protected by the right of access to public service includes, among others, the right of a person to work or leave a particular position on the basis of their free and genuine will. And the administrative body and the authorized official must ensure the stability of the staff and the protection of their rights; in the absence of legal and factual preconditions for dismissal, they should not be dismissed.⁴⁵³

In view of the above circumstances, the court concluded that the act issued by the administrative body (the order of the chairperson) was not in accordance with the law and was therefore void. The court thus granted the plaintiff's request in this part.⁴⁵⁴ This, in turn, means that the plaintiff's request for reinstatement in her respective position is well-founded, and the defendant should be required to issue a new deed of reinstatement. The court also ordered the Akhaltsikhe City Council to reimburse the non-attendance.

With regard to the fact of discrimination, the Court discussed the right to equality, the definition and forms of discrimination, and concluded that “the content of the discrimination is treating equal persons, at the similar conditions illegally differently by a person in the relatively same conditions”. It is considered that none of the evidence presented in the case establishes the circumstance that the plaintiff Tamar Abuladze has become the object of treatment substantially different from persons in a similar situation on any particular grounds. Thus, the claim in this part was considered unfounded.

⁴⁵² Ibid., p. 13.

⁴⁵³ Ibid., p. 14.

⁴⁵⁴ Ibid., p. 16.

PART III - ELECTION DAY

I ROUND

1. Voting Process

1.1. Preparation and Opening of the Precinct

Organizational Issues

In order to prepare for the polling day and to arrange the polling station, the Precinct Election Commission receives the election documents, inventory, and other necessary materials from the District Election Commission no later than 12 hours before the start of the voting process.⁴⁵⁵ The polling station opens at 7 am on polling day.⁴⁵⁶ The precinct is opened if the number of PEC members arrived at this time is not less than 9.⁴⁵⁷ It is necessary to arrange the polling station in such a way that the secrecy of filling in the ballot paper by the voter is not violated.⁴⁵⁸ At least 1 polling booth⁴⁵⁹ is provided for every 500 voters at the polling station, and 1 registration table for every 300 voters⁴⁶⁰ Public information versions of voter lists should be displayed in a prominent place in the polling station.⁴⁶¹ In the first round of the October 2, 2021 self-government elections, a new look of the election booth was established for the polling stations opened throughout Tbilisi Municipality.⁴⁶²

In almost all polling stations where GYLA observers were deployed, the polling station was opened on time and without significant irregularities.⁴⁶³ It was problematic to open polling stations in several polling stations in Krtsanisi, where the elections were conducted using electronic means.⁴⁶⁴ At one polling station, the printed ballot papers turned out to be in a larger format than prescribed, due to which the apparatus could not get it and delayed the opening of the polling station.⁴⁶⁵ At the second case, one of the two machines placed could not extract zero reports, while the other did not receive ballots, which delayed the opening

⁴⁵⁵ Guidelines for the members of the Precinct Election Commission approved by the Resolution #43/2021 of the Central Election Commission of Georgia of July 29, 2021, pp.13-14.

⁴⁵⁶ Election Code of Georgia, Article 61, part 1.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid., Article 58, part 4, subparagraph "a".

⁴⁵⁹ Ibid.

⁴⁶⁰ Ibid., Article 61, part 2, subparagraph "b" and "e".

⁴⁶¹ Ibid., Article 58, part 4, subparagraph "d".

⁴⁶² Ordinance # 330/2021 of the Central Election Commission of Georgia of September 26, 2021, on determining the type of voting booth for the Tbilisi Municipality Sakrebulo and Tbilisi City Mayor October 2, 2021, elections.

⁴⁶³ „Results of the observation of the voting day of the 2021 local self-government elections at 10:00”, Georgian Young Lawyers’ Association, October 2, 2022, official website of the Georgian Young Lawyers’ Association, accessible: <https://bit.ly/3wxN6A1>, updated: 15.04.2022.

⁴⁶⁴ Resolution of the Central Election Commission of Georgia of September 3, 2021, on determining the procedure and identity of some electoral procedures in some constituencies for the October 2, 2021, elections of the representative body of the municipality - Sakrebulo and self-governing city/self-governing community.

⁴⁶⁵ Krtsanisi Precinct 24.

of the polling station by 20 minutes.⁴⁶⁶ None of the machines worked in another precinct.⁴⁶⁷ According to the GYLA observer, the environment in Gldani precinct 32 was disorganized, due to which the polling station was opened in such a way that the PEC had not completed its preparation. GYLA observers noted several instances where the placement of booths at polling stations posed risks of voter breach of ballot filling secrecy.⁴⁶⁸ In most cases, PEC members changed the layout of the booths after receiving a verbal or written warning from a GYLA observer. In some cases, precinct preparation rules were violated. For example, 2 booths were provided for 1069 registered voters in one of the polling stations.⁴⁶⁹ At other places, public information versions of voter lists were posted inside the precinct,⁴⁷⁰ or voting instructions were not posted in the polling booth.⁴⁷¹ In the first case, a GYLA observer made a note in the record book. The monitoring process revealed other problems as well. For example, at a single polling station, a printing defect was found in the ballot files,⁴⁷² or the inventory handed over by the DEC lacked ink and a special stamp.⁴⁷³

Lot Casting Procedures

Other procedures are conducted from the opening of the polling station to the start of voting. The chairperson of the precinct election commission inspects the integrity of the special sealed packages⁴⁷⁴ and conducts the lot casting procedures for the redistribution of functions. The lot casting sheets are the same, prepared by the same writing instrument and certified with a special stamp.⁴⁷⁵ The chairperson of the precinct election commission folds the lot casting sheets in such a way that it is impossible to read the text.⁴⁷⁶ The chairperson, deputy chairperson, and secretary of the commission do not participate in the lot casting.⁴⁷⁷ First, the chairperson of the precinct election commission conducts a lot casting among the members of the commission for the position of registrar.⁴⁷⁸ If the number of members of the commission elected by the DEC participating in the lot casting, is the same as the number of members of the commission who should participate in the lot casting procedure, the lot casting will not be held, and the members of the commission elected by the DEC will be automatically assigned a function of a member of the voter registrar.⁴⁷⁹

⁴⁶⁶ Krtsanisi Precinct 4.

⁴⁶⁷ Krtsanisi Precinct 32.

⁴⁶⁸ Mtatsminda 28, Nadzaladevi 11, Saburtalo 72, Isani 64, Batumi 17 and 65, Gori 70 Precincts.

⁴⁶⁹ Samgori Precinct 37.

⁴⁷⁰ Mtatsminda Precinct 7.

⁴⁷¹ Vake Precinct 66.

⁴⁷² Nadzaladevi 84 and 88 Precincts.

⁴⁷³ Kutaisi Precinct 90.

⁴⁷⁴ Election Code of Georgia, Article 61, part 2, subparagraph "b".

⁴⁷⁵ *Ibid.*, subparagraph "c".

⁴⁷⁶ *Ibid.*

⁴⁷⁷ Election Code of Georgia, Article 61, part 2, subparagraph "c".

⁴⁷⁸ For every 300 voters, 1 registrar is required to be identified. See Guidelines for the Members of the Precinct Election Commission Approved by the Resolution #43/2021 of the Central Election Commission of Georgia, July 29, 2021, p. 18.

⁴⁷⁹ *Ibid.*

Members of the Precinct Election Commission appointed by political parties do not participate in the function distribution lot casting.⁴⁸⁰ Subsequently, the chairperson of the commission delegates other functions. If a member of the commission carrying the mobile ballot box refuses to perform the function assigned to them, they lose the right to participate in the casting of lots for another position, and the issue of assigning the function to them is decided by the PEC chairperson.⁴⁸¹

Violations of lot casting procedures were revealed in the areas covered by GYLA observers. In some cases, instead of the chairperson of the commission, the functions were redistributed by another member of the commission, at the same time all functions were distributed at the same time,⁴⁸² the lot casting papers were not certified with a special seal, and the commission members exchanged papers,⁴⁸³ or the commission members arbitrarily changed functions.⁴⁸⁴ In all three cases, GYLA lodged a complaint with the relevant precinct or district election commissions. In the first and second cases, DECs partially upheld GYLA's complaints and imposed disciplinary action on precinct chairpersons.⁴⁸⁵ According to the GYLA observer, in the third case, the Precinct Election Commission did not uphold the GYLA complaint, and the violation was not eliminated. The monitoring revealed the facts of the exchange of functions by the members of the commission after the lot casting.⁴⁸⁶ In some cases, the chairperson of the precinct election commission tried to redistribute functions without a lot casting.⁴⁸⁷ Following verbal remarks from GYLA observers, irregularities were rectified, and lot casting procedures were still conducted, or commission members returned to their identified functions, although additional procedures led to delays in the opening of some polling stations.⁴⁸⁸

At Gldani precinct 62, a GYLA representative noted the exchange of functions between the registrar and the ballot box supervisor. The observer initially lodged a complaint with the Precinct Election Commission, although the chairperson stated that the law did not specify the duration of the exchange of functions. GYLA then appealed to the District Election Commission to rectify the violation while imposing disciplinary liability on the chairperson, registrar, and box supervisor. The complaint was not upheld on the ground that the chairperson has the discretion to give various tasks to the members of the commission.⁴⁸⁹

⁴⁸⁰ Ibid.

⁴⁸¹ Election Code of Georgia, Article 61, part 2, subparagraph "d1".

⁴⁸² Akhalkalaki Precinct 40.

⁴⁸³ Kutaisi Precinct 90.

⁴⁸⁴ Marneuli Precinct 59.

⁴⁸⁵ Ordinance #49/2021 of Akhalkalaki Election Commission #40, October 8, 2021 and Ordinance #117/2021 of Kutaisi Election Commission #59, October 6, 2021.

⁴⁸⁶ Samgori Precinct 33 and Telavi Precinct 3.

⁴⁸⁷ Marneuli Precinct 7.

⁴⁸⁸ Ibid.

⁴⁸⁹ Ordinance #119/2021 of Gldani Election Commission #10, October 6, 2021.

1.2. Vote Casting Period

Reception of the First Voter, COVID Regulations

After the lot casting procedures are completed, the PEC chairperson checks the integrity of the ballot papers and special envelope packages.⁴⁹⁰ In accordance with the rules established by the CEC, seals the main and mobile ballot boxes with an individual number stamp.⁴⁹¹ After handing over the materials to the members of the commission, it is recommended that the chairperson and the secretary of the precinct election commission fill in the control sheets before the voting, except for the data on the first voter; The control sheet is signed by all present members of the Precinct Election Commission.⁴⁹² After the registration of the first voter, the secretary of the commission enters the information about them in the control sheet, which is signed by the first voter. The chairperson puts one copy of the control sheet into the main ballot box, the other into the mobile ballot box, and the third one for later comparison.⁴⁹³ Voting begins at 8 a.m.⁴⁹⁴ Sanitary-hygienic requirements have been identified to prevent the spread of the new coronavirus infection.⁴⁹⁵ Being in the polling station is allowed only by using a mask.⁴⁹⁶ Authorized persons will be allowed at the site after undergoing thermo-screening.⁴⁹⁷ The voter is obliged to temporarily remove the mask in several cases; The flow regulator is obliged to not allow voters to enter the polling station without removing the mask.⁴⁹⁸ The registrar is obliged not to issue a ballot paper to the voter without removing the mask.⁴⁹⁹ If a voter does take the mask off, they will not be allowed to go to the polling station, or a ballot paper will not be issued to them.⁵⁰⁰

In some of the polling stations where GYLA representatives were present, the rules for filling out and storing the control sheet were violated. At precinct 17 in Rustavi, the chairperson of the commission lost the control sheet intended for them and later found it in the garbage bin. At Akhalkalaki precinct 40, the chairperson's control sheet was found in the ballot box. In Ozurgeti precinct 57, there was no voter signature on the control sheet, after which, without damaging the seal, it was removed from the box and returned after signing. In Gori precinct 44, data entry was started after a voter made a choice in the booth.

⁴⁹⁰ Election Code of Georgia, Article 61, part 6, subparagraph "b".

⁴⁹¹ Ibid., subparagraph "c".

⁴⁹² Guidelines for the members of the Precinct Election Commission approved by the Resolution #43/2021 of the Central Election Commission of Georgia, July 29, 2021, p. 27.

⁴⁹³ Ibid.

⁴⁹⁴ Election Code of Georgia, Article 61, part 11.

⁴⁹⁵ Resolution #52/2021 of the Central Election Commission of Georgia of 23 August 2021 to prevent the spread of the new coronavirus infection (COVID-19) caused by a new corona virus (SARS-CoV-2) on the day of the voting of the municipal bodies for the October 2, 2021 elections.

⁴⁹⁶ Ibid., Article 3, part 1.

⁴⁹⁷ Ibid., Article 1, subparagraph "a".

⁴⁹⁸ Ibid., part 2, subparagraph "a".

⁴⁹⁹ Resolution #52/2021 of the Central Election Commission of Georgia of 23 August 2021 to prevent the spread of the new coronavirus infection (COVID-19) caused by a new corona virus (SARS-CoV-2) on the day of the voting of the municipal bodies for the October 2, 2021 elections. Defining some election measures and sanitary-hygienic requirements, Article 3, part 2, subparagraph "a".

⁵⁰⁰ Ibid.

According to GYLA observers, there were several incidents in several polling stations when flow regulators and registrars did not ask voters to remove their masks for verification at the time the ballot papers were issued.⁵⁰¹ In some cases, commission members claimed to have known people in masks.⁵⁰² Following the oral remarks of GYLA observers, the fault in most of the precincts was rectified.

During the day, other covid regulations were violated in the unit precincts as well. In unit precincts, commission members conducted inappropriately⁵⁰³ or not at all.⁵⁰⁴ Based on the observers' notes, the violations were eliminated.

During the voting process, GYLA observers recorded the facts of improper filling in the demonstration protocols.⁵⁰⁵ In one case, the members of the commission entered the data in the demonstration protocol in advance, to which the GYLA observer made a note in the record book.⁵⁰⁶

Voter Admission to the Polling Station, Inking Procedure, the Ballot Issuance Process

Voters are marked in all polling stations, which means applying a special paint on the voter's right thumb or index finger.⁵⁰⁷ The voter goes through the inking check procedure upon entering the polling station.⁵⁰⁸ The flow regulator uses a special tool to illuminate the inking spot and, after making sure that the voter has no inking, lets them go to the polling station.⁵⁰⁹ The registrar is responsible for inking the voter, after which they issue the ballot papers.⁵¹⁰ After determining and inking the compliance of the voter data with the table list, the registrar signs the voter in the appropriate box and hands them the ballot paper, in the appropriate box of which they put their own signature and put a special stamp.⁵¹¹

In the areas covered by GYLA, observers recorded numerous cases of violation of inking rules. In one case, the registrar marked voters after the ballots were issued; despite the remarks of the GYLA observer, the defect was not eliminated.⁵¹² At the other place, the registrar would register a voter before inking,⁵¹³ or the flow regulator let them into the precinct without checking the inking.⁵¹⁴ In several places, it was only after inking that it became clear that the voter was not registered at the polling station⁵¹⁵ or that they were present at the polling

⁵⁰¹ Vake 42, Saburtalo 79, Samgori 18, Ozurgeti 21, Batumi 98, Telavi 32 and 43 and Rustavi 16 Precincts.

⁵⁰² Telavi 32 and Vake 42 Precincts.

⁵⁰³ Gldani 18 Precinct.

⁵⁰⁴ Samgori 49 Precinct.

⁵⁰⁵ Gldani 35 and 38, Isani 64, Samgori 43, Nadzaladevi 46 and Kutaisi 40 Precincts.

⁵⁰⁶ Samgori 35 Precinct.

⁵⁰⁷ Election Code of Georgia, Article 64, part 1.

⁵⁰⁸ Ibid., part 2.

⁵⁰⁹ Election Code of Georgia, Article 64, part 2.

⁵¹⁰ Ibid., part 3.

⁵¹¹ Ibid., Article 65, part 2, subparagraph "b".

⁵¹² Rustavi 16 Precinct.

⁵¹³ Samgori 36 Precinct.

⁵¹⁴ Samgori 5 and Gori 21 Precincts.

⁵¹⁵ Batumi 98 and Nadzaladevi 96 Precincts.

station with an improper identity document.⁵¹⁶ In some cases, the violation was rectified after an oral remark by a GYLA observer. At one polling station, the registrar did not sign the ballots.⁵¹⁷ Following the instructions of the GYLA observer, the Chairperson replaced them, and the violation was rectified. At the 98th precinct in Batumi, the members of the commission found after inking that the voter had arrived at the polling station with the ID card of a family member and had their signature in the family member's box. The voter could not take part in the voting. GYLA filed a complaint against this fact to the Precinct and District Election Commissions, requesting disciplinary action against the registrar and the flow regulator. The District Election Commission did not uphold GYLA's request.⁵¹⁸ Several districts of Marneuli were problematic. GYLA representatives observed the facts of voting without inking procedure in the 41st, 48th, and 65th precincts of Marneuli. In polling stations 41 and 48, GYLA observers recorded a number of cases of voting without an identity document. At one location, the note and the complaint written at the polling station were not responded to by the chairperson. GYLA appealed to the relevant district election commission and demanded the annulment of the results in the 48th polling station and the imposition of disciplinary liability on the chairperson.⁵¹⁹ The Marneuli District Election Commission did not comply with any of GYLA's demands, arguing that no election legislation had been violated that would affect the will of the voters or the election results.⁵²⁰ After an oral remark at the 41st precinct, the defect was rectified. After discovering the violations in the 65th precinct, the GYLA observer was expelled from the precinct.

Election administration officials who were unable to take a vote on election day due to their activities on election commissions were entered on a special voter list according to their place of registration.⁵²¹ In municipal elections, they also participate in majoritarian elections if they change their location in the same constituency.⁵²²

In two polling stations, GYLA observers observed the issuance of majoritarian ballots to commission members even though these officials were not registered in the same constituency.⁵²³ In one case, the defect was rectified after an oral remark. In the second case, the two members of the commission participated in the elections, to which GYLA filed a complaint in the precinct and district, demanding disciplinary action.⁵²⁴ Complaints were not upheld.⁵²⁵

During the day, GYLA observers observed other facts related to the violation of the ballot paper issuance rule. At Gldani 92nd polling station, the registrar removed 3-3 ballot papers of 5 voters from the ballot box pile so that the polling station number was no longer visible on them, which would lead to unconditional invalidity of the ballot papers at the counting stage.

⁵¹⁶ Gori 28 and Nadzaladevi 74- Precincts.

⁵¹⁷ Telavi 17 Precinct.

⁵¹⁸ Ordinance #73/2021 of Batumi District Election Commission #79, October 6, 2021.

⁵¹⁹ Ordinance #62/2021 of Marneuli District Election Commission #22, October 5, 2021.

⁵²⁰ Ibid.

⁵²¹ Election Code of Georgia, Article 32, part, subparagraph "a".

⁵²² Ibid., part 5, subparagraph "a".

⁵²³ Nadzaladevi 6 and Kutaisi 80 Precincts.

⁵²⁴ Ordinance #112/2021 of Kutaisi District Election Commission #59, October 6, 2021.

⁵²⁵ Ibid.

GYLA observer appealed the fact to the Precinct Election Commission and demanded that the violation be eliminated. The chairperson did not uphold the complaint, after which GYLA appealed to the district election commission and demanded disciplinary action against the registrar and the chairperson. Both requests of GYLA's complaint were upheld, and a warning was issued to the relevant persons.⁵²⁶ A similar case was observed in the 39th precinct of Isani.

In three precincts,⁵²⁷ as a result of the midterm count, the difference between the ballots issued and the voter signatures was observed. In all three cases, the registrars wrote an explanation about the "accidental miscalculation" of the ballot papers, which they blamed for fatigue. In 2 cases, GYLA observers made a note in the record book.⁵²⁸

Presence of Unauthorized Persons at the Polling Station

Members of the CEC, district, and precinct election commissions have the right to be present in the polling station also representatives of the CEC and district election commissions; A representative of an election subject registered with the relevant precinct election commission; Representatives registered in the relevant election commission of the press and other mass media; the observers have the same right.⁵²⁹ All persons entitled to be present at the polling station must carry a certificate stating their identity and status.⁵³⁰ Only 1 person from the same observation organization is allowed at the polling station.⁵³¹

On election day, GYLA observers recorded a number of cases when an unauthorized person entered the polling station. At Mtatsminda 40th polling station, a GYLA observer allegedly caught the Mtatsminda Governor. After an oral remark, the chairperson asked the person to leave the precinct. At the polling station in the village of Kurdghelauri, two observers from the American League of Supporters and the Anti-Corruption Media Center were present at the polling station. Following a verbal remark from a GYLA representative, the second observer left the polling station. At the 49th polling station in Gori, a representative of Edison Research conducted an exit poll inside the polling station. After the remark, the person left the precinct. At the 8th polling station in Didube, a GYLA observer observed two representatives of the Georgian Dream - Democratic Georgia party. After a remark, the violation was eliminated.

Secrecy of the Vote

After registration, the voter enters the voting booth and fills out the ballot paper.⁵³² Then they fold the ballot paper so that it does not appear who they voted for and place it in a

⁵²⁶ Ordinance #104/2021 of Gldani District Election Commission #10, October 6, 2021.

⁵²⁷ Telavi 16, Mtatsminda 34 and Gldani 40 Precincts.

⁵²⁸ Mtatsminda 34 and Gldani 40 Precincts.

⁵²⁹ Election Code of Georgia, Article 8, part 16.

⁵³⁰ Ibid., part 17.

⁵³¹ Ibid., part 15.

⁵³² Ibid., Article 65, part 2, subparagraph "c".

special envelope.⁵³³ A member of the election commission has no right to open the filled ballot paper or otherwise violate the secrecy of the ballot.⁵³⁴ Each voter votes in person. It is not allowed to vote on behalf of another person.⁵³⁵

At the 55th polling station in Batumi, a member of the Precinct Election Commission took the envelope from the voter and placed it in the ballot box. GYLA filed a complaint with the District Election Commission, which was not upheld with the argument that such a procedural violation did not harm the voting process and the election results.⁵³⁶ In unit precincts, GYLA recorded violations of the secrecy of the vote. A video camera placed in the 10th precinct of Gldani, allegedly by an observer organization, was watching the cabin. After an oral remark, the violation was rectified. In Telavi 38th precinct, an elderly voter noticed that due to low lighting, they were unable to circle the desired candidate (41 were recorded on the ballot), after which they applied to the commission to change the ballot. Despite GYLA's oral remark, the voter received an answer from the chairperson that the ballot paper should still be placed in the ballot box.

Violation of Agitation Rules

Pre-election agitation is prohibited in the polling station on polling day.⁵³⁷ Violation of the requirements of this norm will result in a fine of 2000 GEL.⁵³⁸

GYLA observers detected unit cases of violation of agitation rules. At Zugdidi 90 polling station, a GYLA observer observed that the registrar was calling on voters to support the Georgian Dream-Democratic Georgia candidate.⁵³⁹ A similar call was video recorded by a GYLA observer made by the chairperson at the 8th polling station in Didube. The registrar seized the phone from the observer and deleted the record and other files. GYLA appealed to the relevant district election commission, but the complaint was not upheld on the grounds that it was an attempt to speak to one of the voters and not an agitation.⁵⁴⁰

Violation of Agitation Rules by the Chairperson of the Parliament of Georgia

On Election Day, the Speaker of the Parliament of Georgia, Kakhaber Kuchava, went to the 76th polling station in Vake to vote. Relevant photo-video material was spread in the media.⁵⁴¹ Representatives of GYLA's central headquarters, within the framework of media monitoring, observed that the Speaker of the Parliament of Georgia entered the polling

⁵³³ Election Code of Georgia, Article 65, part 2, subparagraph "c".

⁵³⁴ Ibid.

⁵³⁵ Ibid., part 1.

⁵³⁶ Ordinance #85/2021 of Batumi District Election Commission #79, October 6, 2021.

⁵³⁷ Election Code of Georgia, Article 45, part 11.

⁵³⁸ Ibid., Article 79, part 1.

⁵³⁹ Complaint of a GYLA observer in Zugdidi district, accessible: <https://bit.ly/3NdcArM>, updated: 15.04.2022.

⁵⁴⁰ Written refusal #08/107 of the Chairperson of #8 Didube District Election Commission, October 12, 2021, to draw up a report on an administrative violation.

⁵⁴¹ "It was a mechanical mistake" - Kuchava admits that he violated the election rule ", information portal Netgazeti, October 2, 2021, accessible: <https://bit.ly/3yGGoJn>, updated: 15.04.2022.

station with a branded mask bearing the symbol of the Georgian Dream - Democratic Georgia party. As soon as the violation was registered, GYLA filed an electronic complaint with the Vake District Election Commission and requested that an administrative violation report be drawn up against Kakhaber Kuchava for violating the agitation rules.⁵⁴² GYLA's complaint was upheld, and on October 12, the CEC chairperson drew up a report of an administrative violation against the chairperson of the parliament⁵⁴³ and sent the materials to the Tbilisi City Court for consideration.⁵⁴⁴ The court found Kakhaber Kuchava an offender but used a verbal reprimand as an administrative penalty.⁵⁴⁵

Repeated Voting

During the day, GYLA observers observed several instances of repeated voting or attempted repeated voting. After voting at Telavi 38th polling station, one voter with an expired ID went to the 39th polling station next to it. After the GYLA observer and the flow regulator responded to the fact, the voter was not allowed in the second precinct. In Marneuli 90 polling station, GYLA observed the fact of repeated voting several times. The Precinct Election Commission did not respond to the facts due to a lack of evidence. In one case, the chairperson noticed the fact that the same person was voting, based on a remark of a GYLA observer, and pulled the person out of the booth and put the ballot papers in the "spoiled" ballot pile. A similar fact was observed in Zugdidi 28th precinct, where a voter who was already present at the precinct came to vote for the second time. The person was not marked, which is why they were allowed to enter the polling station despite the resistance of the GYLA observer. According to the representative of the organization, missing the inking was due to the use of the disinfectant solution.^{xv} At the 43rd polling station in Gori, after returning the mobile box, it became known that another person with the same name and surname had voted. A GYLA observer made a note of the fact in the record book.

Violation of the Integrity of the Seal

The chairperson of the precinct election commission, in accordance with the rules established by the CEC, seals the main and mobile ballot boxes with an individual number.⁵⁴⁶ If the integrity of the ballot box seal is violated during the voting, the Precinct Election Commission suspends the voting process and makes a decision on re-sealing the ballot box and resuming the voting.⁵⁴⁷

⁵⁴² Complaint of a GYLA observer in Vake district, accessible: <https://bit.ly/3ImZSe8>, updated: 15.04.2022.

⁵⁴³ Protocol of Administrative Violation #001971 drawn up by the Chairperson of the Central Election Commission of Georgia Giorgi Kalandarishvili on October 12, 2021, accessible: <https://bit.ly/3FU4KAW>, updated: 15.04.2022.

⁵⁴⁴ Letter #01-02/1594 of the Chairperson of the Central Election Commission of Georgia, October 13, 2021, accessible: <https://bit.ly/3wo7TWi>, updated: 15.04.2022.

⁵⁴⁵ Resolution of the Administrative Cases Panel of the Tbilisi City Court of October 19, 2021, on Case #4/6510-21, accessible: <https://bit.ly/39A4wCY>, updated: 15.04.2022.

⁵⁴⁶ Election Code of Georgia, Article 61, part 6, subparagraph "c".

⁵⁴⁷ Election Code of Georgia, Article 65, part 7.

During the day, GYLA observers observed violations of the seal integrity or improper sealing at several polling stations. At Vake 4 polling station, the main and mobile ballot boxes were not sealed, and the mobile ballot box slot was pre-sealed. After the observer indicated that, the boxes were taped with ordinary adhesive tape. GYLA complained to the precinct and district election commissions and demanded disciplinary action against the chairperson. The complaint was not upheld on the ground that the fact did not adversely affect the voting procedure, and the seal was not damaged.⁵⁴⁸ The integrity of the mobile box seal was also violated in the 65th precinct of Marneuli, where GYLA demanded to make the box invalid. The Precinct Election Commission did not uphold the complaint; therefore, the complaint was written to the relevant district election commission. The complaint of the GYLA representative was upheld, the results of the mobile ballot box were annulled, and the members of the ballot box election commission imposed a warning as a disciplinary measure.⁵⁴⁹

Defects were also observed in the 27th precinct of Didube, where the integrity of the seal of the main ballot box was violated, and the numbers of the seal in the record book were corrected by so-called corrector. A GYLA representative lodged a complaint with the Precinct Election Commission, requesting that polling be suspended and that the ballot box be handed over to the District Election Commission. Due to a lack of response, a complaint was filed in Didube district. The complaint was not upheld on the grounds that the Commission did not consider the integrity of the seal to have been violated when examining the photo material.⁵⁵⁰

An unsealed ballot box was also observed by a GYLA observer at the 11th polling station in Vake. The problem was eliminated after the intervention of the District Election Commission.

Facts of Stuffing Ballots in the Ballot Box^{xvi}

On election day, in some cases, GYLA observers observed ballot stuffing in the ballot box.

At the 11th polling station in Marneuli, a GYLA observer found pre-marked ballot papers on the registrar's desk. After an oral remark, the chairperson of the commission cut down their corner and moved them to the spoiled ballots. At the 55th polling station in Batumi, the chairperson noticed that the voter was going to put the ballot in the box without a special envelope. They handed the envelope to the voter to put up the ballots. After that, instead of the voter, the chairperson put a special envelope in the ballot box. GYLA lodged a complaint with the District Election Commission. The commission considered that despite the procedural irregularities, the chairperson's actions did not affect the will of the voters and the general election principles.⁵⁵¹ Accordingly, the complaint was dismissed, and the chairperson was not disciplined.

The fact of allegedly illegally placing the ballot papers was observed in the 7th precinct of Marneuli. A representative of one of the observer organizations put the special envelopes

⁵⁴⁸ Ordinance #90/2021 of Vake District Election Commission, October 6, 2021.

⁵⁴⁹ Ordinance #77/2021 of Marneuli District Election Commission #22, October 6, 2021.

⁵⁵⁰ Ordinance #81/2021 of Didube District Election Commission #8, October 5, 2021.

⁵⁵¹ Ordinance #85/2021 of Batumi District Election Commission #79, October 6, 2021.

they received from the registrar in the ballot box. There was no response to the on-site complaint, so GYLA demanded that the polling station in the constituency be closed and that a member of the relevant commission is disciplined. Marneuli District Election Commission did not uphold GYLA's complaint on the grounds that no violation had been reported at the polling station.⁵⁵²

2. Control of the Will of the Voters

2.1. Influence on Voters within the Precinct

The practice of voter tracking and the use of public voter lists for registering the electorate is not effectively regulated by law. Like the 2020 parliamentary elections,⁵⁵³ GYLA recorded a number of cases of voter control in the polling stations. Compared to the previous year, the negative practice of voter registration and alleged illegal collection or processing of personal information in the 2021 local elections was alarming, according to GYLA, and in addition to the representatives of the subjects, in some cases, members of the Precinct Election Commission were involved.

In a number of polling stations where GYLA representatives were present, the flow regulator loudly announced the name of the incoming voter, at which point a political party representative or a member of an observer organization was writing down the data.⁵⁵⁴ In many cases, a representative of a political party stood behind the flow regulator and was writing down the data of the incoming voters.⁵⁵⁵ In Telavi 1st polling station, the flow controller was directly involved in the voter registration. Following oral or written remarks by GYLA observers, the problem was temporarily eliminated in some polling stations, but during the day, voter registration was resumed in these and other polling stations.⁵⁵⁶ In Telavi 14th precinct, GYLA also wrote a complaint, but the chairperson did not uphold it due to insufficient evidence to reveal the alleged illegal processing of personal data. GYLA wrote a complaint in the 55th precinct of Rustavi, where a representative of the Georgian Dream-Democratic Georgia, who was standing by the flow controller, informed the third party about voters by phone, but according to the observer, the situation did not change. GYLA also filed a complaint with the Rustavi District Election Commission on the same issue; however, the complaint was rejected on the basis of elimination of the violation by the Chairperson of the Commission.⁵⁵⁷ In one case, a GYLA observer observed the use of a desk list for voter registration.⁵⁵⁸ On the basis of alleged illegal collection/processing of voters' personal data, GYLA filed a complaint with the relevant precinct and district election commissions. The complaints were not upheld on the grounds that the District Election Commission had failed

⁵⁵² Ordinance #59/2021 of Marneuli District Election Commission #22, October 5, 2021.

⁵⁵³ Latsabidze M. et al., the Georgian Parliamentary Election Observation Mission 2020 (Tbilisi, Georgian Young Lawyers' Association, 2021), official website of the Georgian Young Lawyers' Association, p. 64, accessible: <https://bit.ly/3FXxLvX>, updated: 15.04.2022.

⁵⁵⁴ Telavi 13, 14, 43 and 49, Gori 40, Samgori 57 and Zugdidi 16 precincts.

⁵⁵⁵ Rustavi 29, 37, 41, 63, 66 and 71, Marneuli 41, Batumi 83 and Telavi 9 precincts.

⁵⁵⁶ Ozurgeti 20, Akhalkalaki 70, Gori 58, Chugureti 4 and Nadzaladevi 8 precincts.

⁵⁵⁷ Ordinance #53/2021 of Rustavi District Election Commission #20, October 4, 2021

⁵⁵⁸ Rustavi 55 and Batumi 15 precincts.

to establish the veracity of the violation as a result of the investigation.⁵⁵⁹ According to GYLA observers, observers from various organizations, including the Public Union for Georgia First, the Observer of Politics and Law, and the Green World Union, took part in the voter registration in various polling stations, other than for the representatives of precinct election commissions and entities.

2.2. Violations on the Perimeter

Within the framework of the legislative changes made in 2021, the Parliament of Georgia imposed administrative responsibility for placing agitation materials within 25 meters of the polling station and for obstructing the movement of voters within 100 meters, their registration, and gathering of people.⁵⁶⁰ Beyond 100 meters, violation of these rules does not fall within the scope of the regulation.

On the day of October 2, 2021, elections, GYLA applied to the patrol police 23 times and requested an administrative violation to draw up a report for violating the perimeter regulations provided by law.

Violation of the Agitation Ban Rule within a Radius of 25 Meters

It is not allowed to place agitation material at a distance of 25 meters from the entrance of the polling station; This material is subject to removal/dismantling/seizure.⁵⁶¹ Violation of this rule will result in a fine of 2000 GEL.⁵⁶²

On election day, GYLA observers observed violations of agitation rules on the perimeter in isolated cases. Posters of political entities were placed in the 2nd precinct of Ozurgeti, 25 meters from the polling station.⁵⁶³ In order to respond, GYLA called the patrol police on the spot, who drew up an interview protocol. According to the GYLA observer, the agitation material was later removed, but it is not clear from whom. According to the Ministry of Internal Affairs, based on the protocol of the interview, the patrol police crew could not detect any kind of administrative violation and signs of a crime under the Criminal Code.⁵⁶⁴ The fact of violation of agitation rules was observed on the 25-meter perimeter of the 8th polling station in Batumi.⁵⁶⁵ GYLA also applied to the patrol police in this case to fix the violation. According to the observer, the crew took photos of the posted agitation material on the spot

⁵⁵⁹ Ordinance #82/2021 of Rustavi District Election Commission #79, October 6, 2021.

⁵⁶⁰ Organic Law of Georgia on Amendments to the Organic Law of Georgia "Election Code of Georgia", Article 1, paragraph 31.

⁵⁶¹ Election Code of Georgia, Article 45, part 12.

⁵⁶² Ibid, Article 80, part 2.

⁵⁶³ Posters of the following political entities were posted: #25 – For Georgia, #56 - Independent candidate Konstantine Sharashenidze, #5 – the United National Movement, #44 – the People's Party". See video: Ozurgeti - Polling Station 2.mp4, updated: 15.04.2022.

⁵⁶⁴ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁶⁵ The Georgian Dream - Democratic Georgia's banner, See photo: Batumi - Polling Station 8.jpg, updated: 15.04.2022.

and left the perimeter of the precinct election commissions. According to the Ministry of Internal Affairs, the fact reported by GYLA was not confirmed by the police on the spot.⁵⁶⁶

Physical Obstruction and Tracking of Voters, People Gathering within a Radius of 100 meters

Physical obstruction of the movement of voters within 100 meters from the polling station on the polling day is not allowed;⁵⁶⁷ It is not allowed to gather people or register voters within 100 meters from the polling station. Violation of this rule will result in a fine of 2000 GEL.⁵⁶⁸

On election day, GYLA observers uncovered other violations of perimeter regulations. During the day, it was problematic obstructing the movement of voters within 100 meters of the polling station, gathering people, and registering the voters. The representatives of the patrol police did not draw up a report on the administrative violation based on GYLA's appeal.⁵⁶⁹

On the perimeter of Telavi's 35th precinct, about 60 meters from the polling station, a GYLA observer spotted people sitting in a minibus trying to register voters using photo lists provided for public information.⁵⁷⁰ GYLA Telavi office appealed to the patrol police to respond. The crew who came on the spot spoke to the GYLA observer and informed that in the first case of violation of the perimeter regulations, the violators were not fined. According to a GYLA observer, under the direction of the police, the minibus moved 100 meters beyond the polling station. According to the information requested by GYLA from the Ministry of Internal Affairs, the fact of registration of citizens was not confirmed when the police came on the perimeter of the 35th precinct of Telavi.⁵⁷¹ In the village of Akura, about 10 meters from the 52nd Telavi Precinct Election Commission, a GYLA observer noticed a booth where people had gathered for the alleged registration of voters.⁵⁷² Periodically, voters from the precinct, representatives of unidentified observer organizations, and political parties were going inside the booth. In this case, too, GYLA appealed to the patrol police, who, according to the observer, failed to identify any violations. GYLA has requested information regarding the results of the proceedings on May 3, 2022, however, as of June 13 of the same year, the Ministry of Internal Affairs has not responded to the letter. A representative of the Democratic Society, who had a list of voters, registered the voters at the 36th and 37th polling stations in Rustavi.⁵⁷³ According to the Ministry of Internal Affairs, the police crew, on the basis of GYLA's message, could not confirm the fact of a possible violation.⁵⁷⁴ At the entrances of the 41st⁵⁷⁵ and 42nd⁵⁷⁶ precincts of Marneuli, unidentified persons checked the incoming voters in the wall lists, after which they registered their arrival. GYLA appealed to the law enforcement agencies. According to the Ministry of Internal Affairs, administrative proceedings have been

⁵⁶⁶ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁶⁷ Election Code of Georgia, Article 45, part 12.

⁵⁶⁸ Ibid., Article 80, part 2.

⁵⁶⁹ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁷⁰ See video: Telavi - Polling Station 35.mp4, updated: 15.04.2022.

⁵⁷¹ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁷² See video: Telavi - Polling Station 52.mp4, updated: 15.04.2022.

⁵⁷³ See photo: Rustavi - Polling Stations 36 & 37.jpeg, updated: 15.04.2022.

⁵⁷⁴ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁷⁵ See photo: Marneuli - Polling Station 41.jpg, updated: 15.04.2022.

⁵⁷⁶ See video: Marneuli - Polling Station 42.mp4, updated: 15.04.2022.

initiated by authorized police officers. GYLA has requested information regarding the results of the proceedings on May 3, 2022, however, as of June 13 of the same year, the Ministry of Internal Affairs has not responded to the letter. Perimeter regulations were violated in the 90th precinct of Kutaisi, where voter registration and gathering of people were observed.⁵⁷⁷ The people gathered on the spot were aggressive towards the GYLA observer. The patrol police crew, after arrival at the spot, conducted the proceedings, but the violation was not confirmed.⁵⁷⁸ People were also gathered in the 100-meter perimeter of the 95th precinct of Batumi. There were also law enforcement officials at the polling station who did not respond to the violation and communicated with the assembled persons. In order to establish the fact, GYLA applied to 112. The crew arrived at the scene and made them leave the area temporarily; however, according to observers, they returned to the area again in about 20 minutes. According to the Ministry of Internal Affairs, the fact of violation of distance at the 95th polling station in Batumi has not been confirmed.⁵⁷⁹ The response of the patrol police on the perimeter of the 44th precinct of Batumi ended with the same result.⁵⁸⁰

GYLA observers called the patrol police on the perimeter of the 21st and 40th precincts of Chugureti, where people sitting in the car were registering the incoming voters.⁵⁸¹ According to the GYLA observer, the patrol police crew on the spot knew them. After the interview, the car left the perimeter of the precinct. In this case, too, administrative proceedings were conducted, although the fact provided was not confirmed.⁵⁸² On the 100-meter perimeter of Chugureti 15th, 16th, 18th, and 39th precincts, GYLA observers observed numerous gatherings of people. The patrol police called to prevent the offense conducted an administrative proceeding but failed to establish the facts.⁵⁸³

GYLA welcomes the legislative changes made to reduce the impact on the will of the electorate, which has imposed administrative liability for the placement of agitation materials within a specific radius of the perimeter, the registration of voters, physical delays, and the gathering of people. Nevertheless, in the first round of the 2021 local self-government elections, a number of cases of violation of perimeter regulations were revealed, to which the response of law enforcement agencies was ineffective. In a number of cases, patrol police officers confirmed the facts of violations during their communication with GYLA observers, although in none of these cases did the violators be held administratively liable. The response of the patrol crew was, in many cases, formal. In some cases, MIA officials made the potential offenders leave the area, but as soon as they left, voter registration, delays, and gathering of people were again reported on the perimeter of most polling stations where GYLA observers were present.

⁵⁷⁷ See video: Kutaisi - Polling Station 90.mp4, updated: 15.04.2022.

⁵⁷⁸ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁷⁹ Ibid.

⁵⁸⁰ Ibid.

⁵⁸¹ See photo: Chugureti - Polling Stations 21 & 40.png, updated: 14.05.2022.

⁵⁸² Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

⁵⁸³ Ibid.

According to the letters⁵⁸⁴ received by GYLA from the Ministry of Internal Affairs, in the first round of elections, 115 incident cases of “violations of election-related legislation” were registered. On the polling day, 1 report of administrative violation was issued in connection with the alleged violations on the perimeter. In addition, according to the Ministry, LEPL “Public Security Management Center 112” in the type of incident “violation of election law” considers any report related to this topic and, consequently, cannot record the facts of violation of perimeter regulations defined by the Election Code. In addition, the additional information related to the content of the message is recorded in the text box provided for case comments. Therefore, it is not subject to statistical processing.

On the day of the local self-government elections on October 2, 2021, the Ministry of Internal Affairs failed to ensure the prevention of violations on the perimeter of the precincts inefficiently or did not comply with the established norm, which failed to reduce the risks of voter control.

GYLA considers that in order to prevent the control of the will of the voters on the perimeter of the precinct election commissions, it is necessary to:

- **Effective enforcement of established norms, detection of offenders, and imposition of appropriate penalties on them;**
- **Provide statistical information on such violations so that the public has full information about the violations detected on election day, on the perimeter of the precinct, and the quality of the agencies' response to each case can be assessed.**

2.3. Other Cases of Voter Will Control at the Perimeter

According to GYLA observers, on Election Day, the alleged facts of voter will control beyond the 100-meter radius of polling stations were problematic. Although current law does not prohibit such activity beyond 100 meters of a polling station, GYLA believes that any influence on the will of the voter harms the electoral environment. The organization indicated this in the summary report of the 2020 elections, as well as in the opinions sent to the Parliament of Georgia.⁵⁸⁵ GYLA observers observed the gathering of people and the registration of voters in a number of precincts covered by the organization.⁵⁸⁶ In most cases, the assembled persons communicated with the voters before entering or after leaving the polling station.

GYLA believes that the negative tendency to control the will of the electorate, which has already been manifested in numerous elections, has a negative impact on the electoral environment, preventing voters from making independent decisions and making informed

⁵⁸⁴ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia January 21, 2022; Letter #MIA 9 22 00134651 of the Ministry of Internal Affairs of Georgia January 18, 2022.

⁵⁸⁵ Latsabidze M. et al., the Georgian Parliamentary Election Observation Mission 2020 (Tbilisi, Georgian Young Lawyers' Association, 2021), official website of the Georgian Young Lawyers' Association, p. 7, accessible: <https://bit.ly/3FXxLvX>, updated: 14.05.2022.

"GYLA submitted remarks on the reform of the election legislation to the Parliament", website of the Georgian Young Lawyers' Association, 01.07.2022, accessible: <https://bit.ly/3PAgzka>, updated: 14.05.2022.

⁵⁸⁶ Akhalkalaki 64, Gori 36, Telavi 3, 14, 24, 25, 36 and 54, Rustavi 1, 3, 35, 41, 58, 59 and 60, Marneuli 64, Kutaisi 88, Ozurgeti 20, 24 and 53, Zugdidi 16, Batumi 8 and 37, Krtsanisi 7, Nadzaladevi 5, 6 and 10, Chugureti 15 and 16 precincts.

choices freely. Therefore, GYLA's recommendation is to ban voter registration both on the perimeter of the polling station and in the polling station and to declare a day of complete silence before the elections, which will allow voters to make their own choices in a calm and pressure-free environment.

3. Counting and Summarizing the Results

3.1. Closing the Precinct and Counting the Results

On Election Day, polling stations with GYLA observers were closed on time.

Lot Casting Procedure

Following the voting procedure, the chairperson of the precinct election commission shall select at least 3 counters from among the members, and the observers shall select no more than 2 observers by mutual agreement.⁵⁸⁷ If the observers do not agree, 2 observers will be identified by lot by the chairperson of the precinct election commission.⁵⁸⁸

Violation of the lot casting procedures was observed by GYLA observers in the unit precincts. In one case, the lot casting papers were not stamped,⁵⁸⁹ which was noted by a GYLA representative in the record book. In another precinct,⁵⁹⁰ the chairperson initially allowed only registrars to participate in the vote cast for counters. Based on the observer's remark, the chairperson of the commission re-conducted the lot casting. In another precinct,⁵⁹¹ the counters identified by lot, at the direction of the chairperson, decided to assign a position to the other members of the commission due to fatigue. Based on GYLA's oral observation, the lot casting was re-conducted to identify the counters. In the 36th polling station of Chugureti, the members of the commission refused to participate in the lot casting, which was agreed by the chairperson. Despite the remark and the complaint written at the precinct, the violation was not eliminated. GYLA filed a complaint with the relevant District Election Commission and demanded disciplinary action against the violators. The complaint was upheld, and a measure of liability was defined as the warning to the PEC chairperson.⁵⁹²

The Invalidity of Ballot Papers

After sorting all the ballot papers, the ballot papers whose authenticity was considered doubtful are checked; the issue of the authenticity of each is decided by voting by the Precinct Election Commission; the invalid Ballot Paper is added to the pile of invalid ballot papers.⁵⁹³ The ballot paper is invalid if it is not certified with the signature of the voter registrar and a

⁵⁸⁷ Election Code of Georgia, Article 67, part 1.

⁵⁸⁸ Ibid.

⁵⁸⁹ Isani 14 precinct.

⁵⁹⁰ Telavi 54 precinct.

⁵⁹¹ Telavi 50 precinct.

⁵⁹² Ordinance #74/2021 of Chugureti District Election Commission #7, October 6, 2021.

⁵⁹³ Election Code of Georgia, Article 69, part 5.

special stamp,⁵⁹⁴ it is impossible to determine which election subject the voter voted for,⁵⁹⁵ more than the prescribed number of ballot papers were found in the special envelope;⁵⁹⁶ the ballot paper was found in the ballot box without the special envelope.⁵⁹⁷

On Election Day, GYLA observers noted several irregularities in the process of reviewing questionable ballots. In Telavi 39th precinct, the commission tried to invalidate 15 ballot papers, where the will of the voter was recorded. Based on GYLA's oral remark, the commission recognized the ballots as valid. In 3 polling stations,⁵⁹⁸ GYLA observers observed the presence of the same type of ballot papers in one envelope or more than the established number of different ballot papers. In 2 cases, the chairperson of the Precinct Election Commission did not consider the complaint of the GYLA observer and recognized the ballot papers as valid. In the third case, the DEC, in response to the complaint, clarified that because the ballots had a special stamp and the registrar's signature, they should have been counted valid.⁵⁹⁹ At the 85th polling station in Batumi, the Precinct Election Commission annulled 7 ballot papers expressing the will of the voters. The opinion of the GYLA observer was not shared by the Precinct Election Commission. The representative of the organization complained to the Batumi District Election Commission, submitted photos of the ballot papers, and demanded that the ballot papers be considered valid.⁶⁰⁰ The complaint was not upheld on the grounds that the issue of resolving questionable ballot papers is the prerogative of the Precinct Election Commission and that the Precinct Election Commission should make a decision on the basis of voting.⁶⁰¹ GYLA also appealed against the annulment of several ballot papers to the Kutaisi District Election Commission in relation to the 106th polling station. According to the observer, although the ballot papers depicted the will of the voter, the commission annulled them. In the complaint, GYLA demanded the annulment of the voting results of the proportional and the mayoral election protocols of the 106th Precinct Election Commission, the opening of sealed documents, the recount of the results, and the imposition of disciplinary liability on those responsible. The Kutaisi District Election Commission did not uphold GYLA's complaint on the grounds that the 106th Precinct Election Commission did not violate the law.⁶⁰² The organization appealed the decision in court. The Court of First Instance did not uphold GYLA's claims regarding precinct 106.⁶⁰³ The result was appealed to the Kutaisi Court of Appeals, which upheld the decision of the City Court.⁶⁰⁴

⁵⁹⁴ Ibid., Article 3, subparagraph "a".

⁵⁹⁵ Election Code of Georgia, Article 69, part 5, subparagraph "b".

⁵⁹⁶ Election Code of Georgia, Article, part 3, subparagraph "c".

⁵⁹⁷ Ibid., subparagraph "e".

⁵⁹⁸ Zugdidi 90, Kutaisi 81 and 106 precincts.

⁵⁹⁹ Ordinance #74/2021 of Zugdidi District Election Commission #67, October 6, 2021

⁶⁰⁰ GYLA observer submitted photos of the ballot papers to the District Election Commission as the evidence. See: <https://bit.ly/39u9TDx>, updated: 15.04.2022.

⁶⁰¹ Ordinance #89/2021 of Batumi District Election Commission #79, October 6, 2021.

⁶⁰² Ordinance #137/2021 Kutaisi District Election Commission #59, October 8, 2021

⁶⁰³ Decision #3/518-21 of Kutaisi City Court, October 11, 2021.

⁶⁰⁴ Decision #3/b-500-21 of Kutaisi Court of Appeal, October 14, 2021.

GYLA believes that the issue of invalidation of dubious ballot papers by Precinct and District Election Commissions is inconsistent. It is necessary for the members of the commission to correctly assess the issue of expression of will and not to restrict the citizens' right to vote due to misinterpretation of the law. At the same time, it is important that common courts have effective control over election disputes involving the invalidity of ballot papers.

3.2. Summarizing the Election Results

Violation of the Rule of Sealing Election Documentation

After counting the ballots, the counters seal the invalid and valid ballots in separate packages.⁶⁰⁵ The record book is closed and then sealed; Summary protocols will be submitted to the District Election Commission with the sealed documents.⁶⁰⁶

GYLA District Election observers observed violation of the sealing of election documents on election day in constituencies where GYLA observers were present at 58 polling stations.⁶⁰⁷ It is important to note that in some constituencies, GYLA observers were unable to obtain detailed information on the status of documents received from polling stations due to the arrangement of space. GYLA believes that the establishment of such a negative trend raises the risks of interference in the documentation. GYLA pointed to the same problem after the 2020 parliamentary elections.⁶⁰⁸ In all 58 cases, GYLA representatives complained to the relevant district election commissions and demanded disciplinary action against the chairpersons and secretaries of the precinct election commissions for improper performance of their duties. Interestingly, DEC's took a different approach to resolve complaints. Out of the complaints written against 7 precincts in the Kutaisi district, only 3 were upheld, and both members of the commission were reprimanded as a measure of disciplinary responsibility.⁶⁰⁹ In the other case, in the District's view, no violation occurred. In Samgori district, only one out of 2 precinct complaints was upheld.⁶¹⁰ In Vake district, where the document sealing rule was violated in 23 precincts, none of the complaints were upheld on the grounds that such a violation did not affect the election results.⁶¹¹ In Isani, Didube, Chugureti, Mtatsminda, Krtsanisi, Gldani, and Ozurgeti districts, this rule was violated in 14 precincts.⁶¹² In all cases, GYLA's complaints were upheld, and the PEC chairpersons and secretaries were reprimanded

⁶⁰⁵ Election Code of Georgia, Article 69, parts 5, 6, 7, 8 and 9.

⁶⁰⁶ *Ibid.*, Article 62, part 11.

⁶⁰⁷ Samgori 42 and 112, Didube 13, Saburtalo 21, 22 and 84, Krtsanisi 11, Vake 9, 11, 12, 14, 16, 23, 25, 26, 29, 33, 36, 42, 44, 46, 50, 51, 56, 60, 61, 63, 72, 75 and 80, Isani 69, Chugureti 2 and 18, Mtatsminda 12 and 33, Gldani 105, Gori 28 and 32, Ozurgeti 6, 7, 12, 25, 37 and 54, Marneuli 11, 13, 26, 28, 40, 73 and 81, Kutaisi 67, 81, 94, 99, 103, 120 and 123 precincts.

⁶⁰⁸ Latsabidze M. et al., the Georgian Parliamentary Election Observation Mission 2020 (Tbilisi, Georgian Young Lawyers' Association, 2021), official website of the Georgian Young Lawyers' Association, pp. 75-76, accessible: <https://bit.ly/3FXxLvX>, updated: 14.05.2022.

⁶⁰⁹ Ordinance #138/2021 of Kutaisi District Election Commission #59, October 8, 2021.

⁶¹⁰ Ordinance #116/2021 of Samgori District Election Commission #6, October 6, 2021

⁶¹¹ Ordinance #100/2021 of Vake District Election Commission #2, October 6, 2021

⁶¹² Isani 69, Didube 13, Chugureti 2 and 12, Mtatsminda 12 and 33, Krtsanisi 11, Gldani 105, Ozurgeti 6, 7, 12, 25, 37 and 45 precincts.

for disciplinary action.⁶¹³ Saburtalo District Election Commission did not uphold any of the 3 complaints.⁶¹⁴ In Marneuli, complaints were filed against 6 precincts, 5 of which were not upheld, and 1 was partially upheld, and disciplinary responsibility - warning - was imposed only on the precinct chairperson.⁶¹⁵ A similar practice was supported by the Gori District Election Commission, and in two cases of violation of the rule of sealing documents, disciplinary liability was imposed only on the chairperson.⁶¹⁶

GYLA believes that proper sealing of the documents should be done in compliance with the election legislation. It is true that in some cases, violations of the rule of document sealing may not affect election results but neglecting procedures and inconsistent responses by District Election Commissions weakens confidence in election administration and election law enforcement and increases the risk of document manipulation.

Other Violations Related to Election Documentation

GYLA observers observed other violations in the District Election Commission. The chairperson of the 10th Gldani Precinct Election Commission came to the district without a record book. GYLA wrote a complaint on the fact and demanded disciplinary action against the chairperson and secretary. The Gldani District Election Commission upheld the complaint and issued a warning to both members.⁶¹⁷ The chairperson and secretary of the 24th Didube Precinct Election Commission came to the district without a summary protocol of the majoritarian elections. GYLA appealed to the district, requesting the elimination of the violation and imposing disciplinary liability on the relevant members of the commission. The district did not uphold the complaint on the grounds that the protocol was left by the members accidentally at the polling station and submitted it to the DEC as soon as they found out about it.⁶¹⁸ All three summary protocols of Rustavi 30 were lost, due to which the GYLA representative appealed to the District Election Commission and demanded disciplinary action against the chairperson. The complaint was upheld, and a penalty warning was issued.⁶¹⁹

⁶¹³ Ordinances: #103/2021 of Ozurgeti District Election Commission #60, October 5, 2021.
#125/2021 Gldani of District Election Commission #10, October 6, 2021.
#63/2021 and #60/2021 of Mtatsminda District Election Commission #1, October 7, 2021.
#77/2021 of Chugureti District Election Commission #7, October 7, 2021.
#71/2021 of Krtsanisi District Election Commission #4, October 5, 2021.
#80/2021 of Didube District Election Commission #8, October 5, 2021.
#145/2021 of Isani District Election Commission #5 October 7, 2021.

⁶¹⁴ Ordinance #154/2021 of Saburtalo District Election Commission #3, October 7, 2021.

⁶¹⁵ Ordinances #84/2021 and #85/2021 of Marneuli District Election Commission #22, October 7, 2021.

⁶¹⁶ Ordinances #94/2021 and #95/2021 of Gori District Election Commission #32, October 4, 2021.

⁶¹⁷ Ordinance #127/2021 of Gldani District Election Commission #10, October 6, 2021.

⁶¹⁸ Ordinance #81/2021 of Didube District Election Commission #8, October 5, 2021.

⁶¹⁹ Ordinance #56/2021 of Rustavi District Election Commission #20, October 4, 2021.

Violation of the Rule of Filling in the Summary Protocols and Cases of Imbalance

Voting and election results are reflected in the CEC, district, and precinct election commissions' voting and election summary protocols.⁶²⁰ It is forbidden to correct the data entered in the summary protocol.⁶²¹ The issue of invalidity of such a summary protocol shall be considered by a higher election commission.⁶²² Correction of the data entered in the summary protocol shall result in the responsibility of the chairperson of the relevant election commission and the secretary of the relevant election commission in accordance with the rules established by this Law.⁶²³ If an error was made while filling in the summary protocol, to correct it, the relevant data in the summary protocol should be immediately labeled "Corrected." The Election Commission shall draw up an amendment protocol, which shall indicate the amendment of the data entered in the summary protocol and the date and time of drawing up this protocol.⁶²⁴ It is obliged to open the relevant election documents and recount the voting results in the event that in the summary protocol of the voting results compiled by the Precinct Election Commission is corrected so that it is not accompanied by an amendment protocol, the number of votes cast for the election subject is corrected, the total number of voters participating in the elections and/or the number of ballot papers considered invalid is corrected.⁶²⁵

In the first round of the 2021 local self-government elections, GYLA requested the recounting and/or verification of data from 235 polling stations in the constituencies where the organization was observing the elections. In 15 of them,⁶²⁶ the districts fully complied with GYLA's request, in 3⁶²⁷ - partially. In 56 polling stations,⁶²⁸ the data were recounted and/or verified at the initiative of the district, in 7 cases⁶²⁹ based on complaints from other entities, and also in 7 cases⁶³⁰ as a result of a lottery. DEC's did not meet a similar requirement in 147 polling stations.⁶³¹ In addition, in isolated cases, GYLA noted violations in the summary

⁶²⁰ Election Code of Georgia, Article 70, part 1.

⁶²¹ Ibid.

⁶²² Ibid.

⁶²³ Ibid., part 3.

⁶²⁴ Ibid., part 4.

⁶²⁵ Election Code of Georgia, Article 21, subparagraph "d1".

⁶²⁶ Chugureti 25 and 44, Samgori 80, Didube 36 and 46, Vake 22 and 41, Mtskheta 9, 18 and 46, Batumi 23, Gori 76 and 92, Telavi 55 and Rustavi 21 precincts.

⁶²⁷ Gori 21 and 31 and Telavi 9 precincts.

⁶²⁸ Vake 4, 6, 10, 72, 77, 79 and 80, Saburtalo 17, 22, 24, 38, 51, 84, 86 and 98, Chugureti 42, Nadzaladevi 40, 45, 69 and 96, Krtsanisi 30, Mtatsminda 9 and 34, Samgori 31, Didube 13, 25, 41 and 53, Isani 2, 7, 8, 16, 26, 44 and 53, Gori 105, Akhalkalaki 6, 40, 44, 49, 54, 68 and 70, Kutaisi 121, Zugdidi 12, Rustavi 24, 29 and 45, Marneuli 12, 41, 70 and 73, Batumi 44, 63, 97 and 105 precincts.

⁶²⁹ Samgori 16, 32, 34, 35, 36, 42 and 111 precincts.

⁶³⁰ Gldani 35, Samgori 96, Chugureti 30, Vake 33 and 73, Batumi 38 and Marneuli 82 precincts.

⁶³¹ Mtatsminda 4, 14, 18, 24, 26, 32 Majoritarian and Proportional Results Protocols) and 35, Gldani 24, 75 and 84, Krtsanisi 11, 29 and 31, Vake 3, 9, 15, 24, 34 and 56, Saburtalo 37, 57, 62, 77 and 79, Isani 5, 11, 31, 35, 37, 46, 47, 51, 56, 57, 61, 67, 68, 74, 77 and 82, Chugureti 1, 3, 5, 9, 17, 18, 21, 26, 43, and 49, Nadzaladevi 18, 35, 66 and 71, Samgori 17, 45, 63, 75, 81, 115, 117, 119 and 120, Didube 19, 32, 43 and 56, Batumi 6, 9, 34, 68, 69 and 85, Gori 5, 15, 28, 29 and 35, Kutaisi 5, 13, 37, 40, 42, 52, 58, 77, 103, 105, 106, 111, 114 and 120, Telavi 28, Zugdidi 15 and 38, Rustavi 1, 9, 12, 19, 20, 22, 23, 25, 26, 27, 28, 36, 44 (Mayor and Majoritarian Results Protocols), 46, 48, 49, 50, 51, 53, 55 (Lack and number of invalid ballots), 56, 58, 61, 66, 69, 70, 72, 74, 78 and 79, Marneuli 7, 8, 10, 14, 16, 18, 22, 23, 37, 40, 48, 50, 53, 56, 67, 84, 86 and 91 precincts.

protocols and requested disciplinary action against members of the relevant commission. Of the 6 such complaints, 4 were upheld⁶³², and 2 were not.⁶³³

On election day, in accordance with GYLA's election dispute strategy, the organization requested that the results be recounted/verified or that disciplinary action be taken against the persons concerned in cases where the summary protocols contained an excess or a suspicious shortage in quantity; where a column was corrected so that they were not accompanied by a correction protocol or explanation; The number of invalid ballots was about 10% or more of the number of voters who came. The statistics provided by GYLA are based on the electronic database of complaints of the Central Election Commission of Georgia.

Practice shows that when recounting the results, the District Election Commissions count the polling stations not fully but partially. In many cases, the recounting is of a technical nature, and despite the shortcomings, the number of ballots is not compared with the signatures on the desk lists.

GYLA believes that in order to increase the effectiveness of the recount procedure and confidence in the election results, it is necessary to clarify by the law what is meant by recounting the election results, and in case the constituencies decide to open a polling station on their own initiative, through a lottery or a complaint, the procedure should be conducted in accordance with the process of counting the election results in the precinct election commissions.

4. Work of Precinct Election Commissions (PECs)

The Precinct Election Commission, within its powers, ensures the conduct of elections on the territory of the polling station, the compliance of the procedures under the electoral legislation of Georgia during polling, the exercise and the protection of the rights of voters, representatives, and observers guaranteed by the Constitution of Georgia and the Election Code;⁶³⁴ The chairperson of the precinct election commission is responsible for maintaining order in the building on polling day.⁶³⁵ Disciplinary misconduct of PEC members is an improper performance of official duties,⁶³⁶ and refusal to sign a mandatory summary protocol of polling and election results.⁶³⁷ For violating these requirements, the Election Code of Georgia establishes disciplinary measures.⁶³⁸

In some polling stations where GYLA representatives observed the elections, a disorganized environment was observed, and Precinct Election Commissions found it difficult to maintain order during the day.⁶³⁹ In the 23rd precinct of Isani, the flow control functions were not properly performed, while in the 28th precinct, a confrontation between the members of the

⁶³² Ozurgeti 14, 19, 22 and 41 precincts.

⁶³³ Saburtalo 31 and Batumi 71 precincts.

⁶³⁴ Election Code of Georgia, Article 26, part 2, subparagraph "a".

⁶³⁵ Ibid., Article 27, part 1, subparagraph "g".

⁶³⁶ Election Code of Georgia, Article 28, part 1, subparagraph "a".

⁶³⁷ Ibid., subparagraph "f".

⁶³⁸ Ibid., part 2.

⁶³⁹ Gldani 18 and 32, Isani 23 and 28, Chugureti 7 and Rustavi 21 precincts.

Precinct Election Commission was followed by a violation of the agitation rules by one of them and turned into verbal abuse. These 2 members of the Commission later left the precinct. On this fact, the GYLA observer appealed to the District Election Commission, which was upheld by the District Election Commission and reprimanded the relevant members as a measure of disciplinary responsibility.⁶⁴⁰ In individual cases, representatives of unidentified observer organizations or political entities assisted commission members in carrying out their functions⁶⁴¹ or grossly interfered in their activities.⁶⁴² In all these cases, the GYLA representative gave an oral remark to the chairperson of the commission, as a result of which the shortcomings were largely eliminated.

At Akhalkalaki 40th polling station, the box supervisor temporarily left but did not enter the information in the record book. GYLA observer made a written remark on the fact. In Telavi 49th and 54th precincts, during the day, some members of the commission left the polling station for no reason. Despite numerous GYLA oral remarks, the violation was not remedied.

In Zugdidi 6th precinct, one of the commission counters refused to sign sealed envelopes and summary protocols, which is an improper performance of the function by a commission member. GYLA appealed the fact to the District Election Commission and demanded that the member be disciplined. The complaint was upheld, and a warning was issued.⁶⁴³

As part of the electoral reform, it was established that members of the Precinct Election Commission appointed by political parties do not participate in the lottery of the registrar.⁶⁴⁴ According to GYLA, this change serves to limit the parties' access to desk lists in response to the challenge of alleged voter registration and processing of personal information.

On Election Day, GYLA observers recorded a number of cases of replacement of registered registrars by members of a commission appointed by the party.⁶⁴⁵ In each case, GYLA observers made oral and written observations. Basically, the chairperson of the commission rectified the shortcoming temporarily. District and precinct election commission members explained the replacement on the grounds that the registrar had been on a break. In Gldani 68th precinct, after the observer remarked, the registrar appointed by lot returned to their position; however, after re-arriving at the precinct, the GYLA representative noted that a member appointed by the party was still performing this function. The observer filed a complaint with the Precinct Election Commission. Due to not eliminating the shortcoming, a complaint was also filed with the relevant District Election Commission requesting disciplinary action against the chairperson. Gldani District Election Commission did not uphold GYLA's complaint arguing that the temporary combination of functions for the members of the commission is the authority of the chairperson.⁶⁴⁶

⁶⁴⁰ Ordinance #146/2021 Isani District Election Commission, October 7, 2021.

⁶⁴¹ Rustavi 21 precinct.

⁶⁴² Chugureti 7, Gldani 32 and Zugdidi 90 precincts.

⁶⁴³ Ordinance #84/2021 of Zugdidi District Election Commission #67, October 7, 2021

⁶⁴⁴ Election Code of Georgia, Article 61, part 2¹.

⁶⁴⁵ Gldani 66, 68, 69 and 70, Vake 17, Saburtalo 62, Samgori 16 and 45 and Rustavi 16 precincts.

⁶⁴⁶ Ordinance #110/2021 of Gldani District Election Commission #10, October 6, 2021.

The Election Code of Georgia envisages granting a temporary function to the members of the commission by the chairperson.⁶⁴⁷ GYLA admits that during the day, taking into account various human factors, it is possible to temporarily replace both the registrar and the members of the commission with other functions by the chairperson.

Nevertheless, GYLA believes that the ban on the function of a registrar serves to maximally distance the party-appointed commission member from the desk lists, limiting the possibility of voter registration and the illegal processing of their personal information. Therefore, in order to achieve the objectives of this norm, in case of need of temporary replacement, the registrar should be replaced by a member of the Precinct Election Commission appointed by the District Election Commission, the deputy chairperson, or the chairperson.

5. Interference with the Work of the Observers

The observer is authorized to be present in the polling station on Election Day, at any time, to move freely in the territory of the polling station, and to observe freely, unhindered, all the stages of the voting process.⁶⁴⁸ They have the right to observe the counting of votes in conditions that ensure the viewing of the ballot paper,⁶⁴⁹ as well as to file a complaint to the chairperson of the precinct election commission on issues related to voting and voting procedures to request the elimination of irregularities.⁶⁵⁰ Violation of the rights of observers or liability for interfering in their activities are defined by the norms established by the election and administrative and criminal legislation.⁶⁵¹ The election administration is obliged to create all the conditions for the observer to be able to exercise their authority in connection with all the procedures in the election commission.⁶⁵² A person entitled to be present in the polling station can take photos and videos without interfering with the election process.⁶⁵³ In order to prevent the spread of the infection caused by the new coronavirus, the CEC decided to establish sanitary-hygienic requirements for the access of observers to the site.⁶⁵⁴ The obligation to thermo-screen the persons entering the precinct was imposed.⁶⁵⁵ At intervals of 5 minutes, if the high temperature is recorded twice, the authorized person to be present at the polling station will not be allowed in the polling station.⁶⁵⁶

⁶⁴⁷ Election Code of Georgia, Article 61, part 2, subparagraph „g“.

⁶⁴⁸ Election Code of Georgia, Article 41, part 1, subparagraph “b”.

⁶⁴⁹ Ibid., subparagraph “h”.

⁶⁵⁰ Ibid., subparagraph “j”.

⁶⁵¹ Election Code of Georgia, Article 41, part 3.

⁶⁵² Ibid., part 5

⁶⁵³ Ibid., Article 8, part 25.

⁶⁵⁴ Resolution #52/2021 of the Central Election Commission of Georgia of 23 August 2021 to prevent the spread of the new coronavirus infection (COVID-19) caused by a new corona virus (SARS-CoV-2) on the day of the voting of the municipal bodies for the October 2, 2021, elections. Defining some election measures and sanitary-hygienic requirements.

⁶⁵⁵ Ibid., Article 2, part 1.

⁶⁵⁶ Ibid., part 2.

GYLA observers were able to enter the polling station without any problems. In some cases, PEC chairpersons asked representatives of the organization to submit a negative Covid test.⁶⁵⁷ After the observers referred to the relevant resolution, the violation was eliminated.

In the first round of elections, GYLA observers were restricted from observing some polling stations; There were reports of threats, and physical and verbal abuse against them.⁶⁵⁸ GYLA observers, in some cases, were prevented from registering complaints. In one case, the chairperson tore down a complaint filed by an observer for registration.⁶⁵⁹ In the second case, the secretary of the commission left the precinct in order not to register the complaint; A GYLA observer demanded a response from the chairperson of the Precinct Election Commission, after which they tried to lock the representative of the organization in the room.⁶⁶⁰ As a result, the observer was unable to register the complaint. There is a factual video of the case. Another GYLA observer was denied registration of the complaint.⁶⁶¹ In Marneuli 41st precinct, the secretary of the commission refused to register the complaint by the GYLA observer and started filling in the summary protocol. In fact, GYLA appealed to the District Election Commission and requested that an administrative violation report be drawn up against the secretary and the chairperson for restricting the observer's rights. The GYLA representative was refused to draw up the protocol because, according to the District Election Commission, they had not been provided with sufficient evidence.⁶⁶²

During the next violation, three more GYLA observers were forced to leave the polling station.⁶⁶³ Regarding most of these facts, GYLA complained to the relevant district election commissions and requested that a report be drawn up against the relevant persons of the precinct election commissions.⁶⁶⁴ In none of the cases was the complaint upheld on the grounds that it lacked evidence or did not substantiate the facts of restriction of observer rights by members of the commission.⁶⁶⁵

In some cases, representatives of the organization were restricted from taking photos and videos during various sections of the voting process. In Isani 64th precinct, the observer was filming the election process, while in the 39th precinct, the GYLA representative was not

⁶⁵⁷ Saburtalo 78 and Akhalkalaki 17 precincts.

⁶⁵⁸ "Evaluation of the voting and counting process of the 2021 local self-government elections", Georgian Young Lawyers' Association, October 3, 2021, official website of the Georgian Young Lawyers' Association, accessible: <https://bit.ly/3yKLtjC>, updated: 15.04.2022.

⁶⁵⁹ Vake 2 precinct.

⁶⁶⁰ Marneuli 42 precinct.

⁶⁶¹ Marneuli 41 precinct.

⁶⁶² #22/111 Written refusal to draw up a report on an administrative offense of #22 Marneuli District Election Commission Chairperson, October 13, 2021

⁶⁶³ Marneuli 65 and Saburtalo 14 precinct, Marneuli 7 precincts.

⁶⁶⁴ In the complaint filed by GYLA, instead of precinct 65, Marneuli 7 election precinct was indicated. The representative of the organization told the DEC that there was a technical defect in the complaint, however, the district did not consider the argument and considered the complaint against 7 PEC, from which the GYLA observer was not expelled. Accordingly, the commission failed to detect any violations in Marneuli 7 precinct.

⁶⁶⁵ Ordinance #156/2021 of Saburtalo District Election Commission #3, October 7, 2021

#22/111 and #22/112 Written refusals to draw up a report on an administrative offense of #22 Marneuli District Election Commission Chairperson, October 13, 2021.

#02/137 Written refusal to draw up a report on an administrative offense of #2 Vake District Election Commission Chairperson, October 12, 2021.

allowed to video record notes in the record book. A similar fact was observed in the 40th precinct of Akhalkalaki. At the 52nd polling station in Telavi, a GYLA observer noticed that a member of the commission had left the polling station for no reason. While filming the incident, the chairperson, in order to ease the situation, restricted the observer from filming, and a complaint was written on the spot. The Precinct Election Commission complied with GYLA's request, and the violation was eliminated. During the day, the environment was tense in the 90th precinct of Zugdidi, where, according to the GYLA observer, they were hindered by a representative of one of the observer organizations. Based on the decision of the Precinct Election Commission, two GYLA representatives had to leave this precinct at different times. In the first case, the observer remarked to the precinct chairperson when they saw that the registrar was pointing out to the voter which election subject they should vote for. Recording the fact led to aggression by a representative of one of the local monitoring organizations in the precinct. In order to record the violation, the GYLA observer started taking photos and video, due to which the commission expelled them from the polling station at the instruction of the observer. On the same grounds, another GYLA representative had to leave the same precinct. In Zugdidi 90th precinct, GYLA appealed to the District Election Commission for several episodes of obstruction of the observer's activities and demanded that the responsible persons be disciplined in one case and an administrative violation report drawn up in the other case. In the first case, the chairperson of the precinct was disciplined.⁶⁶⁶ On the second fact, GYLA was refused to draw up a report on an administrative violation.⁶⁶⁷ Two more GYLA observers were expelled for taking photos and videos, and representatives of the organization were refused to demand that the commission members be held administratively liable.⁶⁶⁸ In one case, the observer recorded the fact of agitation by the chairperson on a video camera, which irritated the registrar, after which they took the mobile phone from the GYLA observer and deleted the personal records along with the evidence.⁶⁶⁹ GYLA appealed the fact to the District Election Commission, where the request to compile an administrative violation was not upheld.⁶⁷⁰ A representative of the organization also appealed to the court, which considered that the members of the commission acted within their authority and did not prevent the observer from carrying out their activities while confiscating the phone against their will and deleting the files in it went beyond the scope of the complaint; GYLA's appeal was rejected by the court.⁶⁷¹

In the first round of elections, PEC members restricted GYLA observers from moving to a number of polling stations.⁶⁷² In most cases, the violation was rectified after an oral remark

⁶⁶⁶ #74/2021 Ordinance of #67 Zugdidi District Election Commission, October 6, 2021.

⁶⁶⁷ #67/119 Written refusal to draw up a report on an administrative offense of #67 Zugdidi District Election Commission Chairperson, October 12, 2021.

⁶⁶⁸ #05/108 Written refusal to draw up a report on an administrative offense of #5 Isani District Election Commission Chairperson, October 12, 2021.

#79/118 Written refusal to draw up a report on an administrative offense of #79 Batumi District Election Commission Chairperson, October 13, 2021.

⁶⁶⁹ Didube 20 precinct.

⁶⁷⁰ #08/107 Written refusal to draw up a report on an administrative offense of the Chairperson of #8 Didube District Election Commission, October 12, 2021.

⁶⁷¹ Resolution of the Administrative Cases Panel of the Tbilisi City Court of October 21, 2021, on case #4/6512-21, accessible: <https://bit.ly/3LxsBaU>, updated: 14.05.2022.

⁶⁷² Mtatsminda 14 and 62, Marneuli 7, Batumi 85 and Telavi 28 precincts.

from a representative of the organization, although in some precincts, the observer was not allowed to write a complaint⁶⁷³ or was threatened with expulsion.⁶⁷⁴ In one case, an observer finally managed to write a complaint that was not upheld by the Precinct Election Commission.⁶⁷⁵ GYLA appealed the decision to the relevant district election commission on the grounds of restriction of observer rights. The organization was refused to draw up an administrative violation report on the grounds of lack of fact.⁶⁷⁶

GYLA observers also recorded threats⁶⁷⁷ and verbal abuse⁶⁷⁸ at their addresses, both inside the precinct and on the perimeter, by representatives of other unidentified observer organizations or by unidentified persons gathered on the perimeter. In some cases, GYLA appealed to law enforcement agencies for the safety of the organization's representatives. Patrol police officers temporarily made the violators leave the area near one of the polling stations. An investigation has been launched into the incident on the perimeter of Batumi 44th and 103rd precincts under the article of threatening health damage to a GYLA observer; The representative of the organization was granted a victim status.⁶⁷⁹ They were recognized as a victim by the prosecutor's office. According to the Adjara Police Department of the Ministry of Internal Affairs of Georgia, an investigation is underway, and no concrete results have been obtained.⁶⁸⁰ At the 16th polling station in Chugureti, the patrol police could not confirm the fact of violation.⁶⁸¹ On the perimeter of this polling station, GYLA recorded facts about voter registration as well as insults to observers.

GYLA has requested information regarding the response of the law-enforcement bodies on GYLA's appeals on the Election Day on May 3, 2022, however, as of June 13 of the same year, the Ministry of Internal Affairs has not responded to the letter.

GYLA believes that the smooth and uninterrupted work of observer organizations increases the credibility of the election results. Unfortunately, the negative trend of obstruction of observer activities was also revealed in the first round of the 2021 elections. The organization believes that to prevent such cases, it is necessary to work effectively from both the election administration and the common courts in order to impose appropriate administrative responsibilities on offenders who obstruct the work of observers in precinct election commissions.

⁶⁷³ Batumi 85 precinct.

⁶⁷⁴ Marneuli 7 and Rustavi 16 precincts.

⁶⁷⁵ Telavi 28 precinct.

⁶⁷⁶ #17/106 Written refusal to draw up a report on an administrative offense of #17 Telavi District Election Commission Chairperson, October 13, 2021

⁶⁷⁷ Telavi 54, Batumi 44 and 103 precinct vicinities.

⁶⁷⁸ Gori 70, Chugureti 16 and Kutaisi 89 precincts.

⁶⁷⁹ Resolution of the Batumi District Prosecutor's Office of February 18, 2022, on recognizing a victim.

⁶⁸⁰ Letter #MIA 3 22 01159855 of the Ministry of Internal Affairs, May 2, 2022.

⁶⁸¹ Letter #MIA 6 22 21 00169597 of the Ministry of Internal Affairs of Georgia, January 21, 2022.

II ROUND

1. Voting Process

1.1. Preparation and Opening of the Precinct

Organizational Issues

In all polling stations where GYLA observers were present, the voting process started on time and smoothly. At several polling stations, representatives of the organization recorded the facts of the imperfect preparation of the polling station. At the 9th polling station in Batumi, the members of the commission found the package of ballot papers open and then sealed it. A GYLA observer made a note of the fact in the record book. The decision to open the polling station was made by the Precinct Election Commission in agreement with the members of the Batumi District Election Commission. At Samgori 75th polling station, an observer found boxes of ballot papers from the first round of elections in a black package. After the remark, the items were taken out of the precinct. In the 8th and 15th precincts of Isani, the rules of invalidity and filling in the ballot paper were not posted. Based on the remark of the GYLA observer, the violations were eliminated.

The number of voters included in the list of mobile ballot boxes in the 19th precinct of Martvili exceeded 3% of the unified list established by law. At the 5th polling station in Chugureti, a GYLA observer noticed shortcomings in the list of the mobile box. Thirty-three voters were able to cast their ballots, but after the violation was recorded, the ballot box was sealed and handed over to the District Election Commission.

Lot Casting Procedures

In the second round of elections, GYLA observers recorded a number of violations of the lot casting procedures.

In the 16th precinct of Zugdidi, one of the members appointed by the District Election Commission refused to perform the function of a registrar, and the chairperson of the commission assigned this function to the member of the commission appointed by one of the parties. GYLA observer filed a complaint with the Precinct Election Commission, which did not respond. In a complaint filed with the Zugdidi District Election Commission, GYLA demanded disciplinary action against the chairperson for failing to rectify the violation. According to the district decision, the complaint was not upheld as the violation was responded to immediately based on a complaint written at the precinct. The GYLA observer does not confirm this fact.

The lot casting procedures were violated in Martvili 13th polling station. According to the GYLA observer, after conducting the lot casting procedure for carrying the mobile box, the commission member was forced to refuse to perform their function. The lot casting, using the same sheets, was re-conducted. In the process, the member who the commission wanted to be selected for carrying the mobile box was instructed on which sheet to take to get the function. GYLA filed a complaint with the Martvili District Election Commission and demanded disciplinary action against the chairperson and other members. The complaint was rejected

on the basis of an explanation from the chairperson of the 13th Precinct Election Commission, who stated that the lottery was conducted in full compliance with the law.⁶⁸²

1.2. Voting Casting Period

Reception of the First Voter, COVID Regulations

In the polling stations where GYLA observers observed the second round of elections, the commission members received the first voter in compliance with the law and largely followed the covid regulations established by the CEC.

During the day, GYLA observers observed unit violations.

According to the GYLA observer, in several polling stations in Vake, the requirement to measure the temperature specified in the covid regulations did not apply to persons entitled to be in the building.⁶⁸³ At the 11th polling station in Chkhorotsku, according to the GYLA observer, the voters with covid infection were able to enter the polling station without any problems and participate in the voting.

In Gldani 19th and 36th precincts, the flow regulator did not ask some voters to remove the mask for verification. Following a remark by a GYLA observer, the violation was rectified.

In addition, the representatives of the organization recorded 5 cases of improper filling in the demonstration protocol.⁶⁸⁴ Violations were eliminated in all precincts on the basis of an oral remark.

Voter Admission to the Polling Station, Inking Procedure, Ballot Issuance Process, and other Polling Day Procedures

On polling day, GYLA observers observed several violations of the marking procedure. At one polling station,⁶⁸⁵ the lamp was damaged, and voters were allowed to enter the polling station. Following the instruction of a GYLA observer, the Precinct Election Commission addressed the district and requested a change of the lamp. In the second case,⁶⁸⁶ the flow regulator checked the markings on the voter with the lights off on the lamp. After a remark by a representative of the organization, the breach was eliminated. On both facts, GYLA made a note in the record book.

At the 8th polling station in Isani, the registrar issued the ballot paper in such a way that the necessary requisites were damaged. Based on the remark of the GYLA observer, the ballot papers were placed in the "damaged" folder in accordance with the relevant rules.

At the 5th and 75th precincts of Rustavi, the registrar was marking the voters at the end of the procedure. Based on the remarks of GYLA observers, the violations were eliminated.

⁶⁸² Ordinance #82/2021 of Martvili District Election Commission #65, November 3, 2021.

⁶⁸³ Vake 18, 40, 53, 56, 64 and 77 precincts.

⁶⁸⁴ Gldani 38, Saburtalo 8 and 84, Mtatsminda 24 and 28 precincts.

⁶⁸⁵ Isani 22 precinct.

⁶⁸⁶ Gldani 28 precinct.

During the day, GYLA observers observed other violations of the voting rules. At the 14th polling station in Senaki, a GYLA observer observed that a voter had signed another box and demanded that the fact be verified by them. The members of the commission did not allow the GYLA representative to do that. The organization filed a complaint with the Senaki District Election Commission and demanded disciplinary action against the relevant members. Based on the explanations of the commission members, who claimed that they themselves had verified the signature in the relevant box, the district refused to grant GYLA a complaint because the fact did not take place.⁶⁸⁷ At Martvili 35th polling station, a voter took part in the voting with a broken ID card. Despite the remark, the chairperson of the commission did not respond to the violation. GYLA made a note of the fact in the record book.⁶⁸⁸

On election day, GYLA reported at one polling station that a marked voter had attempted to enter the polling station and do re-voting.

Unit irregularities were observed during the mobile ballot box voting process. At one polling station, a voter on the mobile ballot box list voted at the polling station. This fact came to light after the ballot box was delivered to the voter, and they said that they had already taken part in the voting. After GYLA's written remark, the relevant registrar wrote an explanation. At Nadzaladevi 79th polling station, after returning the mobile ballot box, it was found that out of 40 ballot papers taken away, 35 were used by voters, while 3 of the remaining 5 ballots were lost. The members of the relevant commission could not explain the fact. By the decision of the Precinct Election Commission, the box was sealed and handed over to the district. GYLA filed a complaint with the District Election Commission, requesting disciplinary action against the relevant members of the Precinct Election Commission and elimination of the violation. According to the district, they recalculated the results of the mobile ballot box on their own initiative,⁶⁸⁹ finding that 37 ballot papers were placed in the box instead of 35. On this basis, they annulled the results of the mobile box in the 79th precinct⁶⁹⁰ and imposed disciplinary liability on the chairperson and secretary of the commission as a note, and imposed a "warning" on the members of the commission following the box.⁶⁹¹ Accordingly, GYLA's claim was considered upheld.⁶⁹² At polling station 72, after returning the mobile box, the commission members intended to take it to one of the voters, who was not at home at the time and did not seal the box for that purpose. After the GYLA observer remarked, the chairperson of the commission sealed the mobile ballot box, and it did not leave the polling station.

Presence of Unauthorized Persons at the Polling Station

In the second round of elections, the negative trend of the presence of unauthorized persons at the polling station continued. During the day, GYLA observers observed similar facts in several polling stations. In some cases, more than 1 representatives of the same observer or

⁶⁸⁷ Ordinance #97/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁶⁸⁸ Rustavi 75 precinct.

⁶⁸⁹ Ordinance #188/2021 of #9 Nadzaladevi District Election Commission, November 1, 2021.

⁶⁹⁰ Ibid.

⁶⁹¹ Ordinance #190/2021 of #9 Nadzaladevi District Election Commission, November 1, 2021.

⁶⁹² Ordinance #191/2021 of #9 Nadzaladevi District Election Commission, November 2, 2021.

media organization were present at the polling stations.⁶⁹³ In one case, GYLA made a note in the record book, after which the chairperson of the commission rectified the violation, and only one representative of the organization remained at the polling station.⁶⁹⁴ In other cases, a similar response followed a verbal remark from a GYLA representative.⁶⁹⁵ According to the GYLA observer, two representatives of the United National Movement party were present at the 63rd polling station in Isani at the same time. After an oral remark, the chairperson of the commission eliminated the violation and made one of them leave the precinct. At another polling station, according to the chairperson's initial explanation, two representatives of the same observer organization were allowed to be present at the polling station. GYLA wrote a complaint about the fact at the polling station, after which the violation was eliminated.⁶⁹⁶

In some cases, GYLA registered the names of the observer organizations: Public Opinion Research Center, Association of Independent Journalists - Free Press, Georgian Vocational Education and Training Workers 'and Students' Professional Union, and Public Union - Georgia First.

Presence of the Bodyguards of the Former Chairperson of the Georgian Dream at the Polling Station

On October 30, at 09:15, Bidzina Ivanishvili, former chairperson of the Georgian Dream party, arrived to vote at the 4th polling station in Mtatsminda.⁶⁹⁷ His bodyguards were with him in the polling station. GYLA recorded the fact as a result of media monitoring and wrote a complaint to the Mtatsminda District Election Commission demanding disciplinary action against the flow regulator and the chairperson, as the members of the guard were unauthorized persons. The district confirmed that members of the guard were not registered voters at the polling station and explained that they represented a special state security service guarding the former prime minister, who was present at the polling station at the time required for the voting procedure. Mtatsminda District Election Commission, considering this explanation, did not uphold GYLA's complaint.⁶⁹⁸

The organization did not share the decision of the District Election Commission and filed a lawsuit in the Tbilisi City Court, demanding the annulment of the act and the imposition of disciplinary liability on the chairperson of the precinct election commission and the flow regulator. The court rejected GYLA's claim, arguing that the norm determining the right of persons to be present in a polling station should be assessed in conjunction with other norms and in the light of the purpose of the legislature.⁶⁹⁹

⁶⁹³ Chugureti 40, Rustavi 17 and 75, Martvili 13, Gldani 55, Zugdidi 21 precincts.

⁶⁹⁴ Gldani 55 precinct.

⁶⁹⁵ Rustavi 17 and 75, Chugureti 40 and Martvili 13 precincts.

⁶⁹⁶ Zugdidi 29 precinct.

⁶⁹⁷ "Bidzina Ivanishvili voted and left without comment", October 30, 2021, Adjara Television, accessible: <https://bit.ly/3wnFsYE>, updated: 15.04.2022.

⁶⁹⁸ Ordinance #111/2021 of #1 Mtatsminda District Election Commission, November 3, 2021.

⁶⁹⁹ Decision #3/6952-21 of the Administrative Cases Panel of the Tbilisi City Court on the case of November 7, 2021.

Secrecy of the Vote

In the second round of elections, GYLA observers again observed several violations of the secrecy of the ballot. At Zugdidi 55th polling station, according to a GYLA observer, voters took a photo of the ballot paper in the booth and showed it to the cleaner. In Batumi 95th polling station, one of the observers was taking a photo in the booth during the voting process. At the 5th polling station in Rustavi, a representative of the organization Social Environment was moving behind the booths and trying to see who was being circled by voters. In Vake 62nd polling station, a new design election booth was incorrectly installed. In all these cases, GYLA representatives limited themselves to verbal remarks, which led to the elimination of the violation. Violation of the secrecy of the ballot was observed by GYLA observers in 2 more polling stations.⁷⁰⁰ At the first one, a precinct voter was accompanied to the booth by a son/daughter who was a different precinct voter. At the second,⁷⁰¹ the voter placed the ballot paper without the envelope in the ballot box. On these facts, GYLA observers made notes in the record book. In the 25th precinct of Senaki, one of the voters, who was also one of the observers of an observer organization in the same precinct, made their choice openly on the registrar's desk. According to the GYLA observer, this fact was encouraged by the secretary of the commission, who noted that the voter had the right to do so and that filling in the ballot paper publicly was not a violation. GYLA filed a complaint with the Senaki District Election Commission and demanded that the secretary and other responsible persons be disciplined. The complaint was not upheld with the argument that, according to the members of the commission, they had called on the voter to secretly participate in the voting, although they had already filled out the ballot paper and could not take it from them.⁷⁰²

The secrecy of the ballot was also violated in the 35th precinct of Martvili, where the chairperson of the commission went to the polling booth with their father, who was registered as a voter in this precinct, to help him. According to the GYLA observer, other voters were present at the polling station at that time. The chairperson of the commission attended the voting process. GYLA complained to the Martvili District Election Commission about the fact and demanded disciplinary action against the chairperson, but the request was not upheld. The chairperson of the 35th precinct explained at the hearing that their father had insisted on them to go in the booth; they could not refuse but did not see the voting process. Martvili District shared the argument.⁷⁰³

Violation of the Integrity of the Seal

In the second round of elections, GYLA observers did not reveal a negative tendency of violation of the integrity of ballot box seals.

⁷⁰⁰ Martvili 20 precinct.

⁷⁰¹ Vake 73 precinct.

⁷⁰² Ordinance #83/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁷⁰³ Ordinance #97/2021 of #65 Martvili District Election Commission, November 3, 2021.

According to the representatives of the organization, in 1 polling station, the ballot box was improperly sealed; in particular, it had one seal instead of two.⁷⁰⁴ Based on the remark of the GYLA observer, the violation was eliminated.

At Samgori 94th polling station, there was a problem with the mobile ballot box. According to the GYLA observer, after the return of the ballot box, according to the members of the commission, one of the voters did not open the door and asked them to hand over the ballot paper through the door opening. The members of the commission could not resist the voter and handed them both the ballot paper and the list of the mobile ballot box. According to observers, they were unable to identify who signed the list. The voter also placed the list in a special envelope along with the ballot paper and placed it in a mobile ballot box. To remove the list, commission members had to open the box, thus violating the integrity of the seal. GYLA filed a complaint with the Samgori District Election Commission and demanded the annulment of the results of the mobile ballot box and the imposition of disciplinary liability on the responsible persons. The Samgori District Election Commission took the decision to recount and annul the results of the 94th precinct mobile ballot box on its own initiative and imposed a "warning" and a "reprimand" on the PEC chairperson⁷⁰⁵ and the members of the ballot box commission.⁷⁰⁶

2. Control of the Will of the Voters

2.1. Influence on Voters within the precinct

In the second round of elections, the control of the will of the voters inside the precinct continued. GYLA observers recorded a number of instances of PEC members, observer organization, or political party representatives were registering voters at the polling station. The Rustavi constituency was particularly problematic, where GYLA observers recorded voter registration by PEC registrars; They wrote the serial number of the citizens on a separate sheet of paper from the voter list.⁷⁰⁷ Basically, the registrars explained that the voter serial numbers were written to collect the information to be entered in the demonstration protocol (the number of voters who came). After revealing a negative trend, GYLA contacted the chairperson of the Rustavi District Election Commission and demanded that the violation be rectified. According to GYLA observers, the representatives of the District Election Commission contacted the Rustavi Precinct Election Commissions and called on them to stop registering voters. In one case, GYLA filed a complaint about the alleged illegal processing of personal information at the polling station, which was not upheld.⁷⁰⁸

During the day, other facts about voter registration and influencing their will were observed in the polling stations where GYLA observers were present. Representatives of various observer organizations continued to register information about incoming voters.⁷⁰⁹ In one

⁷⁰⁴ Samgori 75 precinct.

⁷⁰⁵ Ordinance #198/2021 of #6 Samgori District Election Commission, November 1, 2021.

⁷⁰⁶ Ordinance #218/2021 of #6 Samgori District Election Commission, November 3, 2021.

⁷⁰⁷ Rustavi 8, 12, 14, 15, 17, 20, 38, 50, 63, 64, 65, 66, 68, 74 and 75 precincts.

⁷⁰⁸ Rustavi 50 precinct.

⁷⁰⁹ Vake 70, Gldani 32, Batumi 49, 52, 91 and 94, Martvili 13 and Rustavi 74 precincts.

case, an observer was made to leave the precinct.⁷¹⁰ At the 50th polling station in Rustavi, a representative of the Green World organization left the polling station and participated in the mobilization of voters on the perimeter.

At Batumi 91st polling station, according to a GYLA observer, the chairperson of the Precinct Election Commission instructed the registrars to compile a list of voters who had been registered at the polling station but did not yet arrive. According to the representative of the organization, the chairperson planned to call such voters and find out if they were going to arrive at the polling station to take part in the voting. GYLA filed a complaint with the Batumi District Election Commission and demanded that the chairperson of the 91st precinct be disciplined. The complaint was not upheld on the ground that no evidence was presented and no violation was established.⁷¹¹

GYLA observers observed several cases when voters were identified during the stationary video recording by the representatives of a subject.⁷¹² In one case, a GYLA observer started writing a complaint at the polling station, after which the chairperson changed the angle of the video camera of the subject's representative.⁷¹³ In other cases, a similar response followed an oral remark issued by a GYLA representative. The complaint was lodged at the 28th polling station in Samgori as the remark, and the written complaint did not get reacted to at the polling station, so GYLA appealed to the District Election Commission and demanded disciplinary action against the chairperson, as they did not prevent the alleged illegal processing of personal data. Samgori District Election Commission upheld the complaint and defined "Note" as a measure of responsibility.⁷¹⁴

GYLA believes that the negative trend of voter registration, who arrived at the precinct by the representatives of election subjects, commission members, and some observer organizations affects their will, creates a sense of pressure, and prevents the citizen from exercising their right to vote in a neutral, free environment.

2.2. Violations on the Perimeter

Physical obstruction, Registration, and Gathering of Voters within a Radius of 100 Meters

Perimeter regulations were violated in the second round of elections as well. GYLA has applied to the patrol police three times to respond to the alleged violation. At the 18th polling station in Rustavi, people gathered outside the polling station were obstructing the voters.⁷¹⁵ The patrol police arrived at the scene and talked to the GYLA observer but did not draw up a report on the violation, arguing that the fact had not been confirmed.⁷¹⁶ A GYLA representative observed the fact of the gathering of people and voter registration on the perimeter of the

⁷¹⁰ Batumi 49 precinct.

⁷¹¹ Ordinance #187/2021 of #79 Batumi District Election Commission, November 2, 2021.

⁷¹² Samgori 19, 34, 39 and 49, Vake 32 and 37 precincts.

⁷¹³ Samgori 19 precinct.

⁷¹⁴ Ordinance #222/2021 of #6 Samgori District Election Commission, November 3, 2021.

⁷¹⁵ See photo: Rustavi - Polling Station 18.jpg, updated: 15.04.2022.

⁷¹⁶ GYLA has requested information regarding the results of the proceedings on May 3, 2022, however, as of June 13 of the same year, the Ministry of Internal Affairs has not responded to the letter

22nd and 43rd polling stations in Chugureti. In this case, as well, GYLA submitted the violation to 112; however, in this case, as well, the crew that arrived at the scene spot could not confirm the fact.⁷¹⁷

In the second round of the elections, according to GYLA, the regulations imposed on the perimeter by the law enforcement agencies were not implemented in a timely and effective manner.

2.3. Other Cases of Voter Will Control at the Perimeter

During the day, GYLA observers observed cases of voter will control on the perimeter of polling stations. In some polling stations in Rustavi,⁷¹⁸ lawless gatherings of law enforcement officials were observed. In these areas, the mobilization of unknown persons was also observed.⁷¹⁹ In the vicinity of Martvili 13th, 33rd, and 35th precincts, GYLA observers observed not only strangers⁷²⁰ but also local self-government representatives on the perimeter.⁷²¹ On the perimeter of the precinct, people gathering were observed in the 53rd precinct of Zugdidi.⁷²²

In some cases, the gathered persons violated the perimeter regulations; however, due to the ineffective response of the law enforcement agencies, the observers did not call 112.

GYLA believes that the control of the will of the voters on the perimeter remains the main challenge of Election Day, hindering the right of citizens to free choice in the polling station, which has a negative impact on the election environment.

3. Counting and Summarizing the Results

3.1. Closing the Precinct and Counting the Results

The Invalidity of Ballot Papers

In the second round of elections, GYLA observers observed several violations related to the invalidity of ballot papers.

In the 75th precinct of Rustavi, the will was similarly expressed on two different ballot papers - in one case, the United National Movement was marked with an X, and in the other case, the candidate of the Georgian Dream - Democratic Georgia. The commission invalidated the first and validated the second ballot paper. GYLA wrote a complaint to the polling station; it was not responded to; therefore then requested the district to recount the ballot papers. The complaint was not upheld on the ground that the will on one of the two ballot papers had not

⁷¹⁷ GYLA has requested information regarding the results of the proceedings on May 3, 2022, however, as of June 13 of the same year, the Ministry of Internal Affairs has not responded to the letter

⁷¹⁸ Rustavi 1, 2, 12, 13, 14, 16 and 17 precincts.

⁷¹⁹ See video: Rustavi - Polling Station 12.mp4, updated: 15.04.2022.

⁷²⁰ See photo: Martvili - Polling Station 33.jpg, updated: 15.04.2022.

⁷²¹ See photo: Martvili - Local Self-Government Officials 2.jpg, Martvili - Local Self-Government Officials 2.jpg, updated: 15.04.2022.

⁷²² See photo: Zugdidi - Polling Station 53.jpg, updated: 15.04.2022.

been disclosed appropriately, and it was decided to annul it by an established commission.⁷²³ At the 33rd polling station in Saburtalo, according to the GYLA observer, the Precinct Election Commission first moved 4 ballot papers, where the will of the voter was recorded, to the suspicious list and then to the invalid list. The voter had signed along with the preferred candidate. There was no response to the complaint written at the polling station, so GYLA appealed to the Saburtalo District Election Commission. GYLA's request to count all 4 ballots as valid and recount the invalid ballots was not upheld with the argument that it was impossible to determine the will of the voters on the ballots.⁷²⁴ In Senaki 13th precinct, 24 ballot papers were canceled due to the fact that it was not certified with a special stamp and the registrar's signature. According to a GYLA observer, the registrars did this on purpose to invalidate the ballot papers. GYLA wrote a complaint on the fact and demanded disciplinary action against the registrars. The request of the organization was granted, and the relevant members of the commission were defined a measure of disciplinary responsibility - a "note."⁷²⁵ In the 50th precinct of Batumi, the commission considered invalid the ballot paper, on which the will was expressed, had the signature of the registrar and the corresponding stamp; however, the requisites in the corner were damaged - the year of the elections. GYLA filed a complaint at the polling station requesting that the ballot paper be considered valid. The request was not upheld. The organization then filed a complaint with the DEC requesting a recount of the invalid ballots and making the particular ballot valid. The DEC rejected the complaint and relied on the PEC chairperson's explanation that the ballot paper had been placed in the ballot box without a special envelope and should have been canceled.⁷²⁶ GYLA verified the information in the video files uploaded by the CEC, which recorded the process of counting the votes at the polling station. It was found out from the footage that the chairperson of the District Election Commission made a wrong explanation at the district meeting because the disputed ballot paper was indeed placed in a special envelope. GYLA filed a lawsuit in the Batumi City Court and demanded the annulment of the previous ordinances, the recount of invalid ballot papers in the 50th precinct, and making the ballot papers valid, which had damaged corner where the year was indicated. The court rejected the appeal,⁷²⁷ after which GYLA appealed to the higher instance. According to the decision of the Kutaisi Court of Appeal, the decision of the first instance remained in force. The judges held that even if damage to a particular requisite on the ballot paper could establish the fault of the registrar, it was still necessary to establish the authenticity of the ballot paper.⁷²⁸

3.2. Summarizing the Election Results

Violation of the Rule of Sealing Election Documentations

In the second round of elections, the negative trend of violating the rules of sealing election documents continued. In the districts where GYLA had observers, the fact of delivering the

⁷²³ Ordinance #146/2021 of #20 Rustavi District Election Commission, November 3, 2021.

⁷²⁴ Ordinance #272/2021 of #3 Saburtalo District Election Commission, November 3, 2021.

⁷²⁵ Ordinance #100/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁷²⁶ Ordinance #193/2021 of #79 Of Batumi District Election Commission, November 2, 2021.

⁷²⁷ Batumi City Court Decision N3-683/21.

⁷²⁸ Judgment of the Kutaisi Court of Appeal on the Case N3/B-551-21.

record book unsealed was observed in 28 polling stations.⁷²⁹ In all cases, GYLA representatives complained to the relevant district election commissions and demanded disciplinary action against the chairpersons and secretaries of the Precinct Election Commissions for improper performance of their duties. The decisions made by the District Election Commissions were also mixed in the second round of elections. It is noticeable that in all polling stations, the District Election Commissions found violations, although the issue of imposing a disciplinary response differed. Batumi District Election Commission upheld the complaints related to all 4 precincts and issued a "note" as a measure of disciplinary responsibility to both the chairpersons of the commissions and the secretaries.⁷³⁰ The Chkhorotsku,⁷³¹ Gldani, and Chugureti District Election Commissions applied the same practice and fully complied with GYLA's request to impose disciplinary liability on the Chairperson and Secretary.⁷³² Samgori, Khelvachauri, Mtatsminda, Saburtalo, and Vake District Election Commissions partially upheld GYLA's complaints and clarified that there were insufficient grounds for disciplinary action against the PEC secretaries.⁷³³ Consequently, in the polling stations in these constituencies, only the chairpersons of the Precinct Election Commission were imposed the disciplinary measure "Note."⁷³⁴

Violation of the Rule of Filling in Summary Protocols and Cases of Imbalance

In the second round of the 2021 local self-government elections, GYLA requested the recounting and/or verification of data from 22 precincts in the constituencies where the organization was observing the elections. In 4 of them,⁷³⁵ the districts fully complied with GYLA's request, and in 7⁷³⁶ - partially. In relation to 1 precinct,⁷³⁷ the data were recounted and/or verified at the initiative of the district. DECs did not meet the same requirement in 10 polling stations.⁷³⁸

On election day, in accordance with GYLA's election dispute strategy, the organization requested that the results be recounted/verified or that disciplinary action be taken against the persons concerned in cases where the summary protocols contained an excess or a

⁷²⁹ Mtatsminda 12, Gldani 21, 23, 35 and 113, Chugureti 5, Saburtalo 16, Vake 3, 12, 13, 27, 36, 38, 49 and 78, Chkhorotsku 3 and 10, Batumi 38, 40, 92 and 106, Rustavi 40 and 105, Khelvachauri 21, 28, 29, 33 and 43 precincts.

⁷³⁰ Ordinances #190/2021, #192/2021, #194/2021 of #79 Batumi District Election Commission, November 2, 2021.

⁷³¹ In 3 precincts, the chairpersons and secretaries of the precinct were defined as a measure of disciplinary responsibility of a note, and in 10 precincts - a warning.

⁷³² Ordinance #68/2021 of #69 Chkhorotsku District Election Commission, November 3, 2021, Ordinance #202/2021 of #10 Gldani District Election Commission, November 2, 2021, and Ordinance #154/2021 of #7 Chugureti District Election Commission, November 2, 2021.

⁷³³ Ordinance #112/2021 of #1 Mtatsminda District Election Commission, November 3, 2021, Ordinance #164/2021 of #2 Vake District Election Commission, November 2, 2021, Ordinance #273/2021 of #3 Saburtalo District Election Commission, November 3, 2021, #273/2021, Ordinance #232/2021 of #6 Samgori District Election Commission, November 3, 2021, and Ordinance #40/2021 of #83 Khelvachauri District Election Commission, November 2, 2021.

⁷³⁴ Mtatsminda 12 precinct Chairperson was given a "warning" as a disciplinary measure.

⁷³⁵ Saburtalo 15, 21 and 24, Vake 52 precincts.

⁷³⁶ Rustavi 48, 49, 51, 54 and 55, Isani 62 and 68 precincts.

⁷³⁷ Saburtalo 17 precinct.

⁷³⁸ Saburtalo 2 and 56, Tsalenjikha 17, Zugdidi 10, Batumi 3, 10, 16, 34, 53 and 62 precincts.

suspicious shortage in quantity; where a column was corrected so that they were not accompanied by a correction protocol or explanation; The number of invalid ballots was about 4% or more of the number of voters who came. The statistics provided by GYLA are based on the electronic database of complaints of the Central Election Commission of Georgia.

4. Work of Precinct Election Commissions (PECs)

In the second round of elections, GYLA observers observed a number of cases where PEC members were prevented from performing their duties properly, or their chairpersons were unable to maintain a calm environment and order at the polling station.⁷³⁹ In Zugdidi 53rd polling station, there was a confrontation between the members of the commission, and the chairperson could not ensure the maintenance of order. For this reason, the voting process at the polling station was temporarily suspended. Members or representatives of the commission appointed by the Georgian Dream and the National Movement confronted each other at some precincts.⁷⁴⁰ In these cases, too, the chairpersons were unable to maintain order in the precincts, and a tense environment hampered the voting process.

During the day, GYLA observers recorded incidents when representatives of observer or media organizations were involved in creating tension and confrontation.⁷⁴¹ According to GYLA observers, Green World, International Observatory of Advocates, Policy and Law Observer, Allmedia, Akhali Taoba, Adjara Development Center, Movement for Georgian Unity and Unification. In one case, due to a confrontation, the PEC chairperson called the police and forced two observers to leave the polling station.⁷⁴²

GYLA representatives observed in three different polling stations that the function of the registrar was performed by the members of the commission appointed by the political parties.⁷⁴³ In two cases, the members temporarily replaced the registered registrars, although this information was not reflected in the record book.⁷⁴⁴ In one case, they were directly given this function during the lottery procedure because a sufficient number of members appointed by the district election commission did not show up at the polling station.⁷⁴⁵

The 21st precinct of Zugdidi was problematic where, according to the GYLA observer, a member of the Precinct Election Commission, and one of the observers were expelled. The fact was followed by confrontation. Ana Tsitlidze, a representative of the United National Movement and a member of the Parliament of Georgia, was on the spot. According to her, their representatives were expelled from the polling station for no reason.

⁷³⁹ Isani 54, 63, 75 and 81, Saburtalo 38 and 64, Chugureti 7 and 49, Zugdidi 10, 53, 78 and 103, Rustavi 16 and 54 precincts.

⁷⁴⁰ Rustavi 75, Isani 54 and 81 precincts.

⁷⁴¹ Zugdidi 10 and 103, Rustavi 16 and 54 precincts.

⁷⁴² Zugdidi 103 precinct.

⁷⁴³ Saburtalo 38, 49 and 93 precincts.

⁷⁴⁴ Saburtalo 38 and 49 precincts.

⁷⁴⁵ Saburtalo 93 precinct.

5. Interference with the Work of the Observer

In the second round of elections, a negative trend of obstruction of observer activities was maintained. At the 13th polling station in Senaki, the chairperson of the commission restricted the GYLA observer from moving freely inside the polling station. According to the chairperson of the commission, due to the narrowness, only 1 observer could move in front of the tables at a time. In addition, at the same polling station, a GYLA observer was restricted from accessing the polling day record book and writing a note. According to the chairperson and secretary, the observer had no right to do so. GYLA filed a complaint with the Senaki District Election Commission, requesting the elimination of the violation and the imposition of disciplinary liability on the relevant persons. The commission partially upheld the complaint and reprimanded the secretary of the 13th precinct, while in the case of the chairperson, it found no violation⁷⁴⁶ At the same polling station, during the counting of the results, the GYLA observer was not allowed to file a complaint regarding the invalidity of the ballot papers. The District Election Commission did not uphold GYLA's complaint regarding the obstruction of the observer's activities.⁷⁴⁷ The 14th polling station in Senaki was also problematic, where a GYLA observer expressed doubts about the voter's signature in another box and demanded that they verify the fact. The members of the commission did not allow the GYLA representative to do that. The organization filed a complaint with the Senaki District Election Commission and demanded disciplinary action against the relevant members. Based on the explanations of the members of the commission, who claimed that they had checked themselves that the signature was made in the relevant box, the district refused to uphold the complaint of GYLA, as the fact did not take place.⁷⁴⁸ In the 41st precinct of the same district, a GYLA observer was restricted from accessing the polling day record book. GYLA lodged a complaint with the District Election Commission requesting the drawing up of an administrative violation report, which was rejected on the grounds that the observer did not specify what information they wanted to obtain from the record book.⁷⁴⁹ At Zugdidi 72nd polling station, a GYLA representative was not allowed to observe the voter registration process. GYLA appealed to the District Election Commission and requested to draw up a report on the administrative violation against the chairperson of the commission. The Zugdidi District Election Commission refused to draw up a protocol for GYLA, arguing that the chairperson of the commission was performing their duties in accordance with the law while the observer was grossly interfering in their activities.⁷⁵⁰ In the 29th precinct of the same district, the chairperson did not allow the GYLA observer to take a photo of the information contained in the record book. GYLA wrote a complaint to the Zugdidi District Election Commission and demanded that an administrative violation report be drawn up against the chairperson, who obstructed the observer's activities. By the decision of the chairperson of the district election commission, GYLA's request was rejected. They shared the explanation of the chairperson of the 29th precinct, according to which the record book contained

⁷⁴⁶ Ordinance #99/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁷⁴⁷ Ordinance #100/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁷⁴⁸ Ordinance #97/2021 of #64 Senaki District Election Commission, November 3, 2021.

⁷⁴⁹ 64/301 Written refusal to draw up a report on an administrative offense of #64 Senaki District Election Commission Chairperson, November 8, 2021.

⁷⁵⁰ 67/192 Written refusal to draw up a report on an administrative offense of #67 Zugdidi District Election Commission Chairperson, November 8, 2021.

personal data and the observer was not allowed to record it⁷⁵¹ At Zugdidi 104th polling station, one of the members of the commission verbally insulted a GYLA observer. Requesting a legal response, GYLA filed a complaint with the District Election Commission, which was not upheld. The decision was based on the explanation of the above-mentioned member of the Precinct Election Commission, according to which the fact observed by the GYLA observer did not occur.⁷⁵² Another GYLA observer was verbally abused while making a note in the record book at the 20th polling station in Rustavi district. According to the representative of the organization, they were addressed with insulting words. Due to the hostile environment, the GYLA observer had to leave the polling station. In Zugdidi 78th precinct, the observer's remark irritated the chairperson of the commission. They accused the GYLA representative of interfering in their activities and threatened to call the police. Against this background, according to the GYLA observer, another member of the commission approached them, who was allegedly going to physically assault them. The observer had to leave the polling station for their own safety. GYLA could not file a complaint to the Rustavi District Election Commission due to the witness's refusal and the lack of photo-video material. At the 89th polling station in Batumi, the observer observed that the registrar used a disinfectant solution instead of the marking liquid. After the GYLA observer decided to record the fact on their mobile phone, the chairperson restricted their right to do so, in addition to preventing them from registering a complaint on the spot. GYLA complained to the Batumi District Election Commission about the fact and demanded disciplinary action against those responsible for restricting photo-video recording to the observer. The district did not uphold the complaint on the ground that the chairperson and the registrars did not confirm the interference.⁷⁵³ The GYLA observer was restricted from moving at the 54th polling station in Rustavi, where the chairperson indicated to the representative of the organization that they should observe the processes from the place designated by them. Later, on the basis of an oral remark, the breach was rectified. At the 20th precinct of the same district, an observer from the Center for Civic Engagement and Democracy Development arrived, who prevented a GYLA representative from observing the process and tried to create a conflict situation. They later left the district themselves.

According to GYLA observers, a prohibit sign for photo-video recording was posted at some Zugdidi polling stations.⁷⁵⁴

GYLA believes that disrupting the work of observers is another challenge on Election Day. According to the organization, the election administration fails to ensure full protection of the rights of observers on election day, and the relevant election commissions respond inappropriately and inefficiently to the facts of obstruction of activity and restriction of rights.

⁷⁵¹ 67/188 Written refusal to draw up a report on an administrative offense of #67 Zugdidi District Election Commission Chairperson, November 8, 2021.

⁷⁵² Ordinance #134/2021 of #67 Zugdidi District Election Commission, November 3, 2021.

⁷⁵³ Ordinance #184/2021 of #79 Batumi District Election Commission, November 2, 2021.

⁷⁵⁴ Zugdidi 8 and 17 precincts.

ANNEX №1 - VOTING STATISTICS IN THE CEC WHEN STAFFING DISTRICT ELECTION COMMISSIONS

Member of the CEC	Appointment rule	Supported in the I round of voting	Selected in the I round of voting	Supported in the II round of voting	Selected in the II round (repeated) of voting	Total
Archil Anasashvili	The party Georgian dream	218	98	120	120	218
Giorgi Kalandarishvili	Chairperson, Professional	274	98	163	117	215
Giorgi Sharabidze	Professional	258	98	159	120	218
Giorgi Javakhishvili	Professional	258	98	151	120	218
Maia Zaridze	Professional	240	98	123	120	218
Giorgi Dzagania	Professional	225	98	121	120	218
Dimitri Javakhadze	Professional	221	98	125	120	218
Giorgi Chikaberidze	Professional	228	98	130	120	218
Gia Tsatsashvili	Professional	233	98	134	120	218
Giorgi Sioridze	The party Lelo for Georgia	39	9	15	1	10
Ana Kobakhidze	The party Giorgi Vashadze – Strategy Builder	23	1	20	1	2
Ia Pertakhia	The party European Democrats of Georgia	101	84	18	18	102
Levan Jgerenaia	The party Girchi	59	32	4	0	32
Ivane Norakidze	The party Aleko Elisashvili-Citizens	279	98	175	84	182
Nino Basilaia	The party European Socialists	234	98	111	95	193
David Kirtadze	The party United National Movement	Did not participate				
David Jinjolava	The party European Georgia	Did not participate				

ANNEX №2 - IV INTERIM REPORT OF THE 2021 LOCAL SELF-GOVERNMENT ELECTION OBSERVATION MISSION (OCTOBER)

1. Introduction

The Georgian Young Lawyers' Association launched the implementation of the project – The Long-Term Observation Mission for the 2021 Local Elections, in May 2021. The purpose of long-term observation is to promote elections in a free, equitable, and competitive environment. To achieve this, GYLA aims to increase transparency in the electoral process, ensure the effectiveness of legislative mechanisms through the conduct/monitoring of electoral disputes, and provide credible, evidence-based information to the public on important trends.

Within the framework of the long-term observation mission, the organization monitors the pre-election environment with the assistance of its nine regional monitors in Tbilisi, Adjara, Guria, Samegrelo-Zemo Svaneti, Shida Kartli, and Samtskhe-Javakheti, Kvemo Kartli, Mtskheta-Mtianeti and Kakheti

This report covers information on violations identified between October 25 and October 30, 2021 (Round II).

During this period, there were cases of disregarding the demand for separation of the state and the party, voter bribery, and obstruction of political party activities.

2. Ignoring the Demand for Separation of the State and the Party

Opening of the Restored Gudiashvili Square (The Georgian Dream)

On October 26, Tbilisi Mayor Kakha Kaladze opened the restored Gudiashvili Square.⁷⁵⁵ Speaking at the event, Kaladze promised the population that this approach and attitude towards old Tbilisi would continue in the future.⁷⁵⁶ He also said he would launch similar projects with his team over the next four years and make many families happy.⁷⁵⁷

Kakha Kaladze was the current mayor and Tbilisi mayoral candidate at the time of the event. It is true that he enjoyed the natural advantage of being in power; however, he should not use this advantage unjustifiably. The use of state-funded projects by an official for pre-election campaign purposes is contrary to international standards and blurs the line between the state and the ruling party.

⁷⁵⁵ "Gudiashvili Rehabilitated Square was opened - the cost of the project is 100 million GEL", information portal „mb.ge”, October 26, 2021, accessible: <https://bit.ly/3d8O1vX>, updated: 15.04.2022.

⁷⁵⁶ Ibid.

⁷⁵⁷ Ibid.

Utilization of Parking Zones (The Georgian Dream)

On October 27, three days before the second round of elections, the ruling party held a large-scale pre-election rally in the capital.⁷⁵⁸ Patrol police cordoned off parking spaces at various locations across the city to accommodate rally participants. It should be noted that the event was held on Wednesday, which was not a holiday. It is noteworthy that similar unreasonable, restrictive measures were not taken by the patrol police to facilitate rallies by opposition parties.

This is an example of erasing the line between the ruling party and the state. Clearly, the Ministry of Internal Affairs is committed to protecting and promoting peaceful assembly. However, the measures taken by them should not go beyond reasonable need and should not be applied with selective approaches. In contrast, the majority used state resources for personal purposes, which should be considered a bad practice.

3. Voter Bribery

Alleged Promise of Promising Release of a Person from Imprisonment in Exchange for Vote Mobilization

On October 25, the Mtavari Arkhi aired a telephone recording in which Goderdzi Kavtaradze, a resident of Ozurgeti, allegedly told Archil Talakvadze's aide that he had been promised early release of his son in exchange for mobilizing voters.⁷⁵⁹ According to Kavtaradze, the village MP visited him several times and promised that Talakvadze would release his son after 2 years.⁷⁶⁰

According to the information spread on October 28, Goderdzi Kavtaradze was beaten up in Ozurgeti, in the village of Chanieti, presumably due to the release of a secret audio recording on the Mtavari Arkhi. In contrast, it was reported that he fell from a tree and broke his arm.⁷⁶¹

This case is likely to show signs of voter bribery⁷⁶² and intentional grievous bodily harm.⁷⁶³

⁷⁵⁸ "Rally in Support of the Dream on Freedom - What You Should Not Miss on October 27", information portal Radio Tavisupleba, October 27, 2021, accessible: <https://bit.ly/3hj1Ryd>, updated: 15.04.2022

⁷⁵⁹ "I got 250 votes, how many more do I want ... - Talakvadze is accused of bribing voters in Ozurgeti", information portal TV Mtavari Arkhi, October 25, 2021, accessible: <https://bit.ly/3GY1DGN>, updated: 14.05.2022.

⁷⁶⁰ Ibid.

⁷⁶¹ "The hero of the scandalous audio recording" suddenly fell from the tree "broke his arm, broke his leg and "cracked "his head", information portal Guriis Moambe, October 28, 2021, accessible: <https://bit.ly/3oRzcnO>, updated: 14.05.2022.

⁷⁶² Law of Georgia on Political Associations of Citizens, Article 25, part 1; Criminal Code of Georgia, Article 164¹, part 1.

⁷⁶³ Criminal Code of Georgia, Article 117, part 1.

4. Interference with the Activities of a Political Party

Imedi TV Placed Political Advertisements in Violation of the Law

On October 28, the Georgian National Communications Commission (GNCC) fined Imedi TV for airing political videos "We remember" and "Let's bring the victory to an end"⁷⁶⁴ for violation of the Electoral Code.⁷⁶⁵ According to the Communications Commission, Imedi violated the requirements of the Election Code; On its own initiative, it placed political/pre-election advertisements (hereinafter "pre-election advertisements) on the broadcaster that did not meet the formal criteria of the Election Code (uniform contours of the letters indicating the election subject or their election number),⁷⁶⁶ and the requirements that prohibit the broadcaster from devoting more airtime⁷⁶⁷ to an election subject than it's entitled to.⁷⁶⁸

The video clip "Let's bring victory to an end" was assessed by the court as a pre-election advertisement because it showed the flags of the Georgian Dream and the image of the party's mayoral candidate; In addition, the video contained calls supporting the party and slogans with the words "let's bring victory to an end."⁷⁶⁹ In view of these circumstances, the court considered that this video, in its form and content, was a pre-election advertisement.⁷⁷⁰ The court found that the pre-election advertisement did not contain the data of the election subject, including the name of the election subject or its serial number.⁷⁷¹ Nonetheless, it believed it was a political advertisement placed in violation of the law.⁷⁷² Thus, according to the court, Imedi TV devoted more airtime to the Georgian Dream than the fee paid for advertising, which in turn was a prohibited donation.⁷⁷³ The court fined the broadcaster 1,000 GEL.⁷⁷⁴

The second video, "We Remember," which chronologically shows the events that took place during the rule of the United National Movement, was not considered by the court as a pre-election advertisement; According to the court, in order to impose a violation on a specific subject, first of all, it must be determined whether the advertisement placed on the air is of pre-election/political nature, and then its formal side must be checked.⁷⁷⁵ According to the court, there were no electoral subjects in the video - none of the candidates for the position of public authority (mayoral candidate).⁷⁷⁶ Therefore, the court found that the video "We

⁷⁶⁴ Letter, video clips №g-21-03 / 3189 of the Georgian National Communications Commission of November 15, 2021.

⁷⁶⁵ Protocol of Administrative Violation of the Georgian National Communications Commission №000349 of October 28, 2021.

⁷⁶⁶ Election Code of Georgia, Article 186, part 19.

⁷⁶⁷ *Ibid.*, part 20.

⁷⁶⁸ Protocol of Administrative Violation of the Georgian National Communications Commission №000349 of October 28, 2021.

⁷⁶⁹ Resolution №4/6729-21 of the Administrative Cases Panel of the Tbilisi City Court, October 30, 2021, para. 6.22.

⁷⁷⁰ *Ibid.*, para. 6.23.

⁷⁷¹ *Ibid.*, para. 6.24.

⁷⁷² *Ibid.*

⁷⁷³ Resolution №4/6729-21 of the Administrative Cases Panel of the Tbilisi City Court, October 30, 2021, para. 6.26.

⁷⁷⁴ *Ibid.*, para. 7.6.

⁷⁷⁵ Resolution №4/6729-21 of the Administrative Cases Panel of the Tbilisi City Court, October 30, 2021, para. 6.16.

⁷⁷⁶ *Ibid.*, para. 6.19.

Remember" did not meet the cumulative conditions set by law, the combination of which would allow it to be evaluated as a pre-election advertisement.⁷⁷⁷ The court terminated the case against Imedi in this part.⁷⁷⁸ In this part, GYLA does not share the court's assessment.

According to the law, a pre-election advertisement is an "advertisement of such content, which is aimed at promoting/hindering the election of an electoral subject, where the electoral subject and/or its sequence number are displayed and which contains the signs of election campaign [...]".⁷⁷⁹ This means that the legislator imposes three cumulative conditions for evaluating a video as a pre-election advertisement: a) the election goal; b) the appearance of an election subject or number; c) the video should contain campaign signs. The video contains footage from the archives of the ruling National Movement party, Georgia's third president, and shows the attitude of a part of the public towards the third president. In this case, the purpose of the election is unambiguous, as the release of a video of such content serves to prevent the election of election subjects registered on behalf of the party. "Election campaign" is "a set of measures carried out by an electoral subject/candidate for electoral subject aimed at running in and winning elections."⁷⁸⁰ The pre-election campaign signs of this video are clearly visible given the fact that the video was placed between the programs repeatedly and included calls/facts related to a specific party. The court did not consider the video an advertisement because it did not show the candidate and the number of election subjects. According to the Election Code, during the pre-election advertisement, the uniform contours indicating the name of the election subject or the serial number participating in the elections must be indicated. However, this is a formal requirement of the law. Nevertheless, the video falls into the category of pre-election advertising according to the existing factual and substantive characteristics. Therefore, it should be considered an election advertisement that does not meet the formal criteria required by law. The court decision is based on a misinterpretation of the norm and is contrary to the aims of the law. In view of all the above, GYLA disagrees with the court's reasoning and believes that the video "We Remember" should have been evaluated as an election advertisement.

Imedi TV Refuses to Broadcast Pre-Election Advertisements of the National Movement

On October 29, the Georgian National Communications Commission issued an administrative violation report against Imedi TV for refusing to place political advertisements for the United National Movement.⁷⁸¹

The court clarified that "the General National Broadcaster is obliged to place the pre-election advertisement submitted to it by each qualified election subject in an equal and non-discriminatory manner during the election campaign [...]".⁷⁸² Accordingly, it found that Imedi

⁷⁷⁷ Ibid.

⁷⁷⁸ Ibid., para. 6.21.

⁷⁷⁹ Election Code of Georgia, Article 2, part "z6".

⁷⁸⁰ Ibid., part "z7".

⁷⁸¹ Protocol of Administrative Violation of the Georgian National Communications Commission #000350 of October 29, 2021.

⁷⁸² Resolution №4/6778-21 of the Administrative Cases Panel of the Tbilisi City Court of November 3, 2021, para. 6.13.

TV was obliged to broadcast these free political advertisements in accordance with the imperative requirements of the election legislation and fined the broadcaster 5,000 GEL.⁷⁸³ The representative of Imedi Ltd confirmed the fact of violation in court and did not dispute the existing factual circumstances.

GYLA welcomes the decision of the National Communications Commission and the court.

⁷⁸³ Ibid., para. 4.1.

ANNEX №3 - ASSESSMENT OF THE BY-ELECTIONS OF THE BATUMI SAKREBULO ON APRIL 2, 2021

By-elections of Batumi Sakrebulo on April 2, 2022, were scheduled in №79.04 Majoritarian Constituency.⁷⁸⁴ The reason for this was the death of Batumi Sakrebulo member Nugzar Putkaradze, who was a candidate for the United National Movement.⁷⁸⁵

1. GYLA Observation Mission

On April 2, 2021, 14 Precinct Election Commissions were established in the №79.04 Majoritarian Constituency for the Batumi Sakrebulo by-elections. 17 GYLA representatives were involved in the monitoring mission. On Election Day, the organization's static observers were deployed in 12 polling stations. 1 observer was also present at the Batumi District Election Commission. There was 1 headquarters in the GYLA Batumi office, where 4 employees of the organization worked. By April 2, the GYLA hotline was launched, which enabled citizens and media representatives to receive legal assistance and fix election violations.

GYLA Batumi office in Batumi observed the pre-election environment.

2. Political Context

By the decrees of the CEC on February 1, by-elections of the Parliament of Georgia in Rustavi and the Sakrebulo Batumi Municipality were scheduled for April 2.⁷⁸⁶ The reason for this was the election of Nino Latsabidze, a member of the Parliament of Georgia from the Rustavi majoritarian constituency, as a mayor⁷⁸⁷ and the death of Nugzar Putkaradze, a member of the Sakrebulo elected from the local Majoritarian Constituency in Batumi.⁷⁸⁸

Irakli Shatakishvili, a lawyer, was nominated by the Georgian Dream as a Rustavi majoritarian candidate for the Parliament,⁷⁸⁹ and Badri Japaridze, a candidate from the opposition, was

⁷⁸⁴ Ordinance №8/2022 of the Central Election Commission of Georgia, February 1, 2022.

⁷⁸⁵ "A member of the new Batumi City Council from the National Movement has died", information portal Batumelebi, available at: <https://batumelebi.netgazeti.ge/news/375995/>, updated: 10.06.2022.

⁷⁸⁶ Ordinance №8/2022 of the Central Election Commission of Georgia, February 1, 2022, on the appointment of by-elections of the Batumi representative body of the municipality - Sakrebulo to be held with the majoritarian electoral system on October 2, 2021; Ordinance №7/2022 of the Central Election Commission of Georgia, February 1, 2022, On the appointment of by-elections of the Parliament of Georgia to be held in #12 Majoritarian Election District, with the majoritarian electoral system of the Parliament of Georgia, October 31, 2020.

⁷⁸⁷ Resolution №1034–VI ძღ-ღღ of the Parliament of Georgia, December 1, 2021, on Nino Latsabidze's early termination of the term of office of a Member of Parliament of Georgia.

⁷⁸⁸ According to the protocol record of December 3, 2021, of the Batumi Municipality Sakrebulo, the fact of death of Nugzar Putkaradze, elected from the local majoritarian election district №79.04, a member of the Batumi Municipality Sakrebulo, was taken for reference.

⁷⁸⁹ "GD Names Candidates for Batumi, Rustavi By-Elections", information portal Civil.ge, 02.02.2022, available at: <https://bit.ly/3xhv9ER>, updated: 10.06.2022.

nominated by the party Lelo for Georgia.⁷⁹⁰ The latter's mandate as a Member of Parliament was terminated due to a guilty verdict against him.⁷⁹¹ The Court found him guilty of gang fraud but, due to the statute of limitations of the case, acquitted him of the sentence.⁷⁹² The United National Movement has declared its support for Badri Japaridze in the by-elections. However, on February 27, Japaridze said that in the light of the ongoing war in Ukraine, he considered it impossible to conduct the election process, hence withdrawing his candidacy.⁷⁹³ After that, Mamuka Tuskadze, the opposition candidate for the Social Justice Party, and Kamal Muradkhanov, a representative of the Georgian Unity and Development Party, remained in Rustavi as opponents of the Georgian Dream.⁷⁹⁴

In the by-elections of the Batumi Sakrebulo, the Georgian Dream nominated Ramaz Jincharadze, the current Deputy Minister of Health and Social Affairs of the Autonomous Republic of Adjara, as the candidate for the Sakrebulo.⁷⁹⁵ And the party United National Movement - the son of the deceased Nugzar Putkaradze - Mate Putkaradze.⁷⁹⁶ This was preceded by the prolonged process of the distribution of positions in the Sakrebulos after the 2021 self-government elections and problems in terms of functioning, especially in the municipalities where the Georgian Dream failed to gain a majority.⁷⁹⁷ An example of this is the Batumi City Sakrebulo, where neither party received enough 18 votes to elect a Chairperson.⁷⁹⁸ Moreover, due to the absence of the members elected from the Georgian Dream and, consequently, the lack of the required quorum, the sitting could not be held.⁷⁹⁹ Thus, in the light of the crisis in the councils, the by-elections were of particular importance, especially for the opposition, in order for them to retain the majority seats they won in the 2021 elections.

⁷⁹⁰ "Expelled MP Badri Japaridze to Vie for Rustavi By-Elections", information portal Civil.ge, 16.02.2022, available at: <https://bit.ly/3O39EOT>, updated: 10.06.2022.

⁷⁹¹ Along with Badri Japaridze, the mandates of two opposition MPs - Elene Khoshtaria and Shalva Natelashvili - were terminated due to the fact that they did not attend any of the parliamentary sittings. The President of the country Salome Zurbishvili responded to the issue of termination of the mandate of the deputies and said that she would not agree to the termination of the mandate of the deputies in the light of the internal and external challenges of the country. EU Ambassador to Georgia Carl Hartzell commented on the incident. He said the termination of mandates was "perhaps at the expense of political inclusion and democratic pluralism in parliament". *For more See* Chkhetiani L. Newsletter №29, February 2022 (Tbilisi, Georgian Young Lawyers' Association, 2022), pp. 6-7, official website of the Georgian Young Lawyers' Association, available at: <https://bit.ly/3tsz8gG>, updated: 10.06.2022.

⁷⁹² Ibid.

⁷⁹³ Chkhetiani L. Newsletter №30, March 2022 (Tbilisi, Georgian Young Lawyers' Association, 2022), p. 3, official website of the Georgian Young Lawyers' Association, available at: <https://bit.ly/3O8cPVC>, updated: 10.06.2022.

⁷⁹⁴ Ibid.

⁷⁹⁵ "GD Names Candidates for Batumi, Rustavi By-Elections", information portal Civil.ge, 02.02.2022, available at: <https://bit.ly/3xhv9ER>, updated: 10.06.2022.

⁷⁹⁶ "National Movement" nominated the son of the deceased MP as a majoritarian candidate in Batumi", information portal Radio Liberty, 12.02.2022, available at: <https://bit.ly/3ObEpRT>, updated: 10.06.2022.

⁷⁹⁷ Chkhetiani L. Newsletter №28, January 2022 (Tbilisi, Georgian Young Lawyers' Association, 2022), p. 3, official website of the Georgian Young Lawyers' Association, available at: <https://bit.ly/3zuSMMT>, updated: 10.06.2022.

⁷⁹⁸ Ibid.

⁷⁹⁹ Ibid.

On January 24, 2022, the President of Georgia, Salome Zurbashvili, presented the candidates for the CEC Chairpersonship and membership in the Parliament.⁸⁰⁰ She nominated Giorgi Kalandarishvili, the current Chairperson of the CEC, and Tengiz Tevzadze, as candidates for the Chairpersonship.⁸⁰¹ Opposition parties Lelo for Georgia and Strategy Aghmashnebeli said they would support Tevzadze's candidacy because they thought the issue of Kalandarishvili's independence was in doubt.⁸⁰²

The new CEC chairperson and professional members were elected in accordance with the latest amendments to the election legislation.⁸⁰³ In particular, on December 17, 2021, the Parliament, by 82 votes to none, in the third reading supported the amendments to the Rules of Procedure of the Parliament of Georgia, thus changing the rules for appointing members of the Central Election Commission and clarifying the procedures.⁸⁰⁴ The CEC chairperson and professional member will be elected by at least 2/3 of the full membership or by a majority of the full membership.⁸⁰⁵ The candidate who is supported by at least 2/3 of the full membership of the Parliament shall be considered elected, and if the winner is not announced, the candidates shall be re-elected immediately.⁸⁰⁶ In the re-election, the candidate who will be supported by the majority of the full composition of the Parliament shall be considered elected.⁸⁰⁷ GYLA focuses on the so-called Charles Michel's document, according to which a 2/3 majority was chosen for the election of professional members of the commission in order to select a candidate with multi-party support.⁸⁰⁸ The anti-crisis mechanism served to avoid the deadlock of the process.⁸⁰⁹ Reducing the interval of the voting process may damage the consensus between the majority and the opposition parties in nominating a candidate. This was discussed by the Venice Commission and the OSCE/ODIHR, which assessed that reducing the interval would jeopardize the success of electoral reform.⁸¹⁰

⁸⁰⁰ *Ibid*, p. 4.

⁸⁰¹ *Ibid*.

⁸⁰² *Ibid*.

⁸⁰³ Prior to the amendment, there was an anti-crisis mechanism in the election of the CEC member and chairperson: if the votes are not collected for the first time, the candidate will be voted for the second time (by a 2/3 majority), the third time (by a 3/5 majority), and the fourth time (by a simple majority). There was a 4-week interval between voting sessions, and in the transition period, the voting process was reduced from four to one week.

⁸⁰⁴ Voting Report, official website of the Parliament of Georgia, 17.12.2021, available at: <https://bit.ly/3zrE5Kz>, updated: 10.06.2022.

⁸⁰⁵ Rules of Procedure of the Parliament of Georgia, Article 204, Paragraph 4, Subparagraph "c".

⁸⁰⁶ *Ibid*, Article 205, Paragraph 7.

⁸⁰⁷ *Ibid*.

⁸⁰⁸ A WAY AHEAD FOR GEORGIA, EU Delegation to Georgia, official website of the EU Delegation to Georgia, April 19, 2021, available at: <https://bit.ly/3frBggU>, updated: 10.06.2022.

⁸⁰⁹ *Ibid*.

⁸¹⁰ Venice Commission, OSCE/ODIHR, Urgent Joint Opinion on Revised Draft Amendments to the Election Code, CDL-P (2021)011 (Strasbourg: Council of Europe, 2021), available at: <https://bit.ly/3wCLHEX>, updated: 10.06.2022.

The Parliament of Georgia voted on February 15, 2022, to elect the CEC Chairperson and two professional members.⁸¹¹ None of the candidates received this support in the primary voting. In accordance with the legislation, the Parliament of Georgia approved Giorgi Kalandarishvili for 6 months by 84 votes to 2.⁸¹²

As for the professional members, four candidates were nominated for two vacancies - Maia Zaridze, Gia Tsatsashili, Kristine Kajaia, and Levan Isakadze.⁸¹³ Here, too, in the first round of voting, none of them won 2/3 of the vote. In a repeated vote, Maia Zaridze - 79 votes against 2 and Gia Tsatsashvili - 77 votes against 2 - were elected as CEC members for a 6-month term.⁸¹⁴

According to GYLA, the new rule for selecting a CEC member contradicts the consensus-oriented policy, deepens polarization in the long run, and negatively affects the confidence in the election administration.

3. Pre-election Period

The official pre-election campaign for the local self-government elections on April 2 started on February 1, in accordance with the law. The election process took place against the backdrop of a political crisis and polarization, exacerbated by Russia's unjustified and unprovoked hostilities in Ukraine. Because of this, the political discourse and information space were completely covered by the topics of war and national security, while issues of local importance were pushed to the background. There were fewer problems with the administration of pre-election events and election preparation stages. The CEC held regular sessions and introduced a number of innovations, including the conduct of electronic elections. As in previous elections, all sessions were broadcast live, which contributed to the transparency of the CEC activities. Electoral subjects had the opportunity to campaign freely, although the electoral process was damaged by the disregard for the separation requirement of the state and the ruling party and cases of alleged voter bribery. This gave the majority an unjustified advantage and prevented the campaign from being conducted on equal terms.

3.1. Ignoring the Demand for Separation between the State and the Ruling Party

On March 25, 2022, Tornike Rizhvadze, Chairperson of the Government of the Autonomous Republic of Adjara, together with Ramaz Jincharadze, the majoritarian candidate of the Batumi City Sakrebulo in the by-elections, met with the local population in the Dream City.⁸¹⁵

⁸¹¹ The Parliament elected Giorgi Kalandarishvili as the Chairperson of the CEC with 84 votes, official website of the Parliament of Georgia, 15.02.2022, available at: <https://bit.ly/3xqARV8>, updated: 10.06.2022.

⁸¹² Ibid.

⁸¹³ Ibid.

⁸¹⁴ Ibid.

⁸¹⁵ "Ramaz Jincharadze - Your voice in Batumi City Council", Tornike Rizhvadze's official Facebook page, 25.03.2022, available at: <https://bit.ly/3xk2Khx>, updated: 10.06.2022.

In the official government video, Tornike Rizhvadze addresses the local population and promises that “we will not stop” and “no family will be left out of this program.”⁸¹⁶ At the same time, he notes that Ramaz Jincharadze constantly took care of the needs of the population, and “it is a great merit of his involvement, which we see (meaning constructions).”⁸¹⁷ Tornike Rizhvadze called on the population there to vote for Ramaz Jincharadze on April 2.⁸¹⁸

According to GYLA, this case is a clear example of erasing the line between the ruling party and the government. The Georgian Dream has been actively using this method in the last few elections. By conducting such a campaign, the majority facilitates the affiliation of government projects and programs with the Georgian Dream and gives them a personified character. As a result, these measures are perceived as part of the majority campaign, while the provision of social programs is a direct obligation of the state.

The blurring of the border was also observed in other government and local initiatives. For example, on March 28, the Government of Georgia approved the government-targeted program “Batumi without damaged houses”, according to which, in parallel with the measures provided by the budget, investors, construction and development companies, financial organizations will be involved in the process.⁸¹⁹ On March 29, Tornike Rizhvadze announced at a government meeting that a new health care program would be developed to fund infertility diagnosis and treatment.⁸²⁰ According to him, after the budget adjustment, about one million GEL will be allocated for this direction.⁸²¹

The announcement of such decisions a few days before the elections is intended to win the hearts of voters and is contrary to international principles. The 1990 OSCE Copenhagen Document calls for “a clear separation of the state and the political parties.”⁸²² In addition, in order to prevent the use of administrative resources, the OSCE/ODIHR issued special recommendations urging states to “distribute assistance in developing socio-economic stimulus plans in a way that does not give the impression of improving the position of the ruling political force.”⁸²³ Thus, the government failed to meet these standards.

⁸¹⁶ Ibid.

⁸¹⁷ Ibid.

⁸¹⁸ Ibid.

⁸¹⁹ “Batumi without damaged houses - the government offers a guarantee of 150 million to developers”, information portal Batumelebi Netgazeti, 28.03.2022, available at: <https://bit.ly/3myfNqn>, updated: 10.06.2022.

⁸²⁰ “We will finance infertility diagnosis and treatment in Adjara – Rizhvadze”, information portal Batumelebi Netgazeti, 29.03.2022, available at: <https://bit.ly/3aHc8UA>, updated: 10.06.2022.

⁸²¹ Ibid.

⁸²² Organization for Security and Co-operation in Europe, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen: Organization for Security and Co-operation in Europe, 1990), para 5.1, available at: <https://bit.ly/3vzFHwU>, updated: 10.06.2022.

⁸²³ OSCE Human Dimension Commitments and State Responses to the COVID-19 Pandemic (Warsaw: OSCE Office for Democratic Institutions and Human Rights (ODIHR), 2020), p. 86, available at: <https://bit.ly/3uA86lg>, updated: 10.06.2022.

Overall, the Georgian Dream gained an unnatural advantage in the campaign process, which prevented the pre-election campaign from being conducted on equal terms.

3.2. Alleged Voter Bribery

The party United National Movement has applied to the Court with a request to annul the registration of Ramaz Jincharadze, a majoritarian candidate nominated by the Georgian Dream in the Batumi local self-government by-elections. According to the party, Ramaz Jincharadze tried to obtain the votes of the voters through unscrupulous means and violation of the election legislation.

The lawsuit relies on a story reported by TV Pirveli that the Georgian Dream moved voters registered at one place to another address in exchange for real estate ownership in order to form a preferred voter list at a particular polling station so that their candidate could win the elections.⁸²⁴ According to the plaintiff, a total of 1,053 new voters were registered at the 4th polling station in Batumi who voted in other districts and cities during the previous elections.⁸²⁵ The plaintiff referred to the telephone recordings released by TV Pirveli on March 28, 2022, where one of the moved persons allegedly stated that they had been registered in Lanchkhuti and that they were re-registered to vote for the Georgian Dream candidate in Batumi during the elections.⁸²⁶ In exchange for voting, they were allegedly promised ownership of an apartment.⁸²⁷ In the same story, according to the telephone recording, another person confirms that they were responsible for the voter transfer; they had 15 voters on the list, registered by them in support of Ramaz Jincharadze in the 4th Constituency of Batumi.⁸²⁸ The lawsuit also mentions the promises made by the Head of the Government of Adjara, Tornike Rzhivadze, about the transfer of apartments.⁸²⁹

Defendant, the №79 Batumi District Election Commission, did not recognize the claim and clarified that a combination of credible, solid, and conclusive evidence was not presented to prove voter bribery.⁸³⁰ According to the respondent, the materials presented in the case, in particular the telephone record and the conversations on the transfer of the lists, did not constitute adequate evidence of bribery.⁸³¹ In addition, the respondent noted that Ramaz Jincharadze, as an election subject participating in the elections, did not commit a crime under the Criminal Code in connection with voter bribery.⁸³²

⁸²⁴ Lawsuit of the NPLE A Political Union of Citizens – The United National Movement.

⁸²⁵ Ibid.

⁸²⁶ Ibid.

⁸²⁷ Ibid.

⁸²⁸ Ibid.

⁸²⁹ Lawsuit of the NPLE A Political Union of Citizens – The United National Movement.

⁸³⁰ The Counterclaim №3-165/22 of the №79 Batumi District Election Commission.

⁸³¹ The Decision of the Administrative Cases Board of the Batumi City Court of March 31, 2022, in the case №010310022005631043.

⁸³² Ibid.

The Georgian Dream stated in the form of a third party that the legislation allowed citizens to freely choose their place of residence and to make a decision on registration or deregistration at a specific address.⁸³³ Party representatives also pointed out the rules for forming voter lists.⁸³⁴ According to them, the fact that Ramaz Jincharadze was creating lists in the polling stations and artificially registering voters in exchange for material values did not correspond to reality.⁸³⁵ According to the Georgian Dream, the plaintiff tried to pursue narrow party interests and discredit the election process with such accusations, while the story of TV Pirveli did not correspond to reality.⁸³⁶

In discussing international principles and standards, the Court referred to the case-law of the European Court of Human Rights, which states in one of the cases related to the revocation of the registration of the subject: “[...] appropriate national procedures to prevent illegal disqualification of candidates should provide adequate means of dispute protection to protect candidates from malicious and unsubstantiated allegations of electoral fraud.”⁸³⁷ The Court discussed the standards of evidence used in the examination of election disputes, noting that beyond a reasonable doubt, the standard is used in resolving an issue that in its content was tantamount to a crime or a criminal charge.⁸³⁸ The Court held that such a statement was correct in the present case; therefore, the existence of credible, solid, and conclusive evidence was necessary to establish a reasonable presumption of voter bribery.⁸³⁹

The Court pointed out that, according to the Electoral Code, a dispute could be settled over the formation of a voter list, although no dispute had arisen over a unified voter list in that particular Constituency.⁸⁴⁰ As for the plaintiff's assessments, the Court found that no evidence was presented in the case and the assertion was unfounded, as “the formation of lists is [was] determined by specific regulations established by the election law and this procedure does [did] not apply to the election subject or their majoritarian candidate.”⁸⁴¹

As for the fact of the meeting with the voters in the so-called Dream City, it was considered by the Court that the presence and participation of Ramaz Jincharadze in this meeting could not be equated with the bribery of the voters.⁸⁴² In addition, the Sakrebulo MP was not involved in resolving the issue of transferring apartments to specific individuals in accordance with the specified social program.⁸⁴³

⁸³³ Ibid.

⁸³⁴ Ibid, p. 5.

⁸³⁵ Ibid.

⁸³⁶ Ibid, p. 6.

⁸³⁷ Ibid, p. 11.

⁸³⁸ Ibid.

⁸³⁹ Ibid, p. 12.

⁸⁴⁰ Ibid, p. 15.

⁸⁴¹ The Decision of the Administrative Cases Board of the Batumi City Court of March 31, 2022, in the case №010310022005631043.

⁸⁴² Ibid, p. 16.

⁸⁴³ Ibid.

Regarding the TV Pirveli story, the Court noted that the plaintiff had not identified the persons mentioned in it, and the content of the conversation, given the interpretation and context, could not be linked to Ramaz Jincharadze's vote-buying.⁸⁴⁴ Thus, in the Court's view, the named story was no evidence of proper content in relation to the bribe.⁸⁴⁵

Finally, the Court found that the plaintiff had failed to meet the standard of proof to determine the qualification of the bribe.⁸⁴⁶ Accordingly, it considered the plaintiff's claim unfounded and rejected the claim.

The United National Movement has appealed against the decision of the Batumi City Court in the Court of Appeals.

Election legislation prohibits vote-buying by a political party or candidate. Voter bribery is widely regulated. The law prohibits not only the transfer of funds, material values, delivery, and distribution at a discounted price to citizens but as well as the promise of their transfer, regardless of value. The regulations of the Electoral Code apply to the pre-election campaign period,⁸⁴⁷ and the Law on Political Associations of Citizens also applies to the non-election period.⁸⁴⁸ Criminal liability is provided for this crime.⁸⁴⁹ Its subject is a person who has reached the age of criminal responsibility, who acts to support or oppose any electoral subject. This person can be a candidate, their representative, or someone else. Actions expressing the composition of a crime are directly defined, and these can be the promise, transfer, and rendering of property, property rights, services, or any other advantage to voters.⁸⁵⁰ This can be manifested in various ways, for example, in the distribution of cash, basic necessities to citizens in a difficult social situation, as well as in the transfer of agricultural equipment at a reduced price, etc. The offense is deemed to have been completed as soon as the prohibited act is committed or from the moment of promising any of the bounties mentioned above.

According to GYLA, the combination of factual circumstances in this case, such as the migration of hundreds of voters to the specific Constituency where the elections are being held, as well as the promises made to the population at the joint meeting of Adjara Prime Minister Tornike Rzhvadze and majority candidate Ramaz Jincharadze (the problem of this meeting is also discussed in the section on erasing the border), together formed the basis for launching an investigation. In addition, it is necessary to determine the authenticity of the recordings aired by TV Pirveli during the investigation.

⁸⁴⁴ Ibid.

⁸⁴⁵ Ibid.

⁸⁴⁶ Ibid, p. 17.

⁸⁴⁷ The Election Code of Georgia, Article 47, part 1.

⁸⁴⁸ The Organic Law of Georgia on Political Associations of Citizens, Article 25².

⁸⁴⁹ The Criminal Code of Georgia, Article 164¹.

⁸⁵⁰ According to the Criminal Code, "for election purposes, directly or indirectly offering, promising, transferring or rendering money, securities (including a financial instrument), other property, property rights, services or any other advantages, or receiving those with prior knowledge, or to make a fictitious, hypocritical or other transaction in order to avoid the restrictions established by law" is punishable by law.

GYLA calls on the relevant agencies to launch an investigation into the case (if it has not been yet launched) and conduct the process impartially and objectively. In addition, due to the high interest in the case, inform the public about the ongoing investigation.

4. Electronic Elections

According to the decision of the CEC, by-elections of Batumi Sakrebulo were held on April 2, 2022, in №79.04 Constituency using electronic means.⁸⁵¹ The verification of the voters who arrived at the polling station was carried out electronically through the verification apparatus, in which the list of the respective polling station was uploaded.⁸⁵² Each machine included information on a desk list for 1 registrar, and at least 1 verification machine was used for every 800 voters.⁸⁵³ From the opening of the polling station until the start of voting, the Chairperson from each machine printed the voter lists (initial report), which, together with the demonstration protocol, were posted in a visible place.⁸⁵⁴ For identification, the voter could use an ID card, which the registrar would place in a special MRZ (Machine-Readable Zone)⁸⁵⁵ reader,⁸⁵⁶ as well as a non-electronic ID card or passport of the citizen, the data of which the registrar would retrieve by manually entering information into the device.⁸⁵⁷ After confirming the voter verification, the machine printed a receipt with the data in the voter list.⁸⁵⁸ Before voting, the voter went through the marking procedure and signed the receipt printed by the apparatus.⁸⁵⁹ Receipts were stored in a transparent box.⁸⁶⁰ In case it was impossible to continue voting with the apparatus, the Chairperson of the Precinct Election Commission handed over the list of desks with photos to the member of the Voter Registration Commission.⁸⁶¹ The registrar, next to the voters in the appropriate column, who had already participated in the elections, and the receipt confirming this was placed in a transparent box, recorded the signature.⁸⁶²

A new type of ballot paper and a special frame-envelope were used for voting. After their issuance, the registrar explained to the voter the rules for using a special frame-envelope and filling in the ballot paper and asked them to color a test circle on a specially designated place

⁸⁵¹ Resolution №19/2022 of the Central Election Commission of Georgia, February 18, 2022, Article 1.

⁸⁵² Ibid, Annex 1, Article 2, Part 1, Paragraph "b".

⁸⁵³ Ibid, Article 4, Part 4.

⁸⁵⁴ Ibid, Part 1, Paragraph „c” and „c1”.

⁸⁵⁵ Citizen ID MRZ Reader - A device that receives a voter's ID card and searches for the appropriate person in the unified voter list that had been loaded into the device.

⁸⁵⁶ Resolution №19/2022 of the Central Election Commission of Georgia, February 18, 2022, Article 5, Part 1, Paragraph "b".

⁸⁵⁷ Ibid, Part 2.

⁸⁵⁸ Ibid, Part 1, Paragraph "c".

⁸⁵⁹ Ibid, Article 5, Part 1, Paragraph "b".

⁸⁶⁰ Ibid.

⁸⁶¹ Annex to the Resolution №19/2022 of the Central Election Commission of Georgia, February 18, 2022, Article 6, Part 2, Paragraph "b".

⁸⁶² Ibid.

on the same ballot paper.⁸⁶³ After that, the voter entered the secret ballot booth, filled in the ballot paper using a special marker, and placed it in a frame-envelope.⁸⁶⁴ An electronic device mounted on the main ballot box was used for voting.⁸⁶⁵ The voter placed the ballot paper in a special apparatus in accordance with the established procedure and handed over the frame-envelope to the box supervisor. If a citizen could not independently place the ballot in the machine, a member of the commission was authorized to assist them.⁸⁶⁶ Prior to the voting process, the Chairperson of the Commission received a “zero report” from each polling station, confirming that no voters had cast their ballots at that time.⁸⁶⁷

Voters could vote through a mobile ballot box. If the integrity of the seal was not violated after returning it to the polling station, after opening the ballot box, the Chairperson of the Precinct Election Commission used the apparatus to place the ballot papers in the main ballot box in a way not to violate the secrecy of the ballot.⁸⁶⁸

After the completion of the voting procedures, the Chairperson of the commission printed the final report on the arrived voters from the verification apparatus⁸⁶⁹ and from the counting machine - the final results of the voting. After that, the vote-counting procedure was started in accordance with the rules established by the Election Code, on the basis of which a summary protocol was filled out.⁸⁷⁰

On March 22, 2022, the CEC held mock elections in Batumi using electronic technologies.⁸⁷¹ GYLA representatives had the opportunity to observe the process and participate in it as voters. This step should be positively evaluated, as the parties involved were given the opportunity to learn about the use of electronic means in practice and to get answers to the questions asked on the spot.

On election day, GYLA observers fully attended 12 out of 14 polling stations opened in Batumi, where the process was conducted using electronic means.

The representatives of the organization revealed various technical shortcomings in the process of using electronic technologies. The main challenge that GYLA has registered and which the election administration has to answer is related to the risks of violating the secrecy of the ballot. During the day, observers at all polling stations noticed that as a result of coloring with a marker on a special ballot paper during voting, the liquid was leaking on the other side of the page. The ballot paper in the envelope was often not placed properly, and depending on the location of the marked link on the back, it was possible to distinguish the

⁸⁶³ Ibid, Article 5, Part 1, Paragraph “d”.

⁸⁶⁴ Ibid, Paragraphs “e” and “f”.

⁸⁶⁵ Ibid, Paragraph „g”.

⁸⁶⁶ Ibid.

⁸⁶⁷ Ibid, Article 4, Part 1, Paragraph “e”.

⁸⁶⁸ Ibid, Article 7, Part 2, Paragraph “a”.

⁸⁶⁹ Ibid, Article 5, Part 5.

⁸⁷⁰ The Election Code of Georgia, Article 69.

⁸⁷¹ Simulated elections using electronic technologies are being held in Batumi, Central Election Commission of Georgia, available at: <https://bit.ly/3mgFLyC>, updated: 20.05.2022.

marked candidate. This is problematic because it increases the risks of influencing the will of the electorate and violates the principle guaranteed by the Constitution on the secrecy of voting. The shortcoming was especially problematic this time, as only two candidates were running in the elections held in the №79.04 Constituency in Batumi. In addition, the box supervisor was authorized to assist the voter in placing the ballot paper in the machine if necessary. Consequently, it was easy to see who the citizen voted for.

According to the representatives of the organization, the special mobilization of the CEC during the election process using electronic technologies was clear. In some cases, PEC representatives were assisted by District and Central Election Commission members in conducting appropriate procedures. Several polling stations also reported the recall of technical staff by Commission members, mainly due to malfunctions of equipment or the need to reset software. GYLA observed special monitors in several polling stations explaining the voting instructions to the voters. It should also be noted that the CEC had developed a plan in advance to ensure that if electronic means were not functioning, the voting would continue through standard voting procedures, which should be assisted positively. GYLA positively assesses the active involvement of the Central Election Commission and its staff in this process. This has helped to overcome the challenge of conducting voting procedures using electronic technologies.

Nevertheless, it should be noted that in the future, in the event of the introduction of similar innovations on a larger scale during the general elections, the CEC will not have the resources to ensure that the process is fully managed. If the election administration is considering the introduction of electronic technology in the next elections, it will be important to thoroughly train the members of the commissions, raise their qualifications and mobilize a sufficient number of technical staff who will be able to provide timely and adequate assistance to the precinct election commissions. In addition, GYLA believes that the election administration should provide additional information to the parties involved and voters on security issues during the elections using electronic means, especially cybercrime, and ensure against the risks of influencing the will of the voters.

5. The Election Day

5.1. Arranging and Opening the Precinct

On April 2, 2022, during the Batumi Sakrebulo by-elections, the rules for arranging polling stations were violated in several cases,⁸⁷² as the number of registered voters in the polling stations exceeded 1,500.⁸⁷³ Particularly problematic was the 89th Precinct in Batumi, where the number of registered voters was 2015. In many polling stations, according to GYLA representatives, there was a density, which was due to the narrowness of the polling station,

⁸⁷² Batumi Precincts # 23, 69, 77, 89 and 91.

⁸⁷³ The Election Code of Georgia, Article 23, Part 2.

as well as the presence of a significantly large number of authorized persons at the polling station. The smooth working of commission members and observers was often hampered.⁸⁷⁴

Almost all polling stations opened on time. In the 23rd and 76th precincts of Batumi, the verification apparatus had technical problems, due to which the opening of both precincts was delayed by about 15 minutes. At polling station #76, both verification machines printed the same list, prompting the technical team to restart the program. One of the 3 machines in the 23rd Precinct was broken, so the registrar started using the desk list. Problems were also created in the 89th Precinct, where one of the machines did not print the receipt after the arrival of the voter. Later, the apparatus was replaced, though this Precinct was still opened in time.

5.2. Voting Process

In the polling stations where GYLA observers were present, the voting process was largely free of irregularities. However, representatives of the organization revealed several procedural shortcomings in the period, from the opening of the polling station to the end of voting.

According to GYLA observers, most of the precincts did not properly comply with the COVID-19 prevention regulations. The 78th Precinct of Batumi was especially problematic, where the members of the commission did not wear a mask. GYLA remarked on this, but the Chairperson, instead of correcting the defect, called the GYLA observer a “greenhorn.” At the 90th polling station in Batumi, the flow regulator allowed a voter who had already been marked and had cast their vote at the same polling station. As a result of GYLA's remark and the response of the Chairperson, the violation was eliminated. After returning the mobile ballot box to the 76th polling station in Batumi, the number of empty ballot papers turned out to be 1 less. Relevant members of the commission wrote an explanation and stated that this ballot was lost in an unknown circumstance. Several members of the commission left the building at the 100th Precinct. The violation was eliminated after GYLA's remark. The observer behind the registrar at polling station #89, representing Multiethnic Unity, was recording data from desk lists. Despite numerous remarks from the observer, the Chairperson was unable to rectify the problem. GYLA wrote a complaint at the polling station, which was not responded to. The organization appealed to the Batumi District Election Commission and demanded that the Chairperson of the Precinct Election Commission be disciplined for improper performance of work. The complaint was not upheld on the grounds that, according to the Chairperson of the Precinct Commission, they had rectified the violation on the spot.⁸⁷⁵ GYLA observer does not confirm the fact. All polling stations were closed on time on election day. GYLA representatives did not reveal any significant violations during the counting of the results.

⁸⁷⁴ Batumi Precincts # 58, 78, 91, 92, 100 and 104.

⁸⁷⁵ Ordinance №26/2022 of the № 79 Batumi District Election Commission, April 5, 2021.

5.3. Violation of Agitation Rules

On polling day, GYLA representatives revealed 2 facts of violation of agitation rules inside the polling station. At the 78th polling station, an observer observed the fact that the Chairperson of the Precinct Election Commission asked one of the voters after registration whether they knew who to vote for. The GYLA observer lodged a complaint with the Precinct Election Commission, requesting that an administrative violation report be drawn up against the Chairperson, which was not responded to. The organization appealed the fact to the Batumi District Election Commission and made the same request. The District Chairperson refused to draw up a protocol for GYLA, arguing that the PEC Chairperson had denied the fact, adding that PEC members had drawn up an act in which several of them signed a statement denying the circumstances of the complaint.⁸⁷⁶ GYLA does not know what type of legal act was drafted by the members of the Precinct Election Commission, which rejected the circumstances of the complaint. In addition, the Chairperson of the Batumi District Election Commission does not specify in the letter how many or which members of the commission signed this act. Although the document is the basis for the Chairperson's decision, it is not uploaded to the CEC Complaints Database, along with other documents related to the complaint. At the same time, the election legislation does not recognize the similar legal leverage by which the members of the commission confirm or deny the circumstances revealed during the voting process. GYLA applied to the CEC and requested the act on which the Chairperson of the Batumi District Election Commission based their decision. The Batumi District Commission provided the organization with an act,⁸⁷⁷ which, in its content, is an explanation. The author of the document is a representative of the Center for Regional Development and Promotion, one of the observer organizations. At the end of the application, the names of 5 more people are indicated, and the document is signed by 4 of them. GYLA compared the list of signatories with the data of the PEC members indicated under the summary protocol and found that⁸⁷⁸ only 1 out of 4 people is a member of the 78th PEC in Batumi. The authority of the rest is unknown to the organization. In addition, according to the explanation, the signatories state that they did not witness the fact of agitation, and it was just a greeting between relatives, which “ended in a few seconds and was eliminated.” The Georgian election law recognizes only two types of explanations: first, when it is written by a member of the commission about a specific violation,⁸⁷⁹ and second when it is written by a violator against whom a complaint is filed.⁸⁸⁰ Accordingly, the Election Code does not provide a record for the explanation and the signature of the witnesses. Accordingly, the DEC should not have based its decision on

⁸⁷⁶ №1579/25 written refusal of the Chairperson of the №79 Batumi District Election Commission to draw up a report on an administrative violation, April 15, 2022.

⁸⁷⁷ Annex №79/37 of the Response of the Batumi District Election Commission of June 9, Explanatory Card, available at: Explanatory Note.pdf, updated: 10.06.2022.

⁸⁷⁸ Summary protocol of the 78th Batumi Precinct Election Commission, available at: <https://bit.ly/3QfoUtF>, updated: 10.06.2022.

⁸⁷⁹ The Election Code of Georgia, Article 2, Paragraph „z¹²”.

⁸⁸⁰ The Election Code of Georgia, Article 72, Part 2, Subparagraph „g”.

this document. In addition, it erroneously indicates that the act was drafted by members of the Precinct Election Commission. In order to hear the position of the persons present at the polling station, the District Election Commission could summon them to consider the complaint and then make a decision. GYLA considers that the District Election Commission is obliged to properly consider each complaint and base its decision on evidence. In addition, all documents that form the basis of the decision must be made publicly available, along with other documents related to the complaint.

On election day, another GYLA observer revealed agitation in the polling station. At the 79th polling station in Batumi, a representative of the party United National Movement was walking around the polling station wearing a T-shirt with the name, surname, and photo of the deceased MP, Nugzar Putkaradze. GYLA filed a complaint with the Precinct and then the District Election Commission, requesting that an administrative violation report be drawn up for violating the agitation rules. The Chairperson of the Batumi District Election Commission did not uphold GYLA's request.⁸⁸¹ According to them, the investigation confirmed the fact of wearing a T-shirt in the polling station, although this was not a violation of the agitation rules established by law. GYLA considers that the T-shirt, which depicts a current or former member of a political entity participating in the elections, belongs to the agitation material. The circumstance that Nugzar Putkaradze's son was running in the Batumi by-elections on behalf of the United National Movement should also be taken into account.

5.4. Cases of Violation of Perimeter Regulations

Two cases of alleged agitation were detected within a 25-meter radius of the polling station on election day. In the vicinity of the 100th Precinct, an unknown person called a voter to circle 41. After the GYLA observer remarked, this person left the area. A voter entering polling station #104 were holding specially printed campaign materials with “War Party” written alongside the UNM serial number, and the bulletin instruction called for “coloring” the circle next to the Georgian Dream candidate Ramaz Gincharadze.⁸⁸² Apparently, this agitation material had been distributed to the voters on the perimeter.

GYLA observers also revealed the facts of voter registration, delays, and gathering of people within a 100-meter radius. GYLA called 112 in two cases to respond to the violation of perimeter regulations.

People were mobilized 10 meters from the 77th Precinct of Batumi. Police arrived on the scene in a timely manner. However, they did not draw up a report of the offense on the grounds that the assembled persons had the authority to be present at the polling station and could not be fined.⁸⁸³ The fact of gathering near the 100th polling station was revealed. GYLA

⁸⁸¹ №1579/25 written refusal of the Chairperson of the №79 Batumi District Election Commission to draw up a report on an administrative violation, April 15, 2022.

⁸⁸² Photographs taken by GYLA observer for agitation material, available at: Campaigning material.jpeg, updated: 10.06.2022.

⁸⁸³ GYLA requested official information from the Ministry of Internal Affairs regarding the action, however, as of June 14, the law enforcement agency has not responded.

observer informed the police standing nearby. As a result, the individuals temporarily left the Precinct. According to the GYLA observer, a report on the violation was not drawn up in this case either. The organization requested official information about the actions from the Ministry of Internal Affairs; however, as of June 14, the law enforcement agency has not returned a response.

According to GYLA observers, there was a complete disregard for voter control regulations in the vicinity of the polling stations throughout the day, in particular, the prohibition of gatherings, voter delays, and registration bans. However, in no case did the law enforcement representatives respond adequately. Due to this, despite the continuous nature of the violation of perimeter regulations during the day, GYLA no longer appealed to the patrol police.

5.5. Other Cases of Voter Will Control

By-elections again showed a negative tendency to control the will of the electorate. On April 2, queues were observed at the separate entrances to the polling stations. Often, this was caused by the mobilization of voters by political parties. GYLA observers spotted minibusses carrying voters to polling stations #76 and #100. In addition, representatives of the organization noticed influential people, including members of Parliament, members of Tbilisi, and regional Sakrebulo - from the Georgian Dream, the United National Movement, and other parties. Their presence in the vicinity of the precincts increased the risks of influencing the will of the voters.

Crowds and density were also observed inside polling stations due to the presence of a particularly large number of observers in fairly small precincts. Because of this, GYLA was sometimes prevented from fully observing the process. This problem hampered the work of precinct election commissions both during the day and after the polls closed. Representatives of some observer organizations participated in voter registration inside the Precinct or in their mobilization outside the Precinct. In many cases, GYLA observers identified organizations that were involved in these activities or affiliated with political parties.⁸⁸⁴

⁸⁸⁴ 21st Century Association, Civil Society Association, Poti - for Georgian Democracy, Social Environment, Youth Center - Our Generation 1921, Analytical-Compilation Center for Electoral and Political Technologies, Poti Youth Alliance, For the Rights of Persons with Disabilities, Civil Society Initiative, Light for the Future, Union the 21st Century, United Georgian Youth Commission, For Georgian Civil Society, Young Generation, Barristers and Lawyers International Observatory, Monitoring Center - Society, Multiethnic Unity, Alt-Media, Center for Regional Development and Promotion, Women's Role for Society, Civic Unity, Poti Association, American Supporters League, Observer of Politics and Law, Center for Combating Regional Corruption, Organization of Public Institutions, Association for Combating Regional Conflict, Movement for the Unity and Diversity of Georgia.

ⁱ The Central Election Commission does not share this opinion of GYLA. According to CEC assessment, "it is noteworthy that the selection of temporary members was supported not only by the members appointed by the Georgian Dream but also by the members appointed by other party too, which indicates a high level of involvement and some degree of consensus. Therefore, the discussion on the influence of the Georgian Dream in the Commission is incomprehensible. We also do not consider it reasonable to draw such a conclusion based only on statistical data. In its activities, the electoral administration does not distinguish its members by party affiliation or being elected on professional grounds. All members have equal access to information and can make their own choices, including a member appointed by the ruling party. When analyzing a range of the vote of the other members, it is conceivable that there are quite large differences and similarities, taking into account the criteria and individual approaches. Therefore, it is not reasonable to highlight the voting statistics of one of the members without considering the whole context, as this may lead to a wrong perception of the whole electoral process (particularly the selection of the commission members), especially when it is mentioned even in the conclusion that the selection was transparent and based on consensus."

ⁱⁱ According to the CEC's view, "it should be noted that the procedure of audio-video recording does not include scanning the ballots. The given procedure entails filming the process of vote counting starting from the opening of the ballot box(es), including the sealing of the stacks of ballots, in such a way that the process of counting and the place where the ballots are placed are fully visible".

GYLA does not agree with the CEC's remark. The decree regulating video recording provides for showing the ballot to a camera, the purpose of which, according to the view of the organization, is supposed to capture the will of the voter on the camera. Therefore, it is recommended that the video recording of the vote counting shows a complete picture of the process, which will increase its credibility.

ⁱⁱⁱ CEC believes that "the inconsistency does not go beyond the framework defined by the legislation and the recommendations of the document on the consistent practice of the CEC. On the other hand, it shows that the commissions are indeed independent in their decisions and rigid centralized control of their activities is not in place. Besides, all decisions depend on individual circumstances and the complaint."

According to the findings of GYLA, district election commissions were consistent in deciding whether to satisfy or not certain complaints, although they were inconsistent in imposition of liabilities as provided in the legislation. When discussing the issue of disciplinary action against multiple numbers of commission members, it was often unclear on what basis the district election commissions decided which member should be disciplined, even though the Election Code provided for imposing disciplinary liability on all of them.

^{iv} According to the CEC, "issues of a candidate selected on a professional basis and a party consensus are incompatible. It is not clear how precinct election commissions would be staffed by party consensus, when the recommendation proposes that the district commissions be staffed fully on a professional basis.

GYLA believes that when appointing professional members to election commissions, consensus should be reached among the political parties in the legislative body during the approval process. The parties should reach consent not on the proportional distribution of party members, but rather directly on the candidates who will fill the positions of commission members.

^v CEC claims, "in the absence of an anti-deadlock mechanism during the election of the temporary member of the district election commission, it would not have been possible to elect the members of the district election commission in full."

GYLA believes that it is possible to select members of the commission based on consensus, as proved by the results of the observation of the 2021 selection process. With the abolition of the anti-deadlock mechanism, it is necessary to increase the period of recruitment so that members have more opportunities to reach consent on acceptable candidates.

^{vi} According to the CEC, "a completely uniform practice is possible only if there is a categorical vote. However, this may lead to a partial restriction of the rights of citizens or at least the perception of this restriction".

^{vii} As CEC clarifies, "according to the subparagraph "d²" of Article 21 of the Election Code, the ballots must be recounted. If it is not necessary to completely recount the data of the precinct, doing so will complicate the working process of the Commission, while the same result can be achieved with the current procedures too".

GYLA believes that the technical recounting of ballots does not fully serve the primary purpose of substantial verification of results.

^{viii} CEC notes, "the mentioned procedure is regulated by CEC decree No. 40/2021."

GYLA believes that the established procedure does not provide for a comprehensive recounting of the voting results. In order to increase confidence in the results, the commissions must carry out a procedure similar to the counting in the precincts, including the comparison of the signatures on the desk lists of the recounted results.

^{ix} CEC believes that "it is possible under the Election Law to transfer the specified function to another member of the commission with the approval of the chairperson, and that the legislation does not provide any restriction on "other members." Besides, there is a risk that there will not be enough professional members. Moreover, this effectively results in complete separation of the members of the commission who are appointed by the parties."

According to GYLA, the introduction of the provision on appointing professional members as registrars serves to maximize the distance of party-appointed commission members from the electoral desk lists. If there are not enough professional members in the polling station, the chairperson of the commission can also perform this function.

^x The CEC decrees provide clear argumentation on which the operative part is based, including the decree No. 180/2021. It should be noted that the mentioned decree, in reference to the operative parts of the decrees adopted by the District Election Commissions of Mtatsminda No. 1 and Keda No. 80, was not even challenged by the author of the complaint in the court.

^{xi} The CEC states that "Article 8, paragraph 25 of the Election Code prohibits processing the data that is not public information, and Article 45, paragraph 12 provides for the ban on the tracking of the voters and obstruction in the outer perimeter of the polling station."

GYLA findings show that any form of voter tracking, including the lists intended for public usage, is utilized by political parties as a tool for putting pressure on voters and controlling their free will. Therefore, the established bad practices must be eliminated. In addition, the relevant sections of the report reflect GYLA's views on the operation and enforcement of regulations concerning the perimeter.

^{xii} As for the advisory group, the CEC's function was limited to providing assistance. Thus, the decisions of the advisory group were based on the recommendations of the non-governmental organizations themselves. Therefore, we believe that reaching an agreement was mainly the responsibility and right of the non-governmental organizations and the influence of this decision of the election administration on the final result is minimal.

^{xiii} CEC states, "all members of the district election commission, including party-nominated members, had the opportunity to become familiar with the election materials on site, and information about the candidates and their election-related experience was made available to all in a processable format."

^{xiv} CEC notes, "the legal acts of the CEC provide a clear argumentation on which the operative part is based, including decree No. 180/2021. As for the accessibility of documents, relevant evidence was presented and discussed at the meeting of the commission. It should be taken into account that the mentioned decree, in reference to the decrees adopted by the district election commissions of Mtatsminda No. 1 and Keda No. 80, was not challenged in the court and the reasoning of the CEC decree was not disputed even by the author of the complaint."

The operative part of the given CEC decree indicates the regulations based on which the district election commissions are staffed, and also mentions that the selection procedure for the district commissions was conducted in accordance with these regulations. However, it is not clear from the decision on what basis the petitioner's request to get fully acquainted with the applications was not granted. According to the CEC, relevant evidence was presented and discussed at the commission meeting, although the relevant information was not identified in the resolution.

^{xv} CEC notes, "The CEC reviewed the potential impact of the disinfectant solution on marking fluids as early as in 2020, and no issues were identified in this regard."

^{xvi} The CEC claims, "It is unclear why the cases in the second paragraph imply the so-called "stuffing."

The GYLA observer could not verify whether the envelopes carried the ballots. Therefore, according to the organization, it is an alleged case of stuffing the ballots in the box. In addition, the actions of the precincts and district election commissions, which did not respond appropriately to the incident, are problematic.