



## Newsletter No. 1

### Monitoring of the Presidential Elections of 2018

August 2018

#### About the Monitoring Mission of the GYLA

**The Georgian Young Lawyers' Association (GYLA) started the monitoring of the pre-election period of the 2018 presidential elections on August 1.**

The GYLA is observing the pre-election period through its central office in Tbilisi and eight regional offices covering the regions of Adjara, Guria, Samegrelo-Zemo Svaneti, Imereti, Racha-Lechkhumi, Shida Kartli, Kvemo Kartli, Samtskhe-Javakheti, Mtskheta-Mtianeti, and Kakheti.

The monitoring aims to promote fair and transparent electoral processes and to ensure that members of the election administration, electoral subjects, and public officials comply with the electoral legislation and internationally established democratic standards, as well as to inform citizens of Georgia and the international community of violations and trends related to the pre-election processes before the presidential elections of 2018 and to highlight deficiencies in legislation and practice. The monitoring also aims to identify problems in the electoral legislation and advocate relevant amendments after the elections are over.

The monitoring puts a particular emphasis on the promotion of objective, fair, independent, and effective investigations, fair trial, uniform practice, and inclusive and competitive electoral environment for women, PwDs, and ethnic minorities.

The GYLA's monitors place an emphasis on such issues as staffing of election administrations, identification/elimination of cases of the use of administrative resources and vote buying, the environment conducive to free expression of voters' will, issues related to funding of political parties, the exercise of the rights and obligations of electoral subjects, inclusive electoral environment, the working environment for the media, etc.

In the event of identification of violations, the organization lodges relevant applications/complaints with the election administration, the Interagency Commission for Free and Fair Elections, the State Audit Office (SAO), and other relevant agencies in order to ensure that they respond in the manner provided for by law.

The present newsletter emphasizes the activity of agencies involved in electoral processes (the election administration, the Interagency Commission, the SAO, the Government of Georgia, and law enforcement bodies) during the reporting period and also includes incidents, developments, and violations that took place before August 1 but can exert certain influence on the electoral environment.

The GYLA has requested additional information regarding several alleged violations/incidents, the results of whose analysis will also be made known to the public.

## Alleged case of vote buying



2 On May 29, 2018, the media reported about a new initiative of the United National Movement (UNM) titled 'People against Ivanishvili'. According to this initiative, in the case of coming to power, the party is planning to compensate the damage suffered by the population at the hands of the banking sector during the rule of the Georgian Dream, as well as to [declare](#) a 2-year-long moratorium on the payment of debts to financial and micro-finance organizations. As part of the project, the party offers cooperation to citizens who are in a grave economic and legal situation.

'All the debts will be recalculated according to the exchange rate that existed during my presidency – 1.65. I am going to introduce regulations under which banks and micro-finance organizations will no longer be able to act as usurers and will have to decrease interest rates. By means of this fund, we are also going to give compensations to all those individuals who were unlawfully dismissed from their jobs in the years 2012-2018,' says a 'guarantee certificate' signed by the party's founder, [Mikheil Saakashvili](#). In addition, the party promises to compensate damage not only to those citizens who suffered damage at the hands of banks but also to those who lost their jobs during Ivanishvili's rule – representatives of the party declare that a fund will be set up which, together with public funds, will mobilize the funds 'of Ivanishvili and those officials who have enriched themselves by stealing from the people', which the party will force them to bring back after they come to power.

On June 27, 2018, representatives of the UNM [distributed](#) the 'guarantee certificates' to 100 citizens living in Zugdidi. The party representatives continue to distribute the 'guarantee certificates' to voters.

We believe that this action presumably contains a violation of the requirements of the Organic Law of Georgia on Political Associations of Citizens as it involves carrying out of prohibited activity and vote buying by the party and its representatives due to the following circumstances:

According to Paragraph 1 of Article 25<sup>2</sup> of the Organic Law of Georgia on Political Associations of Citizens, a party may not, directly or indirectly, with the assistance of a party candidate, representative or any other person, solicit citizens of Georgia by supplying or promising monetary funds, securities, tangible or intangible assets, or services (including entering into fictitious labor or other relations). According to Paragraph 2 of the same article, no individual may carry out the said actions in favor of or against any party.

At the same time, according to Paragraph 3 of Article 25<sup>2</sup>, the prohibition relating to the promise referred to in Paragraph 1 of this article does not apply to political and election promises made with respect to the future allocation of budgetary funds and implementation of the state policy in the future.

According to Article 164<sup>1</sup> of the Criminal Code, only an action that was carried out for election purposes can be considered as vote buying. In addition, a note to the same article establishes an exception by stating that 'A person shall not incur criminal liability for political and election promises related to the future distribution of budgetary funds and to the implementation of the state policy in the future.'

We believe that distribution of the ‘guarantee certificates’ to citizens by a political association and its representatives exerts an influence on the free expression of voters’ will. Presumably, this serves to bribe voters and to solicit them by promising monetary funds, which is not related either to future distribution of budgetary funds or implementation of the state policy in the future. The issue of setting up a special state fund and accumulating financial resources in it raises the following questions: How and on the basis of what legal regulations will the fund be set up? How will the party mobilize resources in this fund? Will the process of returning ‘money stolen’ from the people by officials be implemented in accordance with the law? It remains a fact that the applicable legislation does not provide for the existence of such a fund, which raises questions about the realistic nature of the fulfillment of the promise.

On July 4, 2018, the GYLA applied to the SAO with a request to study this issue swiftly, effectively, and thoroughly. As far as we know, the SAO has started to study this issue on the basis of the GYLA’s application.

### Theft at the office of the National-Democratic Party



Party was [burgled](#). According to members of the party, the theft was committed with a political aim and was not motivated by the desire to obtain a material benefit. The burglar took certain equipment from the office, including computers containing important information – in particular, information and phone numbers of their supporters, results of a survey conducted by the party, the voter list, etc. The GYLA’s monitors verified this information directly with the party representatives.

**Law enforcement bodies launched an investigation into the theft under Subparagraphs A and B of Part 2 of Article 177 of the Criminal Code of Georgia, a crime that involves secretly taking another person’s movable**

**property for its unlawful appropriation, committed by illegally entering the premises or any other storage facility, which has resulted in considerable damage.**

According to the information released by the Ministry of Internal Affairs on August 19, officers of the Old Tbilisi Division of the Tbilisi Police Department of the MIA have detained one individual red-handed and recovered the items stolen from the office as evidence. The party [got back the items](#) recovered as evidence. The court sentenced the detainee to imprisonment as a measure of restraint.

**We should give a positive assessment to the timely response by law enforcement agencies, as a result of which the stolen items were returned to the party, which prevented the theft from hindering the conduct of the pre-election campaign.**

## The election administration and its activity

### The CEC's ordinance regarding the registration of electoral subjects



On August 13, 2018, [the CEC adopted Ordinance No. 42/2018](#), establishing that parties that had been registered with the CEC for the parliamentary elections of October 8, 2016, or for the local self-government elections of October 21, 2017 – including those whose registration had been abolished by an ordinance of the Chairperson of the CEC – were entitled to nominate one candidate for the elections of the President of Georgia of October 28, 2018.

It should be noted that, according to Paragraph 1 of Article 98 of the Election Code, a party or an initiative group of voters registered with the CEC have the right to nominate [one candidate for the President](#) of Georgia. However, by the ordinance of August 13, 2018, the CEC broadened the

circle of subjects and gave the opportunity to nominate a candidate to those parties which had been registered with the CEC for the parliamentary elections of 2016 or for the local self-government elections of 2017 but whose registration had been abolished by an ordinance of the Chairperson of the CEC.

**The GYLA gives a positive assessment to the adoption of this ordinance by the CEC, as this decision gives the opportunity to participate in the presidential elections to those political parties that were registered for the elections of 2016 and 2017 and whose registration was abolished by an ordinance of the Chairperson of the CEC.**

## Monitoring of staffing of district and precinct election commissions



On August 4 and 6, 2018, the Central Election Commission (CEC) elected 73 temporary members to district election commissions (DECs).<sup>1</sup> 173 individuals had applied for these positions.

As part of the pre-election monitoring, **the GYLA has studied information about the elected individuals and also verified** information about nepotism in this process and selection of individuals close to the ruling party, which had been disseminated by the opposition political association 'Strength in Unity'. While studying this information, representatives of the organization requested public information from the election administration, while the information about the elected

individuals' alleged kinship and friendship ties, as well as about their party background, had mainly been obtained from the media, and was also verified on the ground. For example, the chairperson of one of the DECs [told](#) the media that his spouse had been appointed as a member of another DEC.

As a result of the foregoing, it was established that **out of the 73 individuals elected** to DECs:

- none had been subjected to disciplinary or administrative liability **during the elections of 2016 and 2017;**
- **29 individuals** during the **2017 elections**<sup>2</sup> and **17 individuals** during the **2016 parliamentary elections**<sup>3</sup> **had been employed at the election administration on the professional basis;**
- **1 individual** during the **2017 elections**<sup>4</sup> and **9 individuals** during the 2016 elections<sup>5</sup> **had been appointed to the election administration on the basis of party membership.**

As a result of verification of information, the GYLA's observers identified cases of alleged kinship ties and activism/support for a political party, in particular:

- activism/support for the Georgian Dream by the elected individuals **in 5 cases (cases of Chiatura, Rustavi, Martvili, Zugdidi, and Tskaltubo);**
- family membership/kinship/friendship ties of the elected individuals with high-ranking officials of election commissions and a high-ranking official of the State Security Service in 6 cases (ties with high-ranking officials of election commissions in the Nadzaladzevi District of Tbilisi, Dusheti, Kareli, Gori, and Telavi and ties with a high-ranking official of the State Security Service in Lentekhi).

<sup>1</sup> The elected individuals are supposed to fulfill the obligation of professional members of DECs until the announcement of the final results of the presidential elections.

<sup>2</sup> The CEC elected 27 of these individuals as temporary members of DECs, while 2 DECs elected 2 of them as professional members of DECs.

<sup>3</sup> These individuals served as temporary members of DECs.

<sup>4</sup> Political movement 'United Democratic Movement' – 1 individual.

<sup>5</sup> Political association 'Conservative Party' – 4 individuals; political association 'Georgian Dream' – 1 individual; political association 'Republican Party' – 1 individual; political association 'Free Democrats' – 2 individuals; political association 'United Democratic Movement' – 1 individual.

While working on the report, the GYLA requested a meeting with the Chairperson of the CEC in connection with the ongoing process of staffing of election commissions. The Chairperson of the CEC refused to meet with representatives of the organization. The CEC preferred to limit itself with a public statement in which it failed to provide proof that the information contained in the report was inaccurate. Later, the Chairperson of the CEC made a statement for the media in which she [called](#) the GYLA's [study](#) 'unserious' and 'unprofessional', violating the [Code of Conduct of Election Administration Officials](#).<sup>6</sup> The Code of Conduct makes the Chairperson of the CEC obliged to respect the law and to be fair, impartial, and independent, as well as to be tactful when expressing her opinions and to make sure that the criticism she expresses is well-substantiated.

[The GYLA called on the election administration and its Chairperson to be respectful when carrying out their activities and to provide reasoning for their criticism.](#)

Later, on August 27, the united opposition force 'Strength in Unity' released recordings which, as they explained, showed the way in which the Campaign Headquarters of the Georgian Dream staffs election administrations, provides DEC's with lists of individuals to be elected to precinct election commissions (PECs), and [cooperates](#) with them. The opposition argues that, according to the said recordings, the Chairperson of the DEC of Krtsanisi, Davit Petviashvili, maintains direct contact with the Coordinator of Commissions of the Krtsanisi District at the Campaign Headquarters of the Georgian Dream, Nino Maisuradze. In addition to the Chairperson of the DEC of Krtsanisi, the recordings also contain the conversations of several other individuals, who, according to the election administration, are not [members of the election administration](#). After these recordings were disseminated by the media, the opposition parties [demanded](#) the resignation of the Chairperson of the CEC.

The election administration has started to study the incident. The Internal Audit Service of the election administration approached the opposition union, demanding that they hand over the full recordings. The Chairperson of the DEC of Krtsanisi applied to the CEC with a request of resignation, which the CEC granted.<sup>7</sup>

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<sup>6</sup> The Code of Conduct also makes the Chairperson of the CEC obliged to help stakeholders obtain information and documentation related to the electoral process or to the activity of the election administration, to communicate effectively, and to avoid the emergence of personal or other conflicts when performing her duties.

<sup>7</sup> It should be noted that during the monitoring the CEC informed the public of provocative actions directed against it. According to the election administration, the said actions aimed to discredit its activity. The CEC stated that the attempts to discredit it were a part of a targeted plan to undermine the public's trust in the election administration and the high reputation of the CEC which was reflected both in the reports of international organizations and in the latest opinion poll. The CEC informed the public that in various municipalities unidentified persons made phone calls to citizens on behalf of DEC's and verified citizens' data. The CEC also informed the public that unidentified persons were delivering the message for senior DEC officials, as if they had been summoned to meetings with the new regional governors, and that phone calls were made on behalf of the ruling party, as if to get the confirmation on the receipt of the 'forwarded' list of persons to be elected at election precincts. Phone calls with such content were made in Gardabani, Marneuli, Zugdidi, in several election districts of Tbilisi, etc. The CEC didn't rule out the possibility of repeated dissemination of processed recordings. <http://cesko.ge/eng/list/show/114375-tseskos-sagangebo-gantskhadeba-saolqo-saarchevno-komisiebshi-ganvitarebul-movlenebze>

The process of monitoring of staffing of DEC's has revealed a variety of deficiencies that reflect negatively on the public's trust in the election administration. It should also be noted that on August 1, 2018, the CEC defined the procedure, terms, and time frames of competitions for the selection of PEC members for the 2018 elections. Unlike the procedure approved for the 2017 elections, PECs are no longer obliged to invite applicants for PEC membership to an interview,<sup>8</sup> which fails to ensure that the process of selection of PEC members will be conducted transparently and on the basis of well-argued discussion.

According to the time frames established by the Election Code, on September 8-12, DEC's are supposed to elect neutral and professional members of PECs. **Due to the significance of the process and a high public interest in it, and in order to ensure that decisions in relation to each applicant for PEC membership will be substantiated and objective, we call upon the CEC to:**

- **restore the provision about interviews with applicants for PEC membership;**
- **ensure that the competitions will be conducted by means of interviews with applicants;**
- **ensure that the process will be transparent and that the information about the competitions will be disseminated broadly;**
- **ensure that candidates who have not been subjected to disciplinary or administrative liability during past elections will be given priority.**

It should also be noted that the organization has observed the process of staffing of election commissions for years, talking about deficiencies revealed in this process and about [ways of resolving them](#). In particular:

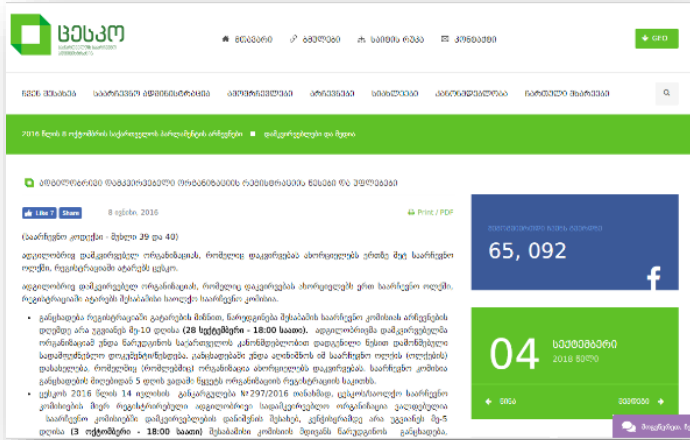
- 1) **The criteria for selection of members and the motivation of members of the commissions making the decisions are unclear;**
- 2) **There continues to be a lack of objective pre-conditions for selecting qualified, independent, and highly ethical individuals in the election administration;**
- 3) **For years, the GYLA's observers have been identifying cases when higher commissions selected individuals who had been nominated to the election administration by parties during previous elections for professional membership of DEC's or PECs.**

The GYLA continues the monitoring of staffing of PECs and is going to provide the public with detailed information about the process.

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<sup>8</sup> Decree No. 112/2017 of the Central Election Commission of Georgia of 22/08/2017.

## Online registration of observers of observer organizations



The CEC has enhanced the capabilities of its electronic registration software for the 2018 presidential elections. At the same time, in addition to simplification of political parties' appointment of proxies and members to election commissions, this year, for the first time, the CEC has given observer organizations registered for the presidential elections an alternative opportunity to appoint observers in a simplified manner – by means of an electronic program online.

The GYLA welcomes any initiative of the election administration regarding the use of new technologies in the electoral process which is aimed at improving the process.

## The Interagency Commission and its activity





## Significant recommendations issued by the Commission

From 1 July 2018 onwards, the Interagency Commission has held four meetings and issued one recommendation. Despite the fact that the pre-election campaign starts 60 days before the polling day, with the aim of establishing a higher standard, the Commission gave a recommendation to public servants of the central and local authorities to comply as best as possible with the requirements provided for by the electoral legislation from the day of announcement of the date of the elections of the President of Georgia and to separate their professional activity from electoral and [political processes](#). The Commission deemed its recommendations issued in the run-up to the 2013 presidential, 2014 local, 2016 parliamentary, and 2017 local elections as a significant legal mechanism.

## The Interagency Commission – activity beyond the mandate



On August 24, 2018, the Chairperson of the Interagency Commission and the Minister of Justice, Ms. Tea Tsulukiani, turned the meeting of the Commission **into an area for settling scores**. **At this meeting**, in addition to the issues on the agenda, the Chairperson of the Commission – on the basis of a statement by N(N)LE Georgian Barristers and Lawyers' International Observatory – took an interest in the GYLA's [report](#) on the monitoring of staffing of election commissions.<sup>9</sup> During the meeting, the Minister of Justice demanded that the Secretariat of the Commission print out the results of the GYLA's monitoring and commentaries, so that she could read them on the spot and discuss [the document known as the GYLA's study](#)'.

The Minister of Justice called upon participants of the electoral process to 'refrain from attempting to discredit the CEC or from taking part in such attempts without undisputable evidence', and asked the representative of the GYLA to present the method by which the organization had established ties of kinship. She stated that 'the given document says nothing about the method, without which a serious research document cannot exist.' She also asked questions about the lawfulness of the processing of personal data.

**Instead of undertaking the function of an objective arbiter granted by law, the Minister of Justice blamed the organization for implementing a plan of an opposition party and for having a selective approach to institutions. Instead of thoroughly studying and verifying the existing deficiencies and media reports on cases of alleged nepotism as well as verifying the information in administrative bodies, the Chairperson of the Commission, guided by superficial and pre-existing views, turned the meeting of the Commission into an area for settling scores, presumably because, a little earlier, the GYLA, together with other NGOs, had demanded that Tea Tsulukiani should not be nominated as the Minister of Justice in the new government.**

<sup>9</sup> Here, the reference is made to the GYLA's monitoring [report](#) that identified problems in the staffing of election administrations which have posed a challenge for years. In particular, there continues to be a lack of objective pre-conditions for selecting qualified, independent and highly ethical individuals in the election administration, and cases of alleged nepotism take place.

The Minister of Justice tried to discredit the monitoring mission of the GYLA and to portray the organization's activity as destructive. The Minister went beyond the mandate established by the Election Code and lost the function of an objective arbiter.

The GYLA called upon the Minister of Justice to be guided by the limits of the mandate granted by law when carrying out her activity in the Interagency Commission and to respect the mandate of the professional observer organization.

### Consultative Commission at the State Audit Office and its format



For the 2018 presidential elections, as in the previous year, a temporary Consultative Commission working on the issues of monitoring of the lawfulness and transparency of political funding during the pre-election campaign has been set up on the initiative of the State Audit Office (SAO). The Commission, which is composed of non-governmental organizations, examines information submitted by the SAO about possible violations of regulations on political funding and gives recommendations to the SAO.

The GYLA is going to take an active part in the work of the Commission. It is important that the Commission work effectively, which will help inform observer organizations about the activity of the SAO related to the monitoring of political funding in the pre-election period. This, in its turn, will contribute to informing the public in a timely manner of issues related to the monitoring of transparency and lawfulness of political funds.

## Decree of the government



On August 29 this year, the Government of Georgia issued a [decree](#) 'on measures to be taken with the aim of avoiding the use of administrative resources during the pre-election campaign for the upcoming presidential elections of 2018'. According to the decree, the government is obliged to inform employees of public institutions of restrictions established by the electoral legislation for the duration of the pre-election period.

The use of administrative resources for electoral purposes by employees of public institutions in the pre-election period has been a significant challenge for years. Naturally, any step taken by the central government of the State with the aim

of preventing such offenses deserves a positive evaluation. However, particularly important is the extent to which public servants will comply with the requirements of law and what kind of legal measures the relevant agencies will take in response to violations committed by them.

**The GYLA gives a positive assessment to the issuance of the decree by the Government. We hope that its enforcement will help avoid the use of administrative resources.**

**Order of the Minister of Internal Affairs for ensuring the conduct of elections  
in a free, safe, and calm environment**



2 Similarly to the 2016 parliamentary and 2017 local self-government elections, on August 21 this year, the Minister of Internal Affairs, Giorgi Gakharia, issued a [special order](#) for ensuring the conduct of the 2018 presidential elections in a free, safe, and calm environment, which provides for taking additional measures by the Ministry of Internal Affairs.

The order provides for the creation of responsible groups in each region of Georgia for the prevention of offenses and, also, for providing a timely and relevant response. The groups will plan and organize the implementation of

measures to be taken by police forces for identifying the causes of expected threats and for constant assessment of risks in their respective areas.

The order also provides for police officers' obligations to observe the principle of political neutrality while performing their duties both in the pre-election period and on the Election Day.

**The GYLA gives a positive assessment to the issuance of the aforementioned order. We believe that, if enforced, the order will contribute to the creation of a safe electoral environment.**

## Networking meetings with stakeholders involved in the electoral process

*The GYLA has started to hold a series of networking meetings for the 2018 presidential elections. The meetings are held with various stakeholders involved in the electoral process: electoral subjects and representatives of public agencies, media, and non-governmental organizations.*

*The networking meetings will be held in Tbilisi, Batumi, Ozurgeti, Zugdidi, Kutaisi, Gori, Rustavi, Dusheti, and Telavi.*

*With the aim of contributing to the transparency of the processes and identifying and responding to violations of law in a timely manner, the stakeholders agree that they will exchange information and cooperate with one another, which, in the case of existence of timely and confirmed information, will allow us to give relevant assessment to incidents, provide qualified consultation to anyone who requires it, and protect the exercise of political rights in Georgia.*

*The series of meetings will continue across Georgia during September.*



საინფორმაციო ტექნოლოგიების მომზადება შესაძლებელი გახდა ამერიკელი ხალხის მხარდაჭერის წყალობით, რომელიც აშშ-ის საერთაშორისო განვითარების სააგენტოს (USAID) მეშვეობით იქნა გაწეული. საინფორმაციო ტექნოლოგიების გამოყენებით მოსაზრებები ეკუთვნის საქართველოს ახალგაზრდა იურისტთა ასოციაციას და შესაძლებელია არ გამოხატავდეს USAID-ის და აშშ-ის მთავრობის შეხედულებებს.

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