

საქართველოს ახალგაზრდა იურისტთა ასოციაცია
GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA responds to the opinion of the former president of Georgia regarding the application submitted by GYLA to the Electoral Administration of Georgia

The Georgian Young Lawyers' Association responds to the opinion of Mr. Mikheil Saakashvili, the former president of Georgia, regarding the application submitted by GYLA to the Electoral Administration of Georgia. The fact of violation of the legislation of Georgia and the attempt of marginalisation of the response of a monitoring organisation to this fact is

unacceptable for GYLA. We consider the statement of the former president as an indirect limitation of the mandate of the monitoring organisation and

as an act aimed to make it silent, which is unacceptable in a democratic state.

GYLA submitted an application to the Electoral Administration on 1 August of this year regarding the fact of alleged participation of a foreign citizen in an election campaign. The organisation examined the fact of the alleged violation and required an administrative offence report to be drawn up against the offender, which entails the imposition of a fine in the amount of GEL 2000. In particular, on 31 July of this year, Mikheil Saakashvili, a citizen of Ukraine, participated in election campaigning through a video message [Video message](#) during the nomination by the National Movement in Batumi of majoritarian candidates of the Parliament of Georgia and the Supreme Council of Ajara. This fact constitutes a violation under Article 45(4)(f) of the Election Code of Georgia, which prohibits aliens from participating in election campaigning.

It should be noted that this video message from Mikheil Saakashvili during the current election campaign was not the only case of violation of law.

In his statement, the former president of Georgia expresses his surprise that ‘the Georgian Young Lawyers’ Association, which is highly respected by me, has so much time and so many resources for analysing my speeches and addresses at a time when there is complete unlawfulness in Georgia...’

We would like to remind all political subjects that the Georgian Young Lawyers’ Association is guided in its activities by the legislation of Georgia, irrespective of whether our interests coincide with the interests of any political party or political player. [1]We would like to remind the former president of Georgia that **all are equal before the law, whereas the direct obligation of monitoring organisations and of the Electoral Administration of Georgia is to operate in accordance with the principle of political neutrality and appropriately responds to all facts of violation, irrespective of who commits the violation.**

Despite the fact that the primary responsibility to ensure the observance of and respect for law in the county rests with the Government, which represent one of the key principles of monitoring by GYLA, this fact by no means exempts other subjects during the pre-election period, particularly politicians, from their portion of responsibility to observe the legislation of Georgia. One of the main messages of the document recently spread on behalf of more than 50 non-governmental organisations was that all parties engaged in electoral processes should take responsibility and duly fulfil their rights and obligations provided for by law. It is unfortunate that adopting and following this principle by certain politicians is still questionable.

In addition, **the fact that other violations of law or rights occur in the county, be it the situation with the judicial system or others** (regarding which the Georgian Young Lawyers' Association constantly expresses its public opinion and resorts to all peaceful and legal ways to face existing challenges), **does not imply that citizens or politicians have the right to violate the law based on the argument that infractions committed by them might be less serious as compared with those committed by other persons.**

The encouragement of such approach to the rule of law by the former president of Georgia contains a dangerous message to his supporters and the public in general. Therefore, everyone, and especially the former president, should be more responsible when making public statements.

The Georgian Young Lawyers' Association hopes that both the Government and other political subjects or their supporters will have respect for the legislation of Georgia, adhere to the norms determined by law and will not attempt to establish double standards. We also expect the politicians to take a right attitude to the activities of monitoring organisations and evaluations made by them, which will contribute to the respect for the rule of law and to the development of real multi-party and multi-actor

democracy in the country.

GYLA continues the monitoring of the pre-election process and will provide both the relevant agencies and the public with information on violations of the electoral legislation, in full compliance with the principle of political neutrality. We also remain open to cooperation with state agencies and political subjects in order to ensure a lawful and fair electoral environment.

Annex

In order to prevent the public from being misinformed and misled, we would like to clarify two factual and legal circumstances:

Legal comparison of Saakashvili's case and Ivanishvili's case

After the former president made his statement, the certain part of the public took interest in how GYLA evaluated Bidzina Ivanishvili's (a citizen of an EU Member State at that time) participation in election campaigning for 2012 Parliamentary elections.

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In this connection, we would like to remind the public that according to the changes made to the Constitution of Georgia and the Election Code of Georgia in June 2012, the transitional provisions set forth that persons of the relevant age, who were born in Georgia and permanently resided in Georgia for the past five years and hold the citizenship of an EU Member State, were granted the right to participate in Presidential or Parliamentary elections and to vote equally as Georgian citizens before 1 January 2014.

According to these changes, citizens of EU Member States were granted the right of both active and passive suffrage, as well as all the rights and obligations that are set forth in the Election Code of Georgia and the Law of Georgia on Political Unions of Citizens, including the right to conduct an election campaign. These changes have been negatively evaluated by GYLA and the respective report has been submitted to the Parliament of Georgia on 2 May 2012.

[2] Despite our negative position, these changes have been approved by the Parliament of Georgia and became the law. Hence, according to the legislation of Georgia effective in 2012, the participation of Bidzina Ivanishvili, a foreign citizen, in canvassing and election campaigning did not constitute a violation.

Loss of Georgian citizenship by Mikheil Saakashvili

The former president of Georgia says in his statement that he 'was deprived of' Georgian citizenship, but he cannot consider it lost because he did not renounce it voluntarily.

Notably, this statement contains factual and legal inaccuracies, as Mikheil Saakashvili was not deprived of Georgian citizenship. According to the Constitution of Georgia, it is inadmissible to deprive a person of citizenship. **Mikheil Saakashvili lost Georgian citizenship due to acquisition of the citizenship of another country, as it is provided for by the legislation of Georgia.** [3] Thus, there was no fact of violation of law in this case.

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[1] Over the years, GYLA's pre-election monitoring has been evaluating the compliance of the actions of both the Government and other political subjects with the legislation of Georgia. No exceptions will be allowed during the 2016 elections. In addition, GYLA has filed 5 complaints/applications till now within the pre-election monitoring, as a response to the violation of electoral legislation both by the ruling team and the representatives of the opposition party (allegedly, facts of voter briberies and illegal canvassing).

[2] GYLA considers such attitude to the Constitution of Georgia unacceptable, which includes adjusting the supreme law to certain circumstances and individuals. [GYLA also mentions that the state sovereignty of Georgia and the constitutional principle of governing the country by Georgian citizens are posing a challenge.](#)

[3] The procedure for losing citizenship is defined in the Organic Law of Georgia on Georgian Citizenship. According to this law, Georgia practises single citizenship and a Georgian citizen may not be a citizen of another country at the same time, except when Georgian citizenship is granting by way of exception.

Article 19 of the Organic Law of Georgia on Georgian Citizenship defines three grounds for the termination of Georgian citizenship:

- renunciation of Georgian citizenship;
- loss of Georgian citizenship;
- establishment of the citizenship of a minor who is living in Georgia and whose both parents are unknown.

According to Article 21(1)(c), a Georgian citizen loses Georgian citizenship if he/she

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acquires foreign citizenship. If there is a legal ground for losing citizenship, the Public Service Development Agency reviews the issue of the loss of Georgian citizenship and submits the respective materials to the President of Georgia, while the President of Georgia issues an edict in the case of granting the submission.