



## Georgian Young Lawyers' Association

**Monitoring Mission of local self-government elections of October 21, 2017**

**First Interim Report of pre-election environment monitoring**

**(June 1 – July 31, 2017)**



Monitoring Mission of 2017 Local self-government elections was made possible through financial support of the National Endowment for Democracy (NED) and United States Agency for International Development (USAID). Opinions provided in the report are those of GYLA's and its content may not reflect official position of donors.

Tbilisi 2017

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## 1. Introduction

One of the strategic directions of Georgian Young Lawyers' Organization (GYLA) is to promote effective, accountable and transparent governance. In this regard (1994) GYLA is actively involved in the process of elections of legislative, executive and local self-government organs from the day it was established and during the mentioned process GYLA studies pre-election, voting day and post-election periods, how free, fair, competitive and inclusive environment is in Georgia.

When monitoring election processes the purpose of the organization is to ensure compliance with election legislation and international democratic standards by representatives of election administration, election subjects and public servants. Work of GYLA during the period of elections is not limited to revealing violations; rather, by filing complaints with the election administration and in court, it focuses its efforts on promotion of progressive interpretation of election legislation, taking legal measures against offenders and prevention of future election violations.

GYLA considers that providing population and parties involved in the election process with objective, competent and timely information regarding ongoing elections will promote improvement of election environment fairness and deepen positive aspects that were reached during the past years.

Association believes in supremacy of principles of free and fair elections and remains strictly neutral towards political processes. Over the years, GYLA has proved its loyalty towards state principles and aspiration to establish fair election environment.

For this purpose, in 2010 GYLA signed Declaration of Global Principles and Code of Conduct developed by Global Network of Domestic Election Monitors (GNDEM) for non-governmental organizations.<sup>1</sup>

Presented report includes period from June 1, 2017 to August 1, 2017 and is focused on violations and changes identified in reporting period. The report provides information on events that took place before the pre-election campaign was officially launched.

Monitoring mission of local self-government elections 2017 was made possible through financial support of the National Endowment for Democracy (NED) and US Agency for International Development (USAID).

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<sup>1</sup> DECLARATION OF GLOBAL PRINCIPLES FOR NON-PARTISAN ELECTION OBSERVATION AND MONITORING BY CITIZEN ORGANIZATIONS and CODE OF CONDUCT FOR NON-PARTISAN CITIZEN ELECTION OBSERVERS AND MONITORS.

## 2. Scopes of monitoring mission and methodology

GYLA provided monitoring of 2017 local self-government elections processes through 8 regional offices in Tbilisi and 9 regions of Georgia: Ajara, Guria, Shida Kartli, Kvemo Kartli, Kakheti, Mtskheta-mtianeti, Samtskhe-javakheti and Samegrelo) with the involvement of up to twenty monitors.

GYLA long-term observers studied the activities of state agencies (election administration, Audit service, Interagency Commission, Law enforcement organs and Court) involved in elections and observed how transparently, objectively and protecting political neutrality did they work and made decisions.

GYLA monitors obtained information regarding alleged violations through different sources, including, through requesting information from public institutions, also through monitoring information disseminated via mass media.<sup>2</sup> Citizens, members of political parties often provided information to GYLA regarding the violations observed by them. GYLA monitors verified the information with applicants directly or with the persons who could have significant information regarding the case. GYLA lawyers provided proper legal aid to the certain persons in case of need.

## 3. Main findings

### Intimidation, pressure and physical abuse

- **2 cases of abuse, 2 cases of interference with agitation, 1 case of pressure on alleged political grounds and 1 case of dismissal on alleged political grounds** were identified in the reporting period.
- Facts of violence and physical abuse were identified against political party “United National Movement” (UNM).
- Certain risks of violence were identified during demonstration held on July 23 on Agmashenebeli Avenue organized by European Georgia; however, the Police ensured the safety of people there that should be assessed positively.

### Media environment

- Several large media have merged recently that reflected on their editorial policy. The changes had negative response from public and different organizations, as these broadcasters are

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<sup>2</sup>Central and regional press, national and regional broadcasters, internet publications.

considered as promoting interests of ruling party and the mentioned merging even more deepened the doubts existing in this regard.<sup>3</sup>

- During the monitoring period TV programs of Salome Asatiani and Gogi Gvakharia were shut down on Public Broadcaster, that allegedly represented action against different and critical opinion.
- Video clips aired on Rustavi 2 and Public Broadcaster became disputable that were aired as social advertisement but their political context became disputable. Georgian National Communications Commission (GNCC) established that Rustavi 2 has violated law; however it did not use any liability against the broadcaster. It is noteworthy that the commission have not revealed the cases of airing advertisements with political context before the mentioned case. Commission expressed its interest towards other broadcasters only upon receipt of information from Rustavi 2 regarding them airing the similar advertisements. Possibly, the Commission tried to show its impartiality when making the decision.

#### **Election administration**

- The Election administration refused the registration of initiative groups in Gori and Telavi, also, NGO in Ozurgeti, as the date of the elections was not announced yet and there was no proper legal act regarding setting the date of election day. We consider that the mentioned disputes revealed number of legislative gaps that on one hand are related to the election registration of political parties and initiative groups and on the other hand – to involvement of public organizations in election administration.<sup>4</sup>

#### **Use of administrative resource**

- Increase of self-government budgets was observed during the monitoring period. Should be noted that increased funds mainly were allocated on health care, social and infrastructural projects, as well as on the pre-school institutions that possibly could be aimed at winning the hearts of voters. Although similar changes are forbidden 60 days prior to voting day, fact of allocation of funds on social and infrastructural projects raises doubts that initiated or increased social projects are related to the elections.<sup>5</sup>
- GYLA monitors were informed regarding number of social and infrastructural projects that local self-government organs were conducting during reporting period. It is noteworthy that similar social projects are considered for the short period, coincide with election period and most likely, are aimed at winning hearts of voters.

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<sup>3</sup> <https://jam-news.net/?p=11554&lang=ka>

<sup>4</sup> GYLA works on and in the nearest future will publish legal analysis of the proper disputes.

<sup>5</sup> Should be noted that similar practice was observed on number of previous elections. Unfortunately such vicious practice still continues.

- Information regarding conducting charity projects was also received. To be exact, mainly local self-government bodies provided free of charge medical examination and services.
- Majoritarian MPs of Georgia, also high officials of local government conducted meetings with population actively, expressed interest for their problems, studied infrastructural projects in their settlement and discussed plans. Generally, such activities do not represent the violation of law, however we consider that majoritarian and high officials of local self-government should be in active communication with voters and should not become more interested with their problems and report to them only during pre-election period.

## **4. Recommendations**

### **Government bodies:**

- Should not allow for using administrative resources;
- Should ensure equal pre-election environment for every party or candidate participating in the elections;
- Should not allow for dismissal from work on political grounds;
- Should provide information regarding rights and obligations of employed persons.

### **Political parties and candidates:**

- Election subjects and their supporters should avoid confrontation and violence, also the statements and actions that can encourage or tolerate such violence;
- Political parties should distance their voters from meetings organized by other parties and candidates, also should avoid any kind of interruption in agitation and violence.

### **Law enforcement organs:**

- Law enforcement organs should protect persons participating in election process from violence and any illegal influence, furthermore, should provide safety of the election environment;
- Law enforcement organs should ensure that incidents related to the elections are investigated in timely manner, thoroughly and objectively;
- Furthermore, with their actions they should prevent perception of partiality about investigation towards politically active individuals.
- Similar to 2016 parliament elections, it is important that the Minister of Internal Affairs issues order to ensure that elections are conducted in free, peaceful environment and the police officers should be given special trainings to prevent violations of law during election period

and ensure timely response. It is desirable to equip police officers with proper equipment (including shoulder cameras).

## 5. Political context

On June 27, 2017, the President of Georgia announced election date<sup>6</sup> - end of the third week of October and stated that legal act on setting the election date would be issued 60 days before elections, i.e. the end of August. President justified the mentioned announcement with effort to avoid misunderstanding of 2016 and predictability of election environment, for the political parties to have information regarding the voting day 4 months prior.

It is noteworthy that political parties started preparations for elections much earlier, from May, with active meetings with voters and nominations of candidates.

Based on Constitutional reform the political environment became more polarized. Despite number of issues that consensus was not reached upon within the frameworks of constitutional reform, the main problem remained postponement of changes to election system, namely proportional election system to 2024. Ruling party is on one side and all opposition parties and NGOs on the other side.

As well, legislative amendments of local self-government and election legislation became the subject of criticism, namely deprivation of status of self-governance from 7 cities that was conducted without involvement of society and represents a step backwards for the decentralization reform that started in 2014. As well, the amendments to the rule of completing election commissions that increased risks of politicizing election administration and strengthened dominant position of the ruling party on every level of the election commission.<sup>7</sup>

Discussions based on discriminatory, xenophobic and hate speech have increased in the reporting period. Certain political and public groups rallied against foreigners in Georgia and held demonstration named March of Georgians and requested the Government to tighten the right to residence in Georgia and the procedures of granting citizenship.

Later that day, two demonstrations were held against the mentioned demonstration. The first was held by organization working on women issues and the other – political party European Georgia. Organizers of both demonstrations rallied against representatives of the March of Georgians and their ideas and condemned discriminative and xenophobic expressions of the leaders of the March of Georgians. It is noteworthy that participants of the March of Georgians arrived on the demonstration

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<sup>6</sup> <http://georgianpress.ge/com/news/view/26213?lang=1>

<sup>7</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebis-mosazrebebi-saqartvelos-organul-kanonshi-saqartvelos-sarchevno-kodeqsi-shesatan-cvlilebebze#sthash.FJYA0D07.dpbs>

of European Georgia and requested from police to let them get closer to the participants of the demonstration. The police managed to prevent violence on the demonstration.

## 6. Legislative framework

### Constitutional reform

After parliamentary elections of 2016, the Government stated regarding implementation of complex constitutional reform to develop improved document based on broad political consensus. Additionally, Georgian Dream promised the society that system would be changed and become fairer by 2020.<sup>8</sup>

GYLA actively participated in discussion regarding election system reform with status of member of the Constitutional Commission. Election system was the most significant issue as for the public as well as for all political parties.<sup>9</sup> It is noteworthy that consensus regarding cancelation of majoritarian rule and transition to proportional election system was already reached between NGOs and oppositional parties before the start of Constitutional Reform, that was supported by the International organizations for over the years.

Because of 4-month work of the Commission, the *ruling party presented a new rule of the election system*. The project proposed cancelation of mixed election system and instead, election of parliament based on proportional election system. *However, rule of distribution of mandates became disputable*: Draft Constitution provided for implementing unlimited amount of mandates as a bonus for the winning party, according to which all undistributed mandates would be awarded to one party. This aspect of the election system was unfair and significantly diminished positive outcome of cancelation of majoritarian system. Additionally, the election blocks were abolished that, under conditions of maintaining 5% threshold, raised risks that because of the elections the number of undistributed mandates would be high. Awarding undistributed mandates to one party would endanger political pluralism and facilitate long-term concentration of the power in the hands of one party. Additionally, *according to the proposed amendments rule of electing president through direct vote was cancelled and s/he should be elected though indirect vote, through parliament*. Considering quality of democracy in Georgia and the interests of voters, president should be elected through direct vote, especially considering the fact that cancellation of the mentioned rule was not necessary depending on the parliamentary model.

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<sup>8</sup> [http://www.osgf.ge/index.php?lang\\_id=GEO&sec\\_id=23&info\\_id=4935](http://www.osgf.ge/index.php?lang_id=GEO&sec_id=23&info_id=4935)

<sup>9</sup> However, together with necessity of reformation of election system, GYLA submitted recommendations regarding number of other issues (e.g. human rights, gender equality, judicial authority) etc. and provided significant advocacy.

GYLA spared no effort to support constructive, thorough and consensus-based process of adoption of the Constitution, however, as it turned out – to no avail. As a member of the Commission GYLA was actively involved in discussion, as within the commission as well as in public discussion and debates. The organization presented its own recommendations within the frameworks of the constitutional commission, including on election system and rule of electing president.<sup>10</sup> GYLA representatives participated in universal public discussion of the constitution revision project that took place across the country.

Furthermore, in April, on the last session of the Commission, when the final decision was made regarding proposed amendments, GYLA presented alternative proposals together with representatives of NGOs and experts, members of the Commission. The mentioned proposals considered fairer rule of distribution of mandates, including by ensuring the preservation of government stability – the main argument of the ruling party in this regard. The Constitution Commission did not accept alternative proposals.

Since the ruling party announced that they would consider all the recommendations of the Venice Commission, official position of the Venice Commission could become the most effective mechanism to correct problematic provisions in the draft constitution. Therefore, GYLA applied to the Venice Commission together with other organizations<sup>11</sup> and presented its own opinions prior to publication of report on constitutional amendments.<sup>12</sup> The document contained opinions regarding number of most significant issues provided for with the draft constitution. Including parliamentary election system and rule of electing president. At the same time, GYLA applied to the Venice Commission together with up to 90 organizations of Georgian National Platform.<sup>13</sup>

It is noteworthy that the Venice Commission assessed [introduction](#) of proportional system positively and accepted the civil society opinions regarding distribution of undistributed mandates.

Despite the statements of representatives of ruling party that all the recommendations of the Venice Commission would be considered, it did not happen as promised. Ruling party decided to neglect not only the response received from the Venice Commission, but also the whole working process of the Constitutional Commission, opinions of the civil society and all political parties.

On the grounds of disagreement within the team, on the contrary of all existing expectations and initial project, the ruling party postponed implementation of changes in election system to 2024 and

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<sup>10</sup> GYLA recommendations

<sup>11</sup> International Society for Fair Elections And Democracy (ISFED), Transparency International – Georgia and Open Society Georgia.

<sup>12</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-veneciis-komisias-mimartaven#sthash.mHg7sAyD.dpbs>

<sup>13</sup> <https://gyla.ge/ge/post/saqartvelos-erovnuli-platformis-mimartva-veneciis-parlaments#sthash.85801udU.dpbs>

maintained majoritarian system and rule of electing president via indirect election was postponed to 2023.<sup>14</sup>

According to the majority representative, the threshold would be [decreased for one time down to 3%](#) for elections 2020.

Decision made by the ruling party on election system was critically assessed by GYLA.<sup>15</sup> The organization together with other NGOs urged the Parliament of Georgia to devote more time to achieving consensus on constitutional amendments and to postpone discussion on changes and decision making for Autumn.<sup>16</sup>

Despite the mentioned, on June 22 and 23, in light of protests of political parties, civil organizations and president of Georgia, the Parliament of Georgia started reviewing the draft within the committees before the Venice Commission Summary was published. The legislative body reviewed the draft law on two hearings at extraordinary sessions and adopted in two days.<sup>17</sup> In the end, the draft was adopted unanimously, through fully ignoring different opinions.

GYLA assessed this circumstance as direct and intended effort to consolidate power and as a step that represented serious threat to democracy in Georgia. It seems that with the effort to maintain mixed system the ruling party tried to create guarantees that would facilitate to gain advantages on 2020 elections. Furthermore, it seemed like the involvement of the society was false and despite constructive formats of cooperation no essential changes were reached.<sup>18</sup>

Together with partner organizations, GYLA called for the ruling party to consider recommendations of Venice Commission and civil society, also, fulfil the promise given to the society and make the decisions on election system slowly, based on maximum consensus.<sup>19</sup>

Third hearing of Constitutional amendments is planned on Autumn session.

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<sup>14</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-saqartvelos-demokratiuli-ganvitareba-safrtkshesia#sthash.ReuWJdxr.dpbs>

<sup>15</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-saqartvelos-demokratiuli-ganvitareba-safrtkshesia#sthash.Ska0SNRF.dpbs>

<sup>16</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-parlaments-moutsodeben-konstituciis-proeqtis-gankhilva-daitsyos-sashemodgomo-sesiaze#sthash.dDMgcNZ4.dpbs>

<sup>17</sup> Text was adopted on the first hearing on June 22; the proper committees adopted the text on the second hearing on June 23 and at the plenary session the same day.

<sup>18</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-saqartvelos-demokratiuli-ganvitareba-safrtkshesia#sthash.JG1PvNTW.dpbs>

<sup>19</sup> <https://gyla.ge/ge/post/saarchevno-sistemaze-mmartveli-partiis-gadatsyvetileba-miughebelia#sthash.JCspj3eL.dpbs>

## Changes in election legislation

Draft of law was registered on June 5 in the Parliament that together with other issues envisaged the amendments to the election commission completion rule.<sup>20</sup> The aim of the law to be adopted was to improve the activities of the election administration – as stable institution. However, the changes were more problematic in terms of maintaining loyalty towards the election commission, as well as providing equal election environment between the political parties, as this clearly directed to strengthening positions of the ruling party in the election administration.

For instance, according to the existing rule, Georgian Dream has only one member out of seven members appointed by the parties and in case if the draft is adopted the number would be increased up to four members.

Amendments were prepared by MPs of the ruling party and according to the draft, it should have entered into force after publishing results of 2017 local self-government elections.

As the draft increased risks of politicization of election administration, GYLA urged the Parliament of Georgia not to adopt the mentioned amendments.

Furthermore, GYLA submitted specific considerations regarding the draft to the Parliament, where the representatives of the organization participated in the review of the draft within the committee.<sup>21</sup> Parliament adopted the disputable draft; however, the President did not sign it and returned it to the Parliament with justified comments. Georgian Parliament have overridden President's Veto.

It is noteworthy that the rule of completion of election commissions requires fundamental changes. However, the proposed change was fragmented rather than systematic approach towards the reform, furthermore, the proposed reform created new problem instead of correcting number of revealed problematic aspects.

GYLA considers that higher levels of election administration should be completed merit-based that will increase trust towards the election administration. The normative base regulating commission member's selection competition should be significantly improved during the transition period.

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<sup>20</sup><https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-saarchevno-komisiebis-dakompleqtebis-akhal-tsesze#sthash.XkWJbiw9.dpbs>

<sup>21</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebis-mosazrebebi-saqartvelos-organul-kanonshi-saqartvelos-saarchevno-kodeqsi-shesatan-cvlilebebze#sthash.nLfMdoBY.dpbs>

## **Amendments to the legislation on local self-governments**

Several days earlier before the local self-government elections, in June 2017, Government made decision on deprivation of status of self-governance from 7 cities<sup>22</sup> that clearly represented digress from declared principles of decentralization reform. The Government named increased expenses as the reason of the mentioned decision.

Negative attitude towards the mentioned initiative was expressed not only by the civil sector, but also by the significant part of population of those municipalities that were planned to unite. This attitude was expressed one more time on demonstrations of citizens during the review of constitution in regions. As it was revealed, there was certain pressure on representatives of local municipalities, for the Sakrebulo to support unanimously amendments proposed by the Ministry. It is noteworthy that the Ministry of Infrastructure and Regional Development developed the mentioned draft without involvement of society and experts. Considering the fact that by the end of March, up to 130 non-governmental, community and media organizations applied to the Government of Georgia and Parliament and expressed readiness to get involved in discussion. Unfortunately, the Government failed to express desire of dialogue or consultations.

According to GYLA, decrease of number of self-governing cities is clearly the step backwards as for the self-government reform as well as for the country development that separates population and the government and decreases standard of local democracy.<sup>23</sup> At the same time, deprivation of status of self-governance and their reunion with community municipalities will impede city as well as rural development. Besides, the city that fails to have local authorities elected by the population that are accountable to them, does not have its own revenues, property and budget, loses future perspectives of development.<sup>24</sup>

## **7. Interagency commission**

Pursuant to the Order of the Minister of Justice of Georgia N1238 dated on June 30, 2017, Interagency Commission free and Fair Elections was established for 2017 self-government elections (hereinafter Commission) and Commission Statute was adopted.<sup>25</sup>

The Interagency Commission hold in total 2 sessions during the reporting period and issued 3 recommendations. Commission urged the political parties and election subjects participating in the elections to act according to the rules set with resolution N16-38 of Tbilisi Municipality Sakrebulo of

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<sup>22</sup> Telavi, Gori, Ozurgeti, Ambrolauri, Akhaltikhe, Zugdidi and Mtskheta municipalities. The mentioned decision was appealed to court by GYLA.

<sup>23</sup> <https://gyla.ge/ge/post/121-organizaciis-mimartva-savaraudod-7-tvitmmartveli-qalaqis-statusis-gauqmebis-shesakheb>

<sup>24</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciata-mimartva>

<sup>25</sup> <https://www.matsne.gov.ge/ka/document/view/3719758>

2014 throughout Tbilisi,<sup>26</sup> so that all the candidates would have opportunity to place printed agitation materials on equal terms. Furthermore, Commission urged local self-government organs to provide proper legal regulations and control over implementation, so that political parties would place agitation materials on equal terms.<sup>27</sup> Also, the Interagency Commission called for political parties involved in election process and publicly declared candidates willing to participate in the elections to avoid any activities that could develop a perception of using administrative resources for election purposes and would cause putting other political parties or candidates in unequal condition, although the legal act on setting the date of elections was not issued yet.<sup>28</sup>

GYLA applied to the Commission twice regarding two cases of alleged violation of legislation, related to the representatives of UNM. Representatives of proper agencies were provided the information on both cases of violation during the Commission session. Including criminal prosecution against 5 persons on violent incident in Akhaltsikhe.

## **8. Election administration**

Election administration initiated the project named Talking to Voters. The project was aimed at informing the population and raising awareness in general on elections and election rights. Representatives of election administration held doors open day where they provided information regarding 2017 local self-government elections to the interested persons. We consider that similar projects are important and should be assessed positively. They raise awareness of the voters and increase trust towards the election administration.

### **Registration of election subjects**

Voters' initiative groups applied to proper District election commissions (DECs) for election registration during the monitoring in self-governing cities – Gori and Telavi. They wanted to register Mayor and Gamgebeli independent candidate in Gori and Mayor Candidate in Telavi.

According to the initiative groups pursuant to paragraph 1 of the Article 133 of the Election Code, they were authorized to apply to district commissions with registration request. They stated that final term of registration for the initiative groups was - not later than 57 day before the elections; however Code did not provide for upper limit of registration, when could the initiative group apply to the DEC for registration.

Based on argument that no legal act was issued regarding appointment of the elections, no pre-election period was initiated (election period and conducting election procedures), also the voting

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<sup>26</sup> Each election subject has right to post one election poster on stands provided for the agitation materials, size – not exceeding 60 cmx42 cm (A format).

<sup>27</sup> Session of July 17, 2017.

<sup>28</sup> Session of July 31, 2017.

date was not announced, the District commissions in both cases refused to register the initiative groups. Initiative groups appealed the DEC refusal in Central Election Commission (CEC). According to them, their passive electoral rights were restricted; additionally, the initiative groups were discriminated compared to political parties that were registered in the same period by the election administration.<sup>29</sup> The CEC agreed with the decision of subordinate commission and did not satisfy the complaint.

It is noteworthy that besides the initiative groups, NGOs applied to DEC for registration, for instance, in Ozurgeti, that requested to be registered as local monitoring organizations pursuant to second and third paragraphs of the Article 40 of the Election Code of Georgia.<sup>30</sup> With an argument that the date of elections was not announced by the moment of registration request, the mentioned organization was also refused the registration.

It Should be noted that the election legislation sets similar rules for initiative groups and parties that were already registered, and at parliament elections or when setting the date of elections have representative in the Parliament of Georgia. Different rules for requesting registration exist only for the parties that do not have representative in the Parliament of Georgia for the set date of elections or were not registered during the previous parliament elections.<sup>31</sup> These parties can apply to the election commission for registration during the year of local self-government election, not later than July 15. Accordingly, we have different terms of requesting registration for the initiative groups and parties. However, this circumstance can be explained with the argument that on the other hand, legislation sets different requirements of such political parties in terms of collection of signatures and submission to the election registration.<sup>32</sup> E.g. qualified subject should gather 1000 signatures and if not qualified subject – at least 25 000 signatures and submit them to the election administration not later than August 1. At the same time, nomination of the candidate by the initiative group should be approved by at least 1% of population registered on relevant election district territory<sup>33</sup> that can be much less, than the quantity the party is obliged to gather. Should be considered also that initiative groups are established only with election purposes, to nominate independent candidate to run for Sakrebulo member or independent candidate to run for Mayor on local self-government elections and political parties continue political life during non-election period that on the other hand differentiates these two public groups.

Initiative groups were also referencing other arguments that the Election Code sets upper limit for initiative groups to apply (not later than 57<sup>th</sup> day before the elections) and does not provide the initial

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<sup>29</sup> *On June 1, 2017, political party European Democrats were registered for local self-government elections.*

<sup>30</sup> NGO Union of Democratic Development of Georgia applied to Ozurgeti District Election Commission to be registered as monitoring organization.

<sup>31</sup> Paragraph 1, Article 142.

<sup>32</sup> E.g. if the party meets the requirements of subparagraph b of paragraph 1, of Article 142 and is a qualified subject – should gather 1000 signatures and if not qualified subject – at least 25000. This kind of party shall submit the signatures to election administration not later than August 1 (paragraph 2, Article 142).

<sup>33</sup> Paragraph 9, Article 142.

term of registration that means different regimes for initiative groups and parties. Should be noted that these regimes are similar to each other and argument regarding different regimes for initiative groups and parties that were registered, and on parliamentary elections or by the date of elections had representative in the Parliament of Georgia, is groundless. Should be noted that provision is more specified regarding the parties – “after the Sakrebulo elections are called, but not later than the 57<sup>th</sup> day before Election Day”,<sup>34</sup> and part of the sentence “after the Sakrebulo elections are called” is omitted in regards to initiative groups, that is a problem of legal techniques rather than different regime for initiative groups and parties.<sup>35</sup>

Should be noted that with resolution of June 15, 2017 of the Parliament of Georgia,<sup>36</sup> status of self-governance was deprived from 7 out of 12 cities. The resolution will enter into force on the day of appointment of the local self-government elections 2017. However, before that, pursuant to Article 137 of the Election Code, election administration established electoral districts and defined their boundaries, names and numbers.<sup>37</sup> E.g. according to the decree of the CEC, two election districts – self-governing city Gori and Self-governing Community - Gori Municipality - were defined as election territories of Gori DEC<sup>38</sup> i.e. according to CEC decree, separate districts were created: one for the self-governing city and one – for municipality community.

Considering amendments to the election legislation, on June 31, 2017 the CEC made amendments to decree #49 annex and reunited the districts.<sup>39</sup>

We consider that the mentioned disputes revealed number of legislative gaps, related to, on hand, election registration of initiative groups and political parties and on the other hand - involvement of public organizations in activities of the election administration during non-election period.<sup>40</sup> Applicants specially emphasized on deprivation of self-governance status from self-governing cities that they principally opposed. According to them, the decision that would enter into force after setting the date of local self-governance, represented legal nonsense and created problems in terms of places.

## **GYLA appeal to the CEC**

During the reporting period GYLA applied to the CEC and requested to be granted right to attend commission sessions during non-election period.

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<sup>34</sup> Sub-paragraph a, paragraph 1, Article 142.

<sup>35</sup> Paragraph 3 of the Article 116 and sub=paragraph a, of paragraph 3 of Article 142.

<sup>36</sup> Resolution #987-II of the Parliament of Georgia dated on June15, 2017.

<sup>37</sup> Decree of the Central Election Commission #49/2017.

<sup>38</sup> Decree of the CEC #50 dated on June 27, 2017.

<sup>39</sup> <http://cesko.ge/geo/list/show/110957-gankarguleba-86/2017-31072017> -

<sup>40</sup> GYLA works and in the nearest future will publish legal analysis of proper disputes.

GYLA argument was justified with Article 4 of the Election Code of Georgia that states: “According to and for the purposes of this Law, the activities of the Electoral Administration of Georgia, electoral subjects, state authorities, and local self-government bodies shall be open and public”. Pursuant to paragraph 15 of the Article 8 of the Code, sessions of an election commission shall be open. Pursuant to Article 32 of the Administrative Code of Georgia, each collegial public institution shall be obliged to conduct its sessions openly and publicly except as provided by Article 28 of this Code.

CEC refused the mentioned request of GYLA, stating that attendance on sessions of CEC is regulated by the paragraph 15 of the Article 8 of the Election Code of Georgia.<sup>41</sup> And participation of interested persons is regulated by paragraph 8 of Article 20 of the Regulation approved with Decree of Central Election Commission N54/2015 On approval of the regulation of the Central Election Commission of Georgia dated on November 25, 2015, according to which as soon as the proper decision is made by CEC, the interested persons leave the session. CEC explained that we could watch CEC sessions during non-election period on the monitors outside the session hall. The organization considers that this kind of explanation lacks legal basis.

## **9. Funding of political parties**

During the reporting period State Audit Service published information regarding funding of political parties. According to the mentioned information sum of funding received by political parties during 6 months of 2017 totaled to 250,355.21 GEL.<sup>42</sup>

The largest donation during first 6 months of 2017 – 131,179 GEL was received by European Georgia, then comes New Political Centre – Girchi – 47816.64 GEL and United Democratic Movement with 30000 GEL. United National Movement received 24,051.57 GEL and Georgian Dream - 8770 GEL donations (cash and non-cash). 6000 GEL was received by the Christian Conservative Party of Georgia; 720 GEL by Georgia for Peace; 691 GEL by the United Communist Party of Georgia; 607 GEL – National Democratic Party; 500 GEL – New Rights (Akhali memarjvneebi) and 20 GEL - Republican Party of Georgia.

The State Audit Service of Georgia urged all political parties and independent candidates willing to participate in the elections, to start declaration of expenditures for election purposes in accordance to election legislation and order N2915/2 of the General Audit dated on May 5, 2016, so that pre-election campaign of local self-government elections is conducted in transparent way.

The State Audit Service of Georgia was informed during the reporting period that donations of election subjects in July totaled 1 329 337.50 GEL. Georgian dream received the largest part among

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<sup>41</sup> #02-02/1142 31.07.2011.

<sup>42</sup> <http://monitoring.sao.ge/ka/news/126>

the parties – 1 270 000 GEL as donations. The State Audit Service also stated that the agency started investigation of certain donors of Georgian Dream, European Georgia and Girchi.<sup>43</sup>

## 10. Alleged facts of abusing administrative resources

Increase of budgets of local self-government was observed during reporting period. Sakrebulo mainly made the mentioned decisions on extraordinary sessions. Apparently, major part of increased funds were allocated on healthcare, social and infrastructural projects, as well as on pre-school institutions, that most likely was aimed at winning hearts of voters for local self-government elections.

GYLA monitors were informed regarding number of social and infrastructural projects that were actively carried out by local self-government organs. The issues were related to rehabilitation and building of squares, gardens and playgrounds, High officials of local government studied infrastructural projects, held meetings with population, studied their problems and provided updated information on current and future projects. E.g. free of charge health-care actions were often attended by state governors, deputy-governors, municipality Mayors and governors and other high officials of local self-government.

Majoritarian MPs were observed to be more active during the monitoring period, who held field information meetings with population, studied their problems, expressed initiatives, e.g. regarding free of charge medical examinations for the population.

We consider that majoritarian MPs and members of Sakrebulo should always be in active communication with voters and should not become more interested with their problems and report to them only during pre-election period.

Number of projects were outlined during reporting period, that are short-term projects, coincide with election period and most likely, are aimed at winning hearts of the voters through using administrative resources. Free medication program was enacted from July 1, 2017 that provides medication for a symbolic price for people with chronic diseases.<sup>44</sup> Accordingly, beneficiaries with rating score up to 100 000 units will receive funding for medication for chronic diseases. Price of medication will be maximum 1 GEL symbolically per month.<sup>45</sup> Budget of the mentioned program is 3 600 000 GEL and the program will be implemented till the end of 2017.<sup>46</sup> Furthermore, tendency of implementing different types of charity projects was observed during the monitoring period. One of such programs offers the population free of charge medical examinations and services. For instance,

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<sup>43</sup> <http://presa.ge/new/?m=politics&AID=58142>

<sup>44</sup> <http://www.moh.gov.ge/ka/news/3708/>

<sup>45</sup> Through new program any socially vulnerable citizen of any age, rating score of the family of which is from 0 to 100 000 units and has the following diseases: cardiovascular, lung chronic and thyroid gland diseases, also types of diabetes, can receive medication

<sup>46</sup> Response of the Ministry of Labour, Health and Social Affairs of Georgia to GYLA. #01/50018.

memorandum was signed between the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia and dental clinic New Dent within the frameworks of which the clinic will serve IDPs free of charge. Duration of the mentioned program coincides with election period, lasts for 5 months and will be conducted from July 1, 2017 till the end of December, 2017.<sup>47</sup>

During the monitoring our attention was attracted by edition of new, additional newspaper in Dusheti municipality with local budget funds that will be issued only for 6 months from April 2017 to September 2017 and will inform local population regarding activities carried out by municipality Gangeoba. Despite the fact that pre-election campaign is not announced yet, on this stage we cannot consider it as violation of certain articles of the legislation, however, it is noteworthy that the fact of issuing the newspaper in abovementioned way may represent abuse of administrative resources.<sup>48</sup>

The fact of gathering employees of Tbilisi municipality self-government organs and Tbilisi pre-school institutions in Restaurant Barakoni on July 13, 2017 that was aired by media, was alleged abuse of administrative resources. Invited persons stated with media that were attending birthday party. According to later information employees of self-governments and pre-school institutions were invited to meet the Mayoral Candidate of Georgian Dream in Tbilisi. Later, part of attendees visited the office of Georgian Dream to meet Kakhi Kaladze.

It is noteworthy that during previous years, i.e. during 2012 parliamentary elections, GYLA observed gathering of persons employed in budgetary institutions (teachers, doctors, representatives of self-governments) in restaurants several times, that was organized by the candidates of former government and provided invited persons with food. GYLA assesses the mentioned facts as vote-buying and abusing administrative resources for election purposes.

In order to make the election environment equally accessible for every subject, it is important to avoid similar facts that represents the abuse of administrative resources. It is noteworthy that after reviewing the mentioned fact, the Interagency Commission urged political parties and publicly declared candidates willing to participate in the elections to avoid any activities that could develop a perception of using administrative resources for election purpose.<sup>49</sup>

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<sup>47</sup> Response of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia to GYLA #04/07/18844, 25/07/2017.

<sup>48</sup> Newspaper Saaragvo is published monthly and its edition is 1000 copies. The newspaper is funded based on economy in the remuneration article – 3000 GEL. 500 (five hundred) GEL is spent on the newspaper edition every month. The price of the paper is 50 Tetri. Currently 3 editions of newspaper is published. (in total 3000 copies). Dusheti municipality response to GYLA. June 30, 2017#05/7160.

<sup>49</sup> Recommendation of July 31, 2017

## 11. Facts of intimidation, pressure and physical abuse

GYLA monitors observed 2 cases of alleged physical abuse and violence on political grounds and 1 case of alleged pressure.

### Physical abuse and violence in Akhaltsikhe

On July 16, 2017 act of violence was observed in Akhaltsikhe, in village Uraveli, where the representative of UNM was assaulted and his family members were physically abused.

According to media information, on July 16, 2017 coordinator of UNM Beglar Kapanadze and his family members were assaulted. According to the same information, proceedings were launched under Article 126 of Criminal Code of Georgia that envisages punishment for violence.<sup>50</sup>

According to the representatives of UNM, Beglar Kapanadze is planned to be nominated by the party as candidate in Uraveli on local self-government elections of 2017, activists of Georgian Dream got informed about it and they attacked the candidate to intimidate him.<sup>51</sup> Georgian Dream also responded on the mentioned fact and urged the law enforcing organs to react on the incident in timely manner.<sup>52</sup>

Representatives of GYLA met the victims on July 18. GYLA also contacted persons allegedly involved in the incident – Zaza Geladze and Giorgi Londaridze, however they refused to talk with GYLA representatives.

The victims of the attack accuse Georgian Dream supporters, former Deputy Mayor of Akhaltsikhe, head of bureau of Akhaltsikhe Majoritarian MP, Zaza Geladze and the head of Cleaning municipal department, Giorgi Londaridze in the attack.

According to Beglar Kapanadze, before the physical violence took place, the attackers reminded him of political past and work at National Movement. And afterwards physically abused him and his father and children, who came out to help him. The victims stated that 9-12 persons were participating in the incident.

GYLA made a statement regarding violent incident of Akhaltsikhe and called for investigation bodies to investigate the mentioned incident in timely manner, objectively and effectively in order to reveal the political motif of the incident.<sup>53</sup>

Additionally, the organization called for the political parties and their supporters to avoid violence and contradictions and any other action that could encourage violence.

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<sup>50</sup> <http://sknews.ge/index.php?newsid=13859>, <http://rustavi2.ge/ka/news/80544>

<sup>51</sup> <http://sknews.ge/index.php?newsid=13876>

<sup>52</sup> <http://sknews.ge/index.php?newsid=13872>

<sup>53</sup> <https://gyla.ge/ge/post/saias-ganckhadeba-akhalcikheshi-momkhdar-dzaladobriv-incidenttan-dakavshirebit#sthash.xKXinw3F.tvKmVuwk.dpbs>

GYLA applied to the Interagency Commission for Free and Fair Elections and requested to study the mentioned case.

Should be noted that the law enforcement organs charged five persons.

On August 3, 2017, the Court released five persons on bail. Four persons were sentenced to 3000 GEL and one person to 5000 GEL bail.<sup>54</sup>

### ***Incident at David Lagvilava election headquarters***

On July 18, 2017, in Didi digomi, Tbilisi, violent incident took place in front of election headquarters of UNM majoritarian candidate, David Lagvilava. The party considers that the mentioned incident was aimed at interfering with their pre-election campaign, intimidation of supporters, activists and voters and pressure on them.

GYLA representatives met David Lagvilava, majoritarian candidate of National Movement. According to Lagvilava, the mentioned incident can be linked to Zaliko Udumashvili, Mayer candidate on Saburtalo, meeting with local population.

Zviad Kuprava, head of Lagvilava election headquarters, together with co-workers Lasha Khurtsilava and Badri Khidasheli, was outside the office, when two allegedly drunk persons approached them. They verbally and physically abused UNM members on political grounds and Badri Khidasheli was hit with bottle. Khidasheli was examined on the second day of the incident.

Later David Lagvilava also witnessed the incident and called police. Should be noted that the offenders returned to the office and entered the building and they were detained there, however they were released on the same evening. According to David Lagvilava, investigation was launched under Article 126 of the Criminal Code of Georgia, the investigation is waiting for the expertise and Lagvilava is not aware of other details.

### ***Gocha Kokaia case***

On July 5, 2017, the house of majoritarian candidate of UNM in Gldani district, Gocha Kokaia was searched. Kokaia links the mentioned fact to his political activities and opinions. National Movement nominated Gocha Kokaia as majoritarian candidate in Gldani district on June 27, 2017.

GYLA representatives talked to Gocha Kokaia and he stated that since his nomination as a candidate he was constantly being watched. According to him, he has noticed many times that vehicles of brand Skoda were gathered at his place of residence and office that made him presume that the mentioned vehicles belonged to State Security Service of Georgia and he was being watched.

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<sup>54</sup> <http://sknews.ge/index.php?newsid=14133>

On July 5, 2017, approximately at 15:00 representative of law enforcement organs searched Gocha Kokaia's house on the basis of court search warrant. According to Kokaia, the representatives of law enforcement organs were looking for money and documents, however unsuccessfully. The house was searched for two hours as a result of which the representatives of law enforcement organs seized personal cell phone of Gocha Kokaia. According to him SSSG officers did not express aggressive attitude and they were just carrying out their duty.

As Kokaia was informed, in the morning of July 5, 2017, the law enforcement organs detained Tamaz Inalishvili. Investigation accuses him of bribery, that he demanded USD 1000 from Luka Gvazava (youth of paramilitary age) for postponing military services. According to Kokaia, based on the statement of Luka Gvazava, investigation is processing the version that Kokaia was helping Inalishvili in bribery. It is noteworthy that according to Kokaia, from 2008 to the end of July of 2017 he worked as chief specialist of East Georgia Office of the Government of the Autonomous Republic of Abkhazia. Tamaz Inalishvili also worked with him in the same office and they have been friends for 15 years.

Gocha Kokaia links the existing situation, the fact of his house search to his political activities, namely that he has high ratings in Gldani district odd micro regions that are mostly populated with IDPs, and according to him, the majority of them are his supporters.

Kokaia also states that the majority of the employees of his former work place were interrogated on July 5, 2017 and they were asked questions regarding Kokaia's activities. According to him, investigative actions were conducted in unusually rapid way that raises the doubts that he is politically persecuted and all the above mentioned is conditioned with his political activity.

GYLA applied to the Interagency Commission for Free and Fair Elections and requested to study the mentioned case.

## **12. Cases of interference in pre-election campaign**

### **March of European Georgia on Agmashenebeli Avenue**

On July 23, 2017, the European Georgia held manifestation named – No to Russian Fascism – on Agmashenebeli Avenue. According to Mayoral Candidate of the party Elene Khoshtaria, the manifestation was aimed at expressing clear attitude of the Georgian society that Russian fascism cannot gain foothold in Georgia. Other political parties also joined the manifestation, including the members of Republican Party and Free democrats.

The mentioned manifestation was a response to March of Georgians held on June 14<sup>th</sup>. Organizers of the manifestation condemned messages and statements made at the March of Georgians. Namely,

participants of the March of Georgians protested against increased number of foreigners in Georgia, their living and activities, requested proscription of illegally living foreigners and prohibition of granting the rights to residence. Should be noted, that Georgia's Youth Representative to the United Nations, Tatia Dolidze responded to the mentioned March with a critical statement that was followed by rude comments of participants of March of Georgian posted via social network containing gang-rape threats.

On manifestation of July 23, supporters of March of Georgians attacked the organizers of European Georgia and other participants with eggs. However, the situation has not escalated as the police forces were mobilized throughout the territory and they managed to resolve the tension.

### ***Nino Kvitaishvili case***

In July 2017, Saburtalo district majoritarian candidate of UNM, Nino Kvitaishvili pre-election campaign was interfered – unknown person threw eggs at the headquarters for four times.

GYLA representatives met with Nino Kvitaishvili, according to which, the attack on her election headquarters is always conducted during the night hours. It is important fact to note that the offender throws eggs from close distance not to get captured by the video-cameras in the surrounding area.

Police was called for two incidents and Kvitaishvili demanded proper measures and timely response.

Despite the fact that incident do not consist of signs of direct and rough violence, it is clear that these kind of incidents are aimed at interfering the pre-election campaign that jeopardizes campaign to be conducted in peaceful environment.

## **13. Facts of dismissal from work**

### **Dismissal on alleged political grounds**

On June 5, 2017, director of Center of Youth and Culture Development of Gori Municipality City Hall dismissed head of Educational Department Eliza Kazishvili. Reorganization, followed by decrease of staff was indicated as grounds for dismissal. It is noteworthy that after the mentioned reorganization no employees except the administration were dismissed from work. Kazishvili links her dismissal to the political motif.

According to Kazishvili, she is a member of Free Democrats and the number of public statements made against local government preceded her dismissal. According to her, even when the list of employees was not approved yet, director of non-profit (non-commercial) legal entity demanded from her to write resignation letter, that she refused to do. Afterwards she was orally informed

regarding cancellation of her position and dismissal from work, when the list of employees was not yet approved. The list was not approved even when the order regarding her dismissal was issued.

GYLA considers that dismissal from work of Eliza Kazashvili is discriminative and thus the organization will represent her interests in the Court.

## 14. Media environment

### Merge of broadcasters Imedi, Maestro and GDS

By the end of 2016 it became clear that three large broadcasters were planned to merge. Imedi merged with GDS, broadcaster owned by Bidzina Ivanishvili family and also Maestro TV. Accordingly, one owner owns these three broadcasters.<sup>55</sup> The changes had negative response from public and different organizations, as these broadcasters are considered as promoting interests of ruling party and the mentioned merging even more deepens the doubts existing in this regard.<sup>56</sup> The changes are already reflected on editorial policy of the channels.<sup>57</sup> After elections of October 8, 2016, political talk shows were closed on Maestro and the number of news programs decreased.<sup>58</sup>

### Events around Public Broadcaster

2In the beginning of 2017, Vasil Maglaperidze was elected as a General Director of Public Broadcaster that held high position in GDS, the television owned by Bidzina Ivanishvili family.<sup>59</sup>

At the beginning the new management was planning to shut down all the programs on Public Broadcaster, except Moambe, however as a result of active involvement of the society, the mentioned changes were not carried out. Should be noted that conducting reforms in the mentioned way contradicted the Law of Georgia on Broadcasting as well as program priorities of the Broadcaster.

Since the elections of General Director of the Broadcaster, personnel policy became even more opaque. Majority of new employees were transferred from GDS, the television owned by the family of Bidzina Ivanishvili. According to our information, the decisions on personnel were not made based on competition and clear criteria.

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<sup>55</sup> <https://jam-news.net/?p=11554&lang=ka>

<sup>56</sup> <https://jam-news.net/?p=11554&lang=ka>

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<sup>58</sup> <https://jam-news.net/?p=11554&lang=ka>

<sup>59</sup> <https://jam-news.net/?p=11554&lang=ka>

Furthermore, soon after electing new General Director, amendments initiated in the Law of Georgia on Broadcasting became known that were negatively assessed by number of organizations working on media issues and experts, including GYLA.<sup>60</sup>

Joint projects of Public Broadcaster and Radio Tavisupleba, “Red Zone” and “InterVIEW” were shut down in July. According to information, the reason of shutting down Gogi Gvakharia and Salome Asatiani shows was channel reorganization. However, considering the fact that both programs were in-depth covering politically and socially actual issues, reasonable doubts raised in the society that the shut down of the mentioned programs was directly related to local self-government pre-election process.

Despite the fact that both programs were in line with ideas and principles of activity of Public Broadcaster and were supported by the society, the Management made decision to shut them down with general and abstract motif – that the management did not want to have programs to be prepared through outsources. It was also important in this process that at the same time other programs prepared by other partner media outlets were still maintained on Public Broadcaster. This fact strengthens the doubt that shut down of InterVIEW and Red Zone was on political grounds.

The mentioned reason was groundless and indicated the interest of the Management to gain maximum and direct control on political programs.<sup>61</sup>

In the first part of 2017, the Management of the Public Broadcaster presented Supervisory Board with new vision, so called “Traffic light” that was prepared based on separation of programs according to ratings. Finally, the Supervisory Board of the Public Broadcaster approved third plan proposed by the Management regarding decreasing number of programs from the new season (autumn of 2017) and selection rule of them based on competition. This process did not apply to Moambe and political program of the Broadcaster that the Management decided to prepare independently, with own resources.

In July 2017, it became known that the Management of Public Broadcaster was planning to start air not from September 2017 (as was announced), but from January 2018. The official grounds for the mentioned was indicated large-scale technical re-equipment works.<sup>62</sup>

## Events around Rustavi 2

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<sup>60</sup><https://gyla.ge/ge/post/saia-mautsyeblobis-shesakheb-kanonshi-mosalodneli-cvllilebebs-uaryofitad-afasebs#sthash.uSrf2Ojl.dpbs>

The draft included number of initiatives that was not compatible with status and function of Public Broadcaster provided by law, current standard of accountability and transparency of Public Broadcaster was significantly decreased, risk of corruption deals was increased and authority of Supervisory Board, as controlling body was decreased unjustified.

<sup>61</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebi-sazogadoebriv-mautsyebelze-tsiteli-zonasa-da-interview-s-dakhurvis-faqtebs-ekhmianebian#sthash.dwQIXMNM.dpbs>

GYLA and 4 other NGOs made statement and demanded the Management to maintain the programs, in order to protect principles of political neutrality, independence, transparency and pluralism and priorities.

<sup>62</sup> <https://on.ge/story/12721>

GYLA, as well as other representatives of civil society, actively monitored and responded number of times on disputes in court regarding Rustavi 2 shares. Organization has noted the gaps and circumstances that were observed in [court](#) and during the court proceedings number of times and that raised questions regarding [impartiality of the Court](#) in regard to the mentioned dispute; The mentioned circumstances also [created impression](#) that the [government was interested](#) in results of this case.<sup>63</sup>

European Court of Human Rights delivered judgement on March 3, suspending the ruling of Georgian Supreme Court dated on March 2 and on March 7 has suspended for indefinite period, until the final verdict.<sup>64</sup>

## **Dispute around the video-clips**

### **Video clips of European Georgia aired on Rustavi 2**

During the monitoring period, 2 video clips of European Georgia were aired on Rustavi 2<sup>65</sup> that according to the Georgian National Commission of Communication (GNCC) consisted of signs of agitation and was aired during non pre-election period that violated the legislation.

In this regard, GYLA applied to GNCC and requested the information. It was revealed that GNCC examined the evidences via simple administrative proceedings and found Broadcasting Company Rustavi-2, LLC, guilty in violating first paragraph of the Article 70<sup>66</sup>, paragraph 3 of the Article 63<sup>67</sup>, and first paragraph of the Article 66<sup>1</sup> <sup>68</sup> of the Law of Georgia on Broadcasting i.e. airing political advertisement during non-pre-election period.

Despite the fact that Rustavi 2 was found law violator, with the same decision Broadcasting Company Rustavi-2, LLC, was released from administrative liability.

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<sup>63</sup> <https://gyla.ge/ge/post/uzenaesi-sasamartlos-didi-palatis-mier-telekompania-rustavi-2-is-saqmeze-mighebuli-gadatsyvilebis-samartlebrivi-shefaseba#sthash.ag3lir4q.dpbs>

<sup>64</sup> <http://www.civil.ge/geo/article.php?id=31082>

<sup>65</sup> <http://rustavi2.ge/ka/news/76319>

The first video clip is advertisement dedicated to World Down Syndrome Day, participating famous members of political party Movement for freedom – European Georgia. The video is about rights of citizens with Down syndrome and equality principles, however, leaders of the political party make political indications and statements in the mentioned video. The leaders of the political party provide voters the information regarding the party and party view in the second video.

<sup>66</sup> A broadcaster shall ensure the compliance of broadcast programs, advertisements and information about sponsors with the legislation of Georgia and license and/or authorization provisions.

<sup>67</sup> A broadcaster shall not be responsible for the content of pre-election and social advertisements. The responsibility for the content of pre-election and social advertisements shall rest with the person ordering such advertisement as determined by the legislation of Georgia.

<sup>68</sup> Administrative bodies, political parties, officials and public servants may not finance broadcasters, and may not procure their services and finance or co-finance, directly or indirectly, the production of and broadcasting of broadcasters' programs, except as provided for by paragraphs 2 and 3 of this article

Representatives of Rustavi 2 explained that<sup>69</sup> the first video that was about World Down Syndrome Day was aired as social advertisement and the second video was aired as commercial advertisement<sup>70</sup> and it did not have anything in common with political advertisement. Should also be noted that GNCC only expressed its interest towards other broadcasters when Rustavi 2 demanded to study the video clips aired on other broadcasters, namely Imedi and Objective.

It is important that the National Communications Commission was satisfied with response from Imedi and Objective,<sup>71</sup> according to which they reported that no advertisement with political context was aired by them.

Accordingly, the decision made by the Commission creates some obscurity, as Broadcasting Company Rustavi-2 was found law violator on one hand and on the other hand, it was released from administrative liability.

Pursuant to paragraph z14, Article 2 of the Law of Georgia on Broadcasting, social advertisement intended to promote public good and raise public awareness regarding important social issues. The mentioned provision on one hand can be applied to the advertisement dedicated to the World Down Syndrome Day that was aired by Rustavi 2. However, on the other hand the mentioned advertisement contains calls for endorsing certain political party that goes beyond definition of social advertisement. Additionally, Article 2 of election code of Georgia, political/pre-election advertisement is defined as “commercial broadcast by mass media (‘the media’) 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 or appeals for or against the issue put forward for referendum/plebiscite”. Accordingly, video with participation of members of political party European Georgia, where the members talk about their political plans and views, based on the abovementioned definition clearly consisted of signs of political/pre-election advertisement.

Additionally, fact that the current legislation does not include regulation regarding airing political advertisement during non-election period is noteworthy that became problematic in Rustavi 2 case. On the contrary, the Article 66 of the Law of Georgia on Broadcasting restricts political parties to purchase broadcasting services during non-election period that became the ground for the GNCC to refer to this issue.

Accordingly, the decision made by the GNCC is unclear, according to which it found Broadcasting Company Rustavi-2 law offender, however released it from administrative liability. Accordingly, the mentioned fact raises doubts regarding other broadcasting companies may have committed this kind of offenses that could become reason of the mentioned decision, however the Commission has not

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<sup>69</sup> 10.04.207 3-6/3010-17

<sup>70</sup> 5.05.107 3-6 3614-17

<sup>71</sup> 5.06.107 36/4267.17

responded properly. Accordingly, it is likely that the reason on the mentioned decision was threat of putting broadcasting companies in unequal condition that the GNCC could face if the decision to impose sanctions would only be applied to Rustavi 2.

### **Video clip aired on Public Broadcaster**

On June 19, 2017, political parties - Free Democrats and Republicans filed a complaint to the GNCC regarding Public Broadcaster violating the rules of airing social advertisement.

Public Broadcaster aired advertisement regarding constitutional reform in Georgia. Namely, the advertisement emphasized that within the frameworks of the reform Georgia would shift from a presidential to a parliamentary system of governance and European parliamentary governance implied indirect elections of president.

According to the representatives of the Political party, the mentioned advertisement that was aired as social advertisement, consisted of signs of political agitation and was aimed at delivering and popularizing ideas of ruling political party.

Moreover, according to them, the mentioned advertisement violated the main idea of Public Broadcaster on neutrality and pluralism, as the video clip was clearly aimed at covering the mentioned issue in the way that it would only express the interests of certain political party.

On July 13, 2017, the GNCC reviewed and did not establish the violation of law by the Public Broadcaster. The Commission considered that the video clip fully complied with the criteria of social advertisement.<sup>72</sup> According to the Commission arguments, there was no indicator of client in the advertisement, also interfering in the context of the advertisement was not within the competence of the Broadcaster and it fully complied with the criteria of social advertisement. As the Constitutional reform was in fact on of the most significant issues for the country and Public Broadcaster informed the population what the mentioned reform was aimed at.

GYLA considers that the information, under the status of social advertisement, regarding ongoing constitutional reform was provided in such manner that could change mindset of voters in favor of decision made by the Government. For instance, the voter was informed via mentioned advertisement that “in the sophisticated European Parliamentary republics president is not elected directly”. As the advertisement included signs of political advertisement, it no longer represented social advertisement. Thus, according to GYLA, complaint should have been granted.

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<sup>72</sup> <https://www.gncc.ge/ge/legal-acts/commission/solutions/2017-464-12.page>



### Tbilisi

On July 25, 2017, the budget of Tbilisi city municipality increased by 4,500,000 (four million five hundred thousand) GEL.<sup>73</sup> In addition, up to 15,000,000 GEL was distributed among different projects in the budget. Reportedly, certain amounts were added to the following programs: healthcare programs – 2,200,000 GEL, support to preschool organizations – 7,000,000 GEL, medical and other social needs – 4,000,000 GEL, construction, reconstruction and maintenance of road infrastructure – 1,074,000 GEL.<sup>74</sup> After the modifications, the Tbilisi city budget increased up to approximately 830,000,000 GEL.

### Imereti

On June 28, 2017, the budget of Kutaisi city municipality increased by 2,346,800 GEL. As a result of budget modifications, 50,000 GEL was added to the Tourist Information Center, 526,000 GEL – to the “Korpusi” program, 300,000 GEL – to the installation of training equipment in the city and 22,000 GEL – to the installation of children’s training equipment. The largest component of budget modifications – 1 million GEL – was added to the social housing on the Nikea street. After the modifications, the Kutaisi budget was defined as 66,747,700 GEL.<sup>75</sup>

### Adjara

On July 5, 2017, the Batumi city budget increased by 111,000 GEL. 91,000 GEL was allocated to the “Mr. and Mrs. Planet” and Adjara Fashion Week. In addition, 20,000 GEL was added to the program of “Supporting the Development of Cultural Heritage.” In total, Batumi budget is 162 million 300 thousand GEL.<sup>76</sup> The budget of Khelvachauri increased by 2 million 300 thousand GEL. The modification was approved on the city council meeting. The increased amounts will mostly be used for infrastructural works and social projects. In addition, it is planned to open a kindergarten in Akhalsheni. From the mentioned amount, 32,250 GEL was added to the healthcare sphere. A

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<sup>73</sup> <http://www.interpressnews.ge/ge/sazogadoeba/444901-thbilisis-sakrebulom-biujetshi-cvlilebebis-proeqti-daamtka.html?ar=A>

<sup>74</sup> <http://www.interpressnews.ge/ge/sazogadoeba/444905-thbilisis-biujetis-gazrdasthan-dakavshirebith-sakrebulo-oficialur-informacias-avrcelebs.html?ar=A>

<sup>75</sup> <http://www.kutaisipost.ge/akhali-ambebi/article/8168-quthaisis-biujetshi-2-345-000-laris-cvlileba-shevida>

<sup>76</sup> <http://ajaratv.ge/news/ge/17296/mister-da-misis-planeta.html.html>

<http://ajaratv.ge/news/ge/18208/2-milion-300-atasi-larit-gaizarda.html.html>

pharmacotherapy program for patients with mental disorders will also enter into force. According to two quarterly reports of the municipality council, the revenue of this year's budget reached 138%.

### **Kvemo Kartli**

On June 15, 2017, the budget of Rustavi increased by 1,787,000 GEL. From this amount, 1,294,300 GEL was allocated for a sport arena, whereas the remaining 492,700 GEL was allocated for different departments and NNLPs. The amounts were allocated as follows: 200,000 GEL for the installation and maintenance of outdoor lighting, 20,000 GEL for the creation and publication of Rustavi city magazine-catalogue, 70,000 GEL for individual assistance programs, 33,000 GEL for the center of support and development of the youth (sports tournaments), 14,000 GEL for libraries, and 110,000 GEL for the construction and rehabilitation of sports and children's infrastructure.

### **Mtskheta-Mtianeti**

In the reporting period, Dusheti municipality budget was modified on July 11, after which the budget increased by 408,100 GEL. This includes state budget transfer 399,100 GEL and own revenues – 9,000 GEL. Out of the state budget transfer, 399,100 GEL was allocated to the construction, rehabilitation and exploitation of infrastructural facilities. In addition, through redistribution of internal budget amounts, the following items were also increased:

- a) The cost of supervision of construction works, design and cost estimate expertise, and elaboration of urban development documentation – by 78,200 GEL;
- b) Healthcare and social provision – by 9,000 GEL;
- c) Stationary and ambulatory service of economically vulnerable citizens in healthcare facilities – by 19,000 GEL.