



**GEORGIAN
YOUNG
LAWYERS'
ASSOCIATION**

ELECTION OBSERVATION MISSION OF MAY 19, 2019

**MONITORING REPORT
OF PRE-ELECTION ENVIRONMENT,
ELECTION DAY AND
POST-ELECTION PERIOD**

(MARCH 20 – JUNE 17, 2019)

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**Authors: LELA TALIURI
RATI TINIKASHVILI**

Editor: KHATUNA KVIRALASHVILI

Tech. Editor: IRAKLI SVANIDZE

**Responsible for the publication: VAKHTANG MENABDE
SULKHAN SALADZE**

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WHAT HAPPENS THE DAY AFTER ELECTIONS

By-elections and extraordinary elections of the current year had been considered as a final rehearsal for the parliamentary elections of 2020. Regardless of what this rehearsal has shown in terms of parties' rating, or to what extent could the political groups get closer to their desirable results, one thing is obvious, they have tested strategies, which they will employ in the future, in order to obtain parliamentary mandates. With that in mind, processes, which developed in the course of pre-election and polling day, can stand as the manifestation of tendency. Parties will analyze their actions, learn what had worked better and increase their effect for the regular elections. Correspondingly, all the manipulations that the political associations had used will reappear in 2020, likely, in a more enhanced way than before.

Recent elections have revealed the maintained tendency which demonstrates that, main events take place not within the precinct, but prior voting and on the territory adjacent to the polling station, instead. That chiefly is practiced through deploying spies right on the precincts (**control of free will**) to record the rate of supporters shown up at the polling place or – by the **election day agitation** when activists try to convince voters even at the entrance of the building. With such undue attention, voters do not have the sensation of solitary even in the polling booths.

Another strategy that the parties address **on the polling day is the rise of political temperature**. This focuses society's attention on several points. It takes up the news space and all the actors involved in the process are forced to resort their resources to it. The whole political theatre is concentrated in these few spots, and then, with the heroic statements of politicians, is echoed to the entire electoral field. Citizens make their choice in a state of emergency, as if, between death and life. The intimidation of the electorate, often applied by the opposition and the government – when one tenses the situation, and the other looms it as a revolutionary scenario – these are two sides of a medal. Intentionally, such tension leaves no space for multi-layered choice, built on development visions.

The ground for such flow of events is prepared in the pre-election period, on the stage of formation and implementation of campaigns and reaches its peak on the polling day. However, if the strategy of putting into the time pressure is characterized by a rising dynamism from the campaign to the polling day, another, also, emotion-built strategy, makes major emphasis on stability and continuity, and is terminated some time before the elections. **These are the methods of indirect vote buying**. Their authors sometimes straightforwardly speak on their desires hidden behind these methods (that buying and selling of votes shall be subjected to the market logic), and occasionally, their euphemisms indirectly recite their message (that the charity itself has nothing to do with the philanthropists' political strategy).

The idea of philanthropy itself excludes the possibility of converting a charitable act into political benefits. Such boundaries are marked to maintain the social aspect of politics, as well as of philanthropy. Mixed up – the charity would turn into profiteering, while politics – into a financial deal. Therefore, politicians are banned from charity, and philanthropists, if their choice is to merge with institutionalized politics, should also take into account that they will no longer be able to straightforwardly handle their finances. Otherwise, the logical wiring of a political society, which is built on an equal access to politics, could be threatened.

The purpose of subordinating the electoral process to the market logic puts political ideas into such competitive conditions where not the idea itself, but economic resources of the idea medium gain importance, instead. This threatens both - political freedom and equality. Monetization of an electoral vote itself already sets limits for a free movement or dissemination of political ideas (as with expression,

so with maintenance) and creates a balloon of quasi-political supporter. The boundaries of freedom of ideas get marked by finances, and equality disappears right at the moment when money starts its free flow in the party channels. This limit becomes uncompromising as it turns out that there is nothing left in the political platform, except for the election number and the resources behind it. Vote buying reassembles places of factors determining the electoral choice and from the political standpoints, they are placed on the voter's emotional axle, instead. The main actor is not a political vision or a politician who speaks on future plans to their voters, but the act of kindness, which also speaks regarding the same politician, with no shades of doubt about his/her earlier political beliefs.

As a rule, a single party only never runs out all the above reported mechanisms, however, this tactical homogenization is situational. The most influential political groups have majority of these methods available in their own arsenal and can activate them at any time, depending on the situation given or tasks raised.

Positive and negative tactics described above are directed towards the voters' manipulation. By means of distinctive methods, they create the environment in which citizens make their choice not on the rational, but on the emotional background, instead. Subjects do their utmost for this, they create a sense of surveillance or try to establish the last contact with the electoral subject before entering the election booth or alarm the situation. All these actions are directed towards the short-term effect or calculation, and as soon as it passes, the voter is left with the emptiness at hand. In such circumstances, the choice made on the day of voting will hardly coincide with the voters' follow-up attitudes. Aversion of the voter's attitude and the results of elections pose a significant challenge to the representative democracy. Parties which have long been aware of the fact that the voters' support is built not on the political program, but on the poorly bound balloon of traumas and quasi-political-support – will always try to constantly feed this balloon with new emotions. This undermines all the perspectives of the vision-based politics, turning it into a fierce battle between financial and cultural hegemony, with no room for the voter.

Vakhtang Menabde

Director of Democratic Institutions Support Program at Georgian Young Lawyers' Association (GYLA)

Ilia State University, Law School, Associate Professor, Law Major

2. INTRODUCTION

The Central Election Commission of Georgia (CECG) has scheduled by-elections¹ of the Georgian parliament in No.1 Mtatsminda majoritarian constituency on March 20, whereas, on March 30, extraordinary elections² of Mayors of Marneuli, Zestafoni, Chiatura, Zugdidi and Khulo Municipalities, also, by-elections³ of Sagarejo, Akhmeta, Adigeni, Zestafoni, Chiatura, Tkibuli, Tskaltubo and Ozurgeti Municipal Councils.

Georgian Young Lawyers` Association (GYLA) launched the mentoring of the pre-election period of May 19, 2019 elections on March 20. GYLA has monitored pre-election processes with the help of approximately 10 long-term observers and central and regional offices in Tbilisi, Guria, Samegrelo, Imereti, Samtskhe-Javakheti, Kvemo Kartli and Kakheti. In the scope of the observation mission, the targets of the monitoring were as follows: the Election Administration, State Audit Office, National Communications Commission, bodies of central and local authorities, electoral subjects and their supporters, public officials.

In the course of the pre-election period GYLA issued two information bulletin papers: No.1 bulletin, which covered the period from March 20 to April 28, was published on May 8; No.2 bulletin, which covered the period from April 2018 to May 15, was published on May 16.

GYLA observed the day of voting of the May 19, 2019 elections with the help of 50 observers. Static observers had been placed in 22 polling stations across Georgia. GYLA has observed the election in 6 election districts through 17 mobile groups and 7 district observers. The second round held in the majoritarian district of Mtatsminda was monitored by about 10 observers of the organization. 3 mobile groups and 1 district observer monitored the process. GYLA had paid attention to the importance of sticking to the electoral procedures (opening of polling precincts, voting and summarizing), and also monitored the events that developed in the areas adjacent to the precinct election commissions. In regard of the identified violations, the organization addressed the mechanisms of strategic litigation.

On the election day, GYLA activated a special hot line through which citizens were getting legal consultations on voting procedures.

GYLA has also kept functional a special hot line for journalists and media organizations. Putting through the hotline number journalists and media organizations were able to get information they found interesting to them along with legal consultations regarding the electoral procedures, the voting day violations and the ways of responding.

In the framework of the pre-election monitoring mission, the period of 20 March to May 18, 2019 revealed:

- **3** facts of vote buying;
- **1** fact of manipulation with residence registration and violation of the principle of secrecy;
- **4** facts of physical confrontation and violence;
- **3** facts of directing budget resources towards election purposes;
- **1** fact of illegal interference in the journalistic activity;
- **5** facts of breaching the pre-election campaign financing rules.

¹ Decree No.16/2019 of CEC, March 20, 2019.

² Decree No.27/2019 of CEC, March 30, 2019.

³ Decree No.26/2019 of CEC, March 30, 2019.

The first round of the voting day and the following period has revealed:

- 1 fact of interference in an observer`s activities;
- 1 fact of breaching the principle of voting secrecy;
- 3 facts of violating the casting lots procedures;
- 3 facts of violating the polling procedures;
- 2 facts of re-voting;
- 1 fact of unauthorized person`s presence at the polling station;
- 6 facts of incurrences in summery protocols.

The second round of the voting day and the following period demonstrated:

- 1 fact of physical confrontation;
- 2 facts of verbal conflict;
- 1 fact of threat;
- 1 fact of breaching the casting lots procedures.

GYLA has positively assessed the special order⁴ of the Ministry of Internal Affairs of Georgia issued on May 8, 2019 and aimed at ensuring the free, safe and peaceful environment in the progression of by-elections of May 8, 2019, as well as the Memorandum of Understanding signed⁵ by MIA and CEC.

By GYLA`s estimates, the day of voting of by-elections and extraordinary elections of May 19, 2019 passed without substantial violations. However, the voting day loomed the negative tendency of controlling the free will of voters and rising tension in certain polling stations. Occasionally, it turned into physical confrontation and violence.

The present report describes facts that can have certain influence over the electoral environment, and data available at this time has already made the opportunity of evaluation possible. GYLA is additionally studying other cases identified in the progression of the reporting period.

⁴ The Decree No.1/213 of the Interior Minister of May 8, 2019, on the planned measures for ensuring the conduction of by-elections and extraordinary elections scheduled on May 19, 2019 in the free, safe and peaceful environment, available: <https://info.police.ge/uploads/5cd58243d473c.pdf>, updated: 14.05.2019.

⁵ The memorandum of Understanding signed by the Central Election Commission (CEC) and the Ministry of Internal Affairs of Georgia (GYLA) aiming at ensuring the conduction of the May 19, 2019 by-elections and extraordinary elections in the safe and peaceful environment, available: <http://cesko.ge/res/docs/mia111.pdf>, updated: 14.05.2019.

2. PRE-ELECTION PERIOD

2.1. Breaching of Pre-Election Campaign-finance Regulations

In the pre-election period, GYLA identified 5 continues cases when the free political advertisement of a specific candidate had been placed on TV broadcasts in favor of the other political subjects. These facts constitute the violation of pre-election campaign-finance rules, since, the election legislation prohibits receiving donations from non-entrepreneurial (non-commercial) legal entities (LEPL)⁶, whereas the party itself is non- entrepreneurial legal entity.⁷

Zugdidi mayoral candidate **Sandra Elisabeth Roelofs** nominated by **“The United National Movement – United Opposition”**, had been supported by the free political advertisements of:

- **Mamuka Germanishvili**, Zugdidi mayoral candidate nominated by the political movement **“State for People”**;
- **Alexi Noniadze**, Zugdidi mayoral candidate nominated by **“The Political Platform – New Georgia”**;
- **Nani Khutsidze**⁸, Zugdidi mayoral candidate nominated by **“Christian-Conservatives”**;
- **Giorgi Chiashvili**, Zugdidi mayoral candidate of **“The National Democratic Party (NDP)”**.

A free political advertising of **Georgi Shalikashvili**, majoritarian MP candidate of Mtatsminda, nominated by **“Movement for Free Georgia”** was meant to support **Shalva Shavgilidze**, Matatsmibda majoritarian candidate nominated by **“European Georgia – Free Democrats”**.

Similar facts had also been observed in the progression of the presidential elections of 2018, which was estimated⁹ by GYLA as a violation of campaign-finance regulations.

In order to prevent similar facts, the State Audit Office must timely and comprehensively examine alleged violations of the pre-election campaign–finance rules and carry out relevant legal responses.

2.2. Facts of Vote Buying

According to the legislation, vote buying causes the termination¹⁰ of registration of an electoral subject, administrative¹¹ and criminal liability.¹² It depends on the gravity and nature of the law infringement.

In the pre-election period, GYLA attested **3 facts** of alleged vote buying. In **2 cases** it referred to – **“Georgian Dream - Democratic Georgia”** and in **1 case** to the – **New Political Center – “Girchi”**.

- On April 11, 2019, Bidzina Ivanishvili, the chairperson of the party **“Georgian Dream”** met¹³ with the

⁶ Article 26 (1) (c) of the Organic Law of Georgia on Political Unions of Citizens.

⁷ Article 4 of the Organic Law of Georgia on Political Unions of Citizens.

⁸ Khutsishvili is mentioned in the political advertisement and Khutsidze on the website of CEC, available: <http://cesko.ge/res/docs/extraordinarymayors.pdf>, updated: 13.05. 2019.

⁹ Georgian Young Lawyers` Association, information bulletin No.4, October 2018, p. 16, available: <https://gyla.ge/files/banners/Elections%20Newsletter%20No.4.pdf>, updated: 13.05.2019.

¹⁰ Part two of Article 47 of the Election Code of Georgia.

¹¹ Article 34² (6) of the Organic Law of Georgia on Political Unions of Citizens: “Violation of the requirement set out by this law, as well as the receipt of unlawful gifts, income and services for electoral purposes by a natural person, if the cost of the given property (cervices) does not exceed GEL 100, shall result in the imposition of a fine on the party, party representative or legal person in question , equal to 10 times the value of the relevant property (cervices) or transaction, and the imposition of a fine on the natural person in question, equal to twice the value of the relevant property (cervices).”

¹² Under Article 164¹ of the Criminal Code of Georgia, if the amount of money (transaction value) exceeds GEL 100, the person is charged with criminal liability, which imposes three years of imprisonment or a fine.

¹³ “Cartu Foundation” to Finance the Holy Trinity Painting Works in Full” – Ivanishvili had met Ilia II, Informational Portal “Netgazeti”, 11.04.2019, available: <http://netgazeti.ge/news/355777>, updated: 02.05.2019.

Patriarch Ilia II of the Georgian Orthodox Church. According to the Patriarchate, at the meeting held on April 11, Ivanishvili promised Ilia II that the “Cartu Foundation” would fully finance¹⁴ the painting works of Trinity Cathedral.

- On March 29, 2019, Bidzina Ivanishvili visited the village of Khibula and within the presence he promised the local population to solve the gas and water-related problems: “We shall accelerate the issues of gasification and water supply. If the budget does not have [money], I will do it. First of all, we shall provide the village with water supply, roads...”¹⁵ – he said.

As prescribed by the law, the party is banned to provide services free of charge, as well as to interest the Georgian citizen through promising¹⁶ material values or services. In the course of the election period, the chairperson of the party “Georgian Dream” promised to provide certain services free of charge, which constitutes the infringement of the election legislation and envisages relevant responsibility.

The ruling party finds no connections between Evanishvili’s willingness to fully finance the Holy Trinity painting works and the elections, and estimates¹⁷ it as a charitable activity. Georgian legislation in turn prohibits charitable activities of political associations and their representatives.

- On March 22, 2019, Herman Sabo,¹⁸ the Majoritarian candidate of the New Political Center (“Girchi”), called upon his supporters to register¹⁹ in Mtatsminda district. He applied to owners of the apartment and promised them to pay²⁰ their utility bills, for example, the water bill (which is calculated according to the number of individuals registered in an accommodation).

The law bans to interest a voter by means of promising²¹ cash funds, securities or material valuation. The purpose of the political subject was to make citizens interested in getting certain financial benefit. The voters would gain the benefit after altering their registration place, and therefore election district. They were paying taxes on their old addresses, however, now the party would do it instead, which is nothing more but the vote buying.

Simultaneously, although the fact of changing the election district itself does not breach the election legislation, organized change of the registration address tailored to the purpose of elections is an example of votes` manipulation and contradicts the principle of equal and fair elections.

- On April 17, one of the leaders of “Girchi” Zurab Japaridze declared that the voter would gain the benefit under the condition, if they circled²² a political union “Girchi” and then presented a photo of the ballot paper demonstrating that.

¹⁴ Ibid.

¹⁵ “If the budget does not have, I will do” – Ivanishvili gives a promise during his visit in the village of Khibula, Information Portal “Netgazeti”, 29.03.2019, available: <http://netgazeti.ge/news/352555>, updated: 02.05. 2019.

¹⁶ Article 25²(1) of the Organic Law of Georgia on Political Unions of Citizens, Article 47 (1) (a) of the Election Code of Georgia, Article 164¹ of the Criminal Code of Georgia.

¹⁷ “The ruling party finds no links between Ivanishvili’s willingness to fully finance the Holy Trinity painting works and the elections” TV “Imedi”, 11.04.2019, available: <https://imedinews.ge/ge/saqartvelo/102502/ivanishvilis-mzadkopnas-samebis-mokhatvasrulad-daapinansos-mmartvel-gundshi-archevnebs-ar-ukavshireben>, updated: 12.07.2019.

¹⁸ An official full name of Herman Sabo is Germane Sabo, however, in the present document, GYLA refers to him by the name he is known to the public.

¹⁹ Herman Sabo calls on his supporters to register in Mtatsminda district; Information Portal “Netgazeti”, 22.03.2019, available: <http://netgazeti.ge/news/350679>, updated: 02.05.2019

²⁰ Ibid.

²¹ Article 25²(1) of the Organic Law of Georgia on Political Unions of Citizens.

²² “Girchi” offers voters compensations in exchange of their votes; TV “Imedi”, 17.04.2019, available: <https://imedinews.ge/ge/saqartvelo/103024/girchi-amomrchevlebs-khmis-sanatsvlod-anazgaurebas-stavazobs>, updated: 02.05.2019.

In order to ensure voting secrecy, the election legislation bans²³ photo and video shooting in the voting booth. The statement of “Girchi” encouraged the voters to photograph the ballot paper and disclose their position to prove their support.

In order to free the electoral process from such harmful practices, the State Audit Office and the Prosecutor’s Office should examine the facts of alleged vote buying in a timely and comprehensive manner, and shall have appropriate legal response within their competence.

2.3. The Use of Budgetary Resources for Election Purposes

In the pre-election period several municipalities increased the amount of social allowance in the budget or incorporated a new program. GYLA has evaluated these facts as the use of budgetary resources for election purposes.

From the 60th day before the Election Day, the legislation bans the implementation of such projects/ programs that had not been previously envisaged in the local self-government budget. Besides, from the period reported, the increase of the amount of social assistance or appointing²⁴ new is also prohibited.

GYLA observed such tendency in 3 municipalities:

- On April 2, 2019, Adigeni municipality funded²⁵ a new program “Assistance to Families with Children with Disabilities” with GEL 8000. Following this, pursuant to the amendment of April 17, the social allowance programs were additionally increased²⁶ by GEL 9800.
- Tskaltubo municipality increased funding of social programs on April 4, 2019 with GEL²⁷ 20,000, and then, pursuant to the amendments of April 12 – they were additionally increased²⁸ with GEL 32, 100.
- On April 16, 2019, Akhmeta municipality increased²⁹ funding of social programs by 13,500 GEL.

In order to minimize the impact of the administrative resources over the results of elections, local self-governments shall not adjust the budget to elections.

It is noteworthy that, CEC shall set the date for by-elections of Municipal Assembly no later than the 50th day³⁰ before the Election Day. 10-day period (the period between the 60th day and the 50th day prior to the polling day) is absolutely enough to introduce any municipal budget and amendment that may contradict the abovementioned requirement of the election law, and the unlawfulness of such an act may be identified only after the announcement of the Election Day. Given this flaw, **GYLA believes that it is essential to introduce legislative amendments, which would prove that any type of election shall be scheduled no later than 60 days prior to the polling day.**

²³ Part 6 of Article 58 of the Election Code of Georgia.

²⁴ Article 49 (3) (4) of the Election Code of Georgia.

²⁵ Decree No.11 of April 2, 2019 of Adigeni Sakrebulo “On Approval of the 2019 Budget of Adigeni Municipality”, “On Amendment to the Decree # 80 of the Adigeni Sakrebulo of December 24, 2018, “Article 17.

²⁶ Decree No.15 of April 17, 2019 of Adigeni Sakrebulo “On Approval of the 2019 Budget of Adigeni Municipality”, “On Amendment to the Decree # 80 of the Adigeni Sakrebulo of December 24, 2018, “Article 17.

²⁷ Decree No.13 of April 4, 2019 of Tskaltubo Sakrebulo “On Approval of the 2019 Budget of Tskaltubo Municipality”, “On Amendment to the Decree #66 of the Tskaltubo Sakrebulo of December 24, 2018, “Article 17.

²⁸ Decree No.16 of April 12, 2019 of Tskaltubo Sakrebulo “On Approval of the 2019 Budget of Tskaltubo Municipality”, “On Amendment to the Decree #66 of the Tskaltubo Sakrebulo of December 24, 2018, “Article 17.

²⁹ Decree No.8 of April 16, 2019 of Akhmeta Sakrebulo “On Approval of the 2019 Budget of Akhmeta Municipality”, “On Amendment to the Decree #66 of the Tskaltubo Sakrebulo of December 25, 2018, “Article 14.

³⁰ Part four of Article 154 of the Election Code of Georgia.

2.4. Facts of Physical Confrontation and Violence

With approaching the pooling day, tension gradually rose. This was especially sensed in the district of Zugdidi, where the part of the political parties did not refrain themselves from the alleged, criminal offense facts. A disseminated record that likely depicted Gia Danelia, a member of the majority of Zugdidi City Municipal Assembly, read the late speaking about³¹ the instructions of applying distinctive mechanisms of pressure against the electorate.

According to MIA, an investigation has been launched into 4 criminal cases:³²

- As the version of the investigation estimates, on April 23, 2019, on the territory adjacent to the Marneuli DEC, Lasaha Kveladze, (P/U “United National Movement”) a member of the commission, triggered damaged to the health of another member of the commission Giorgi Tabukashvili (P/U “Georgian Dream – Democratic Georgia”);³³
- On April 23, 2019, a car of Giorgi Kamushadze, a supporter of the independent mayoral candidate of Zestaponi Vakhtang Robakidze, was set alight.³⁴ The investigation, however, could not identify a political motive. Chemical and fire-technical expertise was appointed;
- Reportedly, on May 12, 2019, during the agitation in the village of Jikhashkari, the members of the United National Movement had an accident³⁵ with one of family residents. Investigation has launched into the fact of illegal entry into the house against the will of its owner;

According to the investigation, on May 14, 2019, (in the vicinity of a botanical garden) several individuals verbally and physically assaulted³⁶ a mayoral candidate of Zugdidi municipality Sandra Roelofs and her accompanying persons. Gela Kvaratskhelia is detained and certain measures are being taken to identify other persons.

³¹ Regional Prosecutor’s Office of Samegrelo -Zemo Svaneti has started investigation into the fact. The Prosecutor’s Office launched investigation into the facts of alleged vote buying, the website of the Prosecutor’s Office of Georgia, available: <https://bit.ly/32E8KBI>, updated: 15.05.2019.

³² Electronic Correspondence of Mindia Davitadze, Deputy Director of the Human Rights Protection and Quality Monitoring Department of the Ministry of Internal Affairs, May 14, 2019, “By-lections and Extraordinary Elections of May 9, 2019.”

³³ “Investigation into the Marneuli’s accident launched under the article of violence”, LEPL Georgian Public Broadcaster, available: <https://1tv.ge/news/marneulshi-momkhdar-incidentze-gamodzieba-dzaladobis-mukhlit-daiwyo/>, updated: 15.05.2019.

³⁴ “A car of Zestafoni mayoral candidate’s supporter was burned down”, Information Portal “KutaisiPost”, available: <https://www.kutaisipost.ge/ka/akhali-ambebi/article/14621--manqana-gaumarthavi-iyo-zestafonshi-merobis-kandidatis-mkhardamtceris-manqana-daitsva-video->, updated: 15.05.2019.

³⁵ “The opposition has invaded one of our supporters’ family in the village of Jikhashkari – “Georgian Dream’s Headquarters”, Information Portal “Livepress”, available: <https://www.livepress.ge/ka/akhali-ambebi/article/28702-sofel-jikhashkarshi-chvens-mkhardamtcer-ojakhs-opozicia-miuvarda-ocnebis-shtabi.html>, updated: 15.05.2019.

³⁶ “Verbal and physical abuse of Sandra Roelofs, her supporters and journalists of “Odishi” TV, 14.05.2019, Zugdidi, available: <https://bit.ly/2vZml1H>, updated: 15.05.2019.

3. ILLEGAL OBSTRUCTION OF JOURNALISTIC ACTIVITY

On May 14, 2019, a crew³⁷ of operators of “Odishi” TV were physically and verbally insulted while recording a TV show “Lustration”. The Ministry of Internal Affairs launched³⁸ the investigation into the fact under the article³⁹ of violence. As far as journalists were carrying out their professional activities in the situation reported, and as a result of the attack they were deprived the opportunity of unimpededly performing their professional duties, GYLA believes that the investigation shall be conducted under a special article that implies⁴⁰ an illegal interference in the journalists` professional activity.

On May 19, 2019, Giorgi Kapanadze,⁴¹ an editor of an online-edition Presa.ge was detained in Zugdidi. As confirmed by reported footages, there were no legal basis for depriving his liberty, and the way the police acted exceeds the scope of authority granted to them by the law.

The coverage of electoral processes gains a special function in democracy and in order to enable the media representatives to unimpededly fulfil their duties, the law enforcement agencies should timely and comprehensively examine the facts of illegal obstruction of journalistic activities and carry out relevant legal responses.

³⁷ “Incident in Zugdidi – opposition representatives were challenged during the recording of a TV program”, “Odishi” TV, available: <https://bit.ly/2vZm11H>, updated: 13.05.2019.

³⁸ Article 126 of the Criminal Code of Georgia.

³⁹ “Coalition for Media Advocacy Responds to Illegal Interference into Journalistic Activities of “Odishi” TV, Coalition for Media Advocacy Official FB Page, available: <https://bit.ly/2JkwQLj>, updated: 13.05.2019.

⁴⁰ Article 154 of the Criminal Code of Georgia.

⁴¹ “Press.ge Editor Giorgi Kapanadze`s detention footages from Zugdidi”, online edition Netgazeti, source Rustavi 2, available: <https://bit.ly/2LuZTWH>, updated: 19.05.2019.

4. VOTING DAY AND FURTHER PERIOD

4.1. Voting Day Incidents

- An incident took place at No.9 Zugdidi polling station. The right of the GYLA's observer to enter the polling station had been restricted (he/she was not allowed into the polling station). This fact is the violation⁴² of the election legislation, which envisages⁴³ appropriate responsibility. GYLA has filed a complaint in Zugdidi DEC in this regard, however, the Commission, with the justification that the results of examination had not confirmed the violation, refused⁴⁴ to compile the protocol of an administrative offense. The decision of the chairperson of Zugdidi DEC is based only on the explanations of commission members ("alleged offenders") and is not supported by further evidences. No other witnesses were interrogated, including the observer whose right had been restricted. As prescribed by the law, in the course of administrative proceeding, the administrative body is obliged to study all the circumstances important to the case and take a decision on the basis⁴⁵ of the assessment of circumstances and mutual comparison. This issue is not taken into consideration while preparing the decision, which calls into question the fairness of the act adopted;
- The whole polling day of different districts and adjacent areas of Zugdidi election district was full of incidents between the supporters of political parties. GYLA believes that such facts were provoking voters to distance themselves from the voting process and affected free will. Against this background, words of a leader of the National Movement – Mikheil Saakashvili were further alarming⁴⁶ the situation. It is unfortunate that in his statement, the former-president had also diminished the role⁴⁷ of observers.
- The mobilization of coordinators and supporters at the polling stations had also affected the free expression of the voter's will. They were either remotely noting down citizens who had shown up to vote, or were using photo-video shooting to depict the process of arrival at the polling station. Observers of GYLA identified similar cases (regarding a video-footage) in No.1 and No.4 precincts of Zugdidi. Although none of these cases were violating the law, however, this action could create discomfort and a sense of control over the free expression. In this regard, calls⁴⁸ in an address of coordinators that were made by Kakhi Kaladze, one of the leaders of the ruling party, were even more concerning. These negative facts are tendency shown in the course of a

⁴² First part of Article 41 of the Election Code of Georgia.

⁴³ Ibidim, under Article 91: The restriction of rights defined by this law or obstruction of the local/international observer, election subject and media representatives will result in the imposition of GEL 500 to the person in question.

⁴⁴ Written correspondence No.52 of May 28, 2019, a chairperson of No.67 Zugdidi DEC, available: <https://sachivrebi.cec.gov.ge/info.php?id=9255>, updated: 18.07.2019.

⁴⁵ First part of Article 96 of the General Administrative Code of Georgia.

⁴⁶ "Mikheil Saakashvili – If they dare to do something, we are not going to sit back and wait for the conclusions – I do not feel like to wait for someone's conclusion for six months" Information Agency Interpressnews, available: <https://www.interpressnews.ge/ka/article/547274-mixeil-saakashvili-tu-raimeze-xeli-caucdebat-ar-vapirebt-xelebis-chamoshvebas-da-daskvnebis-imedad-qopnas-meti-sakme-ar-makvs-ekvsi-tve-vigacis-daskvnas-velodo/>, updated: 19.05.2019; "Mikheil Saakashvili to his supporters – we shall attack, attack and only attack", Information Agency Interpressnews, available: <https://www.interpressnews.ge/ka/article/547269-mixeil-saakashvili-mxardamcherebs-chven-unda-viqot-shetevaze-shetevaze-da-mxolod-shetevaze/>, updated: 19.05.2019.

⁴⁷ Ibid.

⁴⁸ "Kakha Kaladze – I would like to call upon every single coordinator who are standing at the polling stations with lists in their hands – do not be afraid of journalists, you have the right to do so", Information Agency Interpressnews, available: <https://bit.ly/30IHmjM>, updated: 19.05.2019.

few previous elections and are negatively evaluated by the local⁴⁹ and international⁵⁰ missions.

- The threat of breaching the principle of voting secrecy had emerged in Tskaltubo during electronic counting. According to the observers of GYLA, the ballot paper scanner went out of order and had repeated technical problems. In order to solve it, the completed bulletin paper was removed from the device that made it possible to identify the choice of a citizen. The technical disorders were accompanying the process of electronic counting throughout the day, afterwards, that led 2 precincts to the temporary suspension of the voting process.
- No.73 and No.75 electoral districts of Zugdidi had violated the procedures of the casting lots that was followed by the complaints of GYLA. However, Zugdidi DEC did not satisfy the complaints. It considered that the legislation was not breached.⁵¹ The denial of fulfilling the distributed functions constitutes disciplinary misconduct⁵² and the decision of the commission is unsubstantiated.
- The casting lots procedures were violated at the precincts No.10 and No.32 of Zugdidi district. Namely, the person registered in the list of portable ballot box voted at the polling station, besides, there was observed a fact of entering the polling booth with an envelope. GYLA filed complaints regarding these violations, thus, Zugdidi DEC did not satisfy them on the grounds of justification that violations had not taken place.⁵³ GYLA believes that those decisions reported are unsubstantiated, since the failure of a member of the commission to carry out their function is the disciplinary misconduct,⁵⁴ regardless of whether the violation was eliminated later on.
- Zugdidi electoral district No.108 allowed an unauthorized person. In particular, “Imedi” TV “stringer” – live-reporter enter the district without a pass. Later on, the shortcoming was eliminated.⁵⁵
- A voter at Marneuli No.83 polling station has repeatedly polled. In connection with this, GYLA filed a complaint. By the decision of Marneuli DEC, the chairperson of Marneuli No.83 precinct was imposed an admonition⁵⁶ as a measure of disciplinary liability.
- A voter at Zugdidi No.83 polling station, who was included in the list of portable box list, voted on the polling station and through the portable box as well. On the grounds of the complaint of GYLA, the chairperson of No.83 PEC was imposed an admonition⁵⁷ as a measure of disciplinary liability.

⁴⁹ “Evaluation of the Election Day of the Second Round of 2018 Presidential Elections”, webpages of GYLA, available at:<https://gyla.ge/ge/post/2018-tslis-saprezidento-archevnebis-meore-turis-kentchisyris-dghis-shefaseba#sthash.yVyBws10.eYGbo74L.dpbs>, updated: 19.05.2019.

⁵⁰ Democratic Institutions and Human Rights Office, Georgia, Presidential Elections, October 28 and November 28, 2018, International Election Observation Mission of OSCE/ODHIR Office, Final Report, Warsaw, February 28, 2019, p.58.

⁵¹ Decree No.33/2019 of May 21, 2019, the commission of No.67 Zugdidi DEC, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9101>, <https://sachivrebi.cec.gov.ge/info.php?id=9102>, updated: 18.07.2019.

⁵² First part of Article 28 (a) of the Election Code of Georgia.

⁵³ Decrees No.32/2019 and No.34/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9110>, <https://sachivrebi.cec.gov.ge/info.php?id=9109>, updated: 18.07.2019.

⁵⁴ First part of Article 28 (a) of the Election Code of Georgia.

⁵⁵ Decree No.35/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9112>, updated: 18.07.2019.

⁵⁶ Decree No.40/2019 of May 21, 2019, No.22 Marneuli District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9158>, updated: 18.07.2019.

⁵⁷ Decree No.30/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9233>, updated: 18.07.2019.

Taking into consideration all the above reported, the following problems have been loomed: the control over the expression of the electorate's will requires appropriate legislative regulation. Parties should respect the electorate's free will. In the course of the polling day, electorate mobilization should be free of any signs of pressure. The list of those people who participated in the elections should not be public.⁵⁸ Parties should refrain themselves from campaigning in the vicinity of polling stations. We believe that, in terms of augmenting the effectiveness of PEC activates and improving the electoral process, it is important to simplify the procedures of casting lots along with introducing modern technologies at polling stations, including electronic vote counting. It is crucial to increase the qualification of PEC members and strengthen their skills of maintaining election documentation. Members of the electoral commission shall stick to the requirements of the law while carrying out administrative proceedings. They shall comprehensively study those violations reflected in the complaint, as well as evidences and justify decisions taken. When using the measures of liability, the gravity of the violation should be taken into account.

4.2. Post-poll Period

- No.11 polling station of Mtatsminda had a vote misbalance. In particular, the number of signatures turned out to be less than issued ballots. Registrar No.3 wrote an explanation and noted down that he/she accidentally issued three extra ballots. The District Election Commission used admonition⁵⁹ as a disciplinary liability measure against the registrar.
- According to the data of a summery protocol of Marneuli's No.77 PEC, the total number of voters who had come to vote was 348, while in the summery this number was 348 plus 7. They lost balance. Besides, the seal number data of a registrar was changed. The examination of the summery protocols of May 20, 2019 revealed that they were not accompanied by an explanation, which was later uploaded to the CEC website. GYLA has filed a relevant complaint, however, the decision of the Marneuli DEC did not satisfy GYLA's complaint, since they had drawn up a protocol⁶⁰ amendment.
- The seal of the Mareuli No.76 polling station was delivered unsealed. On the basis of the GYLA's complaint, the PEC chairperson was charge with an admonition⁶¹ – as a disciplinary measure of liability.
- Election documentations that had been received from the No.9 polling station of Marneuli made it appear that the commission of election precinct was not maintaining a registration journal at all. Based on the GYLA's complaint, the PEC chairperson was charged with an admonition⁶² – as a measure of disciplinary liability.
- The summery protocols of the No.25 and No.72 of the Marneulli polling stations had been corrected and amendment protocols were not attached. On the basis of the GYLA's complaint, the secretaries

⁵⁸ Code of Good Practice on Electoral Matters, European Commission for Democracy through Law (Venice Commission), Strasbourg, October 25, 2018, Opinion #190/2002. Available: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e) updated: 26.06.2019.

⁵⁹ Decree No.15/2019 of May 21, 2019, No.1 Mtatsminda District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9190>, updated: 18.07.2019.

⁶⁰ Decree No.48/2019 of May 21, 2019, No.22 Marneuli District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9290>, updated:18.07.2019.

⁶¹ Ibid.

⁶² Ibid.

of No.25 and No.72 PECs were charged with an admonition⁶³ – as a measure of disciplinary liability.

- Two members of the No.108 pooling station of Zugdidi did not sign the summery protocol. As a result of the GYLA`s complaint, the relevant members of the commission were imposed an admonition⁶⁴ - as measure of a disciplinary liability.
- According to the data provided in the summery protocol of No.9 Zugdidi precinct, the number of invalid ballot papers was 70, which rose suspicion that the commission considered the real ballot papers to be invalid. GYLA demanded to recount the invalid ballot papers at the polling stations reported, however, the complaint was not satisfied, since the commission considered⁶⁵ re-counting unreasonable.

Steps that shall be taken for eliminating these shortcomings are as follows: in order to improve the filling procedures of the summery protocols of the voting results, it is crucial to introduce a uniform rule of filling and make it mandatory. The amendment protocol shall only be based on the disclosure and examination of the election documentation of PEC. The summary protocols shall be drawn up on the polling day with the participation of the relevant pec members.

4.3. Second Round

By the estimate of GYLA, the second round of May 19, 2019 was held without substantial violations.⁶⁶ However, several polling stations revealed a negative tendency of controlling the expression of the voter`s free will running parallel to creating the tense environment. Unfortunately, physical confrontations and threats were not rare as well.

Such negative facts are the continuation of tendency shown in the course of the first tour. With this in mind, GYLA negatively assesses the public statement made by the Head⁶⁷ of the Parliament, who attempted to normalize the practice of obtaining the control over the voters` free will characterized for the coordinators.

The polling process was paralleled with the tense situation in several precincts and their adjoining areas. Verbal conflict was observed at No.12⁶⁸ and No.32⁶⁹ polling stations; apparently, an activist of the government party of Georgia physically confronted the opposition representatives at the polling station⁷⁰ No.18; at the polling station No.17, presumably, the ruling party supporters made⁷¹ threatening

⁶³ Ibid.

⁶⁴ Decree No.93/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9287>, updated: 18.07.2019.

⁶⁵ Decree No.94/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9283>, updated :1.07.2019.

⁶⁶ GYLA evaluates the second round of parliamentary by-elections in Mtatsminda majoritarian constituency, GYLA`s webpage, available: <https://gyla.ge/ge/post/mtatsmindis-mazhoritarul-olqshi-i-afasebs#sthash.P0ji72VC.dpbs>, updated:17.07.2019.

⁶⁷ "Irakli Kobakhidze – we do not find any violation in coordinators mobilization," Information Agency "InterPressNews", available: <https://www.interpressnews.ge/ka/article/550580-irakli-kobaxize-saarchevno-ubnebe-amomrchevlis-mobilizebashi-kanon-dargevas-ver-vxedavt/>, updated: 09.06.2019.

⁶⁸ "Confrontation at the 12th constituency of Mtatsminda", Prime Time, available: <https://www.facebook.com/watch/?v=1824798634287131>, updated: 09.06.2019.

⁶⁹ "Polling station No.32 was in turmoil", Information Agency "Interpressnews", available: <https://www.interpressnews.ge/ka/article/550584-32-e-saarchevno-ubanze-xmauri-iqo>, updated: 09.06.2019.

⁷⁰ "According to Elene Khoshtaria", an activist of Georgian Dream physically assaulted observers of "European Georgia", Information Agency "Interpressnews", available: <https://www.interpressnews.ge/ka/article/550620-elene-xoshtarias-inpormacii-kartuli-oc-nebis-aktivisti-evropuli-sakartvelos-damkvirvelebs-pizikurad-gauscorda/>, updated: 09.0.2019.

⁷¹ "MIA has launched an investigation into video released by European Georgia", Information Agency "Interpressnews", available:

statements. The Interior Ministry has launched⁷² an investigation into these last two cases.

Observers of GYLA filed 1 complaint in Matsminda majoritarian constituency during the second tour of parliamentary by-elections. The complaint regarded the violation of casting lots procedures at No.3 polling station, namely, the denial to participate in the casting lots. By the decision of Mtatsminda DEC, the complaint was satisfied and the violator member of the commission was subjected admonition⁷³ – as a measure of a disciplinary liability.

<https://www.interpressnews.ge/ka/article/550618-shss-m-evropuli-sakartvelos-mier-gavrcelebul-videoze-gamozieba-daicqo/>, updated: 09.06.2019.

⁷² In the first case, an investigation is launched under Article 162 of the Criminal code of Georgia (Interference with the expression of will in the elections [...]), whereas in the second case, under Article 151 (Threat).

⁷³ Decree No.24/2019 of June 11, 2019, No.1 Mtatsminda District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available at: Decree No.94/2019 of May 21, 2019, No.67 Zugdidi District Election Commission, Registry of Complaints of the Central Election Commission of Georgia, available: <https://sachivrebi.cec.gov.ge/info.php?id=9283>, updated: 11.07.2019.

5. RECOMMENDATIONS

Elections have once again demonstrated a number of legislative and practical shortcomings that require systematic legislative and institutional changes.

Election campaign funding – the State Audit Office shall timely and comprehensively study the alleged violations of the pre-election funding regulations and guarantee appropriate legal response.

Vote buying - the State Audit Office and the Prosecutor’s Office should examine the facts of alleged vote buying in timely and comprehensive manner, and take appropriate legal response within their competence.

Media - law enforcement agencies should timely and thoroughly examine the facts of illegal obstruction of journalistic activities and carry out relevant legal responses.

The use of administrative resources – local self-governments shall not employ the budget money for elections. The legislation shall determine to date any type of elections no later than 60 days prior to the polling day.

Control over the voter’s free will and election agitation – the control over the expression of will requires appropriate legislative regulation. Parties shall respect the free will of the voter. In the course of the Election Day, voters shall be mobilized without any signs of pressure. The list of people who had participated in the elections should not be public. Parties shall refrain themselves from campaign in the vicinity of polling stations.

Casting lots procedures - in terms of increasing the effectiveness of PEC activities and improving the election process, we believe that it is crucial to simplify casting lots procedures, and introduce modern technologies at polling stations, including electronic vote counting.

It is essential to increase the qualification of PEC members and strengthen their skills of maintaining election documentation. In order to improve the filling procedures of the summary protocols of the voting results, a uniform rule should be introduced and made mandatory. The amendment protocol shall only be based on the disclosure and examination of the election documentation of PEC. The summary protocols shall be drawn up on the polling day with the participation of the relevant PEC members.

Election disputes in the Election Administration - members of the electoral commission should direct administrative proceedings in accordance with the requirements of the law. They should thoroughly study the violations reflected in the complaint, as well as comprehensively examine and justify their decisions. When using the measures of liability, the gravity of the violation should also be taken into account.

