



Georgian Young Lawyers' Association

Monitoring Mission of Parliamentary Elections 2012

Monitoring Report of Pre-election campaign, Election Day and the Post-election period

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CONTENTS

1. Introduction	3
2. Format of the monitoring mission	3
3. Scope of the monitoring	3
4. Monitoring methodology	4
5. Monitoring of pre-election campaign	4
5.1. Abuse of government resources for election purposes	4
5.2. Vote bribery	10
5.3. Decisions delivered by the election administration in pre-election period	12
5.4. Violation of pre-election agitation rules	14
5.5. Dismissal from office	16
5.6. Acts of pressure and intimidation	17
5.7. Application of liability measures	20
5.8. Pre-election meetings	25
5.9. Political party funding	27
5.10. Activities against media	29
6. Polling Day	30
7. Monitoring of procedures for consideration of complaints and tabulation of results following the elections	33
8. Findings/Key Trends/Recommendations	47

1. INTRODUCTION

From the day it was founded, **Georgian Young Lawyers' Association** has been actively involved in monitoring of elections. Purpose of GYLA is to provide population with objective, competent and timely information about ongoing elections, to draw the attention of authorities and international organizations to elections-related deficiencies, and contribute to deepening positive aspects that have been achieved.

Purpose of the monitoring mission is to ensure compliance with applicable elections legislation and international democratic standards by elections administration representatives, election subjects and public servants on the Elections Day and in the process of tabulation of results.

Promotion of effective, accountable and transparent governance is one of the priority directions of GYLA, a leading Georgian NGO. This is impossible to achieve in a country where society is deprived of an opportunity to make a free choice.

The 2012 Parliamentary Elections was of particular importance for Georgia due to several reasons: first, considering the nature of recent constitutional amendments, this branch of the government acquired a different function and further, due, transparent and fair elections would have showcased quality of Georgian democracy.

Amid extremely tense pre-election environment, the parliamentary elections were scheduled to be held on October 1, 2012, under the presidential ordinance.¹ Consequently, under the law pre-election campaign entered into force on August 1, 2012 (after scheduling of the elections).

Notably, unlike previous elections GYLA started monitoring of pre-election processes much earlier, on January 1, 2012, and published two interim reports of pre-election monitoring.²

The present report covers the pre-election campaign starting from August 1, 2012, the Election Day and the post-election period. This report focuses on the pre-election period, the Election Day and monitoring of procedures related to consideration of complaints and tabulation of results.

2. FORMAT OF THE MONITORING MISSION

GYLA has been implementing monitoring of elections since the day it was founded.

During monitoring GYLA remains strictly neutral. Purpose of the monitoring mission is to determine compliance with applicable elections legislation and international democratic standards by elections administration representatives, election subjects and public servants on the Elections Day and in the process of tabulation of results.

Work of GYLA during the period of elections is not limited to identification of violations only; rather, by filing complaints with the election administration and in court its efforts focus on promotion of progressive interpretation of election legislation, taking of legal measures against offenders and prevention of future election violations.

Monitoring of the October 1, 2012 parliamentary elections was carried out in frames of one of the strategic strands of GYLA – promotion of effective, accountable and transparent governance.

Monitoring of October 1, 2012 Parliamentary Elections by GYLA was made possible through financial support of the US Agency for International Development (USAID), the Open Society – Georgia Foundation (OSGF), the National Endowment for Democracy (NED), the National Democratic Institute for International Affairs (NDI), the Swedish International Agency for Development (SIDA) in frames of NDI sub-grant.

3. SCOPE OF THE MONITORING

Unlike the 2010 municipal elections, GYLA carried out a large-scale monitoring of the parliamentary elections. On June 25, 2012, during its meeting the board of GYLA delivered a decision to monitor the October 1, 2012 elections in 35 districts in Tbilisi and throughout the regions³ through observers dislocated at precincts and mobile teams. GYLA carried out monitoring mission abroad in the following five countries: US (New York), Hungary (Budapest), England (London), France (Paris) and Germany (Berlin).

GYLA chose the foregoing targets of monitoring due to the following reasons: GYLA was carrying out the monitoring through members of the organization, its employees and experienced observers; therefore, scope of the monitoring should have been limited to several regions. As targets of the monitoring we chose PECs that proved to be previously problematic, as well as precincts set up in exceptional cases and precincts in areas populated with minority.

GYLA was monitoring pre-election period in Tbilisi and seven regions (Kakheti, Shida Kartli, Kvemo Kartli, Adjara,

¹ Resolution of the President of Georgia #01/08/01, dated August 1, 2012

² I and II interim reports of GYLA's pre-election monitoring (January-March 2012 and April-July 2012, respectively)

³ GYLA was monitoring the October 1, 2012 parliamentary elections in the following election districts: Mtatsminda, Vake, Saburtalo, Krtsanisi, Isani, Samgori, Chughureti, Didube, Nadzaladevi, Gldani, Batumi, Khelvachauri, Khulo, Kutaisi, Tskaltubo, Sachkhere, Ozurgeti, Lanchkhuti, Chokhatauri, Zugdidi, Poti, Gori, Kareli, Kaspi, Khashuri, Akhaltsikhe, Rustavi, Marneuli, Gardabani, Bolnisi, Telavi, Sagarejo, Lagodekhi, Dusheti

Imereti, Guria and Mtskheta-Mtianeti), with the involvement of total of 17 monitors of GYLA.

On the Election Day, 340 observers⁴ of GYLA were dislocated in election precincts as well as DEC's and the Central Election Commission.

GYLA also carried out the monitoring of repeat elections held on October 14, 2012 in Khashuri, Gori and Signaghi.

4. MONITORING METHODOLOGY

During the pre-election period GYLA's monitors obtained information from a variety of sources, including the election administration and other public agencies by requesting public information and monitoring media reports⁵. GYLA's representatives attended agitation meetings of political parties with voters. Frequently citizens, members of political parties themselves submitted to monitors reports of violations that they had witnessed. After receiving the reports, GYLA's monitors verified each individual case with applicants and provided legal assistance when needed.

If evidence allowed, GYLA filed over the violations in the CEC, in the inter-agency task for free and fair elections, State Audit Office, court and law enforcement authorities.

On the Election Day GYLA's observers conducted permanent monitoring in 70 election precincts within 10 election districts in Tbilisi and 25 election districts throughout 9 regions of Georgia. They were assisted by mobile group members in Tbilisi (15) and in the regions. Monitoring of election precinct **throughout various regions of Georgia** was carried out by 215 observers of GYLA. **Further, GYLA's observers were monitoring in 5 election precincts abroad.**⁶

GYLA's observers were present on a permanent basis in 35 DEC's and the Central Election Commission on the Election Day and throughout the post-election procedures. GYLA's lawyers/observers were present at the DEC's and the CEC from the Election Day through tabulation of results.

Furthermore, there was a hotline operating in GYLA throughout the day allowing citizens to report any alleged election violations. Where applicable, a mobile team took further actions by visiting the scene.

5. MONITORING OF PRE-ELECTION CAMPAIGN

5.1. Abuse of Government Resources for Election Purposes

Use of official websites of local governments for political party purposes

In August, GYLA conducted a brief research of local government website. According to the obtained information, official websites actively released information about political party activities and agitation campaigns of MP candidates nominated by United National Movement for 2012 Parliamentary Elections, who frequently used statements against their opponents. Often, along with relevant information, the web-pages illustrated photos of the majoritarian MP candidates from the ruling party. In certain cases, web-pages displayed number "5" of the election subject, its election program, name of a candidate and photos, as well as election banner. In addition, sometimes, web-pages of local self-governments were used for carrying out agitation against the key opposition force.

In total, GYLA identified 14 websites of local self-governments, where displayed information contradicted election legislation. It should be noted, that websites carried out election agitation only in support of the ruling party and there was not a single fact when the opposition force was mentioned in a positive context. Promotion of activities carried out by the United National Movement by means of local self-government official websites, turned into an alarming trend. It speaks on elimination of a margin between the party and the state at the local level, when key principles of the public service priorities are completely ignored.

With a view to illustrate the mentioned defective practice, we would bring some examples:

- Information released on the website of Samtredia municipality contains lots of photos depicting political party activities. It also shows Merab Janelidze, majoritarian MP candidate of the ruling party and the election banner of the United National Movement.⁷ The Banner depicts brief information about election program and the election number "5". The press release provides that the candidate is a "familiar face for Samtredia residents".
- Information released on the web-page of Zugdidi municipality⁸ also concern presentation of the ruling party candidate. The press-release describes the process of agitation campaign with positive tone towards the ruling party. In particular, it reports:

⁴ 99 observers were dislocated at election precincts and election districts in Tbilisi, 234 throughout the regions and 7 in precincts abroad

⁵ National and regional press, national and regional broadcasters, Internet-publications

⁶ GYLA was monitoring the October 1, 2012 parliamentary elections in the following election precincts: Mtatsminda, Vake, Saburtalo, Krtsanisi, Isani, Samgori, Chugureti, Didube, Nadzaladevi, Gldani, Batumi, Khelvachauri, Khulo, Kutaisi, Tskaltubo, Sachkhere, Ozurgeti, Lanchkhuti, Chokhatauri, Zugdidi, Poti, Gori, Kareli, Kaspi, Khashuri, Akhaltsikhe, Rustavi, Marneuli, Gardabani, Bolnisi, Telavi, Sagarejo, Lagodekhi, Dusheti as well as in the US (New York), Hungary (Budapest), England (London), France (Paris) and Germany (Berlin).

⁷ The information has been released on the following address: http://samtredia.com.ge/index.php?p=news_index/9_10/004; later on, it was removed from the web-page;

⁸ Information has been released on the following address: <http://www.zugdidity.ge>; later on, the information was removed from the web-page;

“The chairman of the Parliament stated before the local residents that Roland Akhalaia, is an individual who serves the state honestly and all positive changes implemented for the recent period in Georgia are connected to him. In Naraze, at the meeting with local population, Majoritarian MP Candidate of National Movement from Zugdidi region also made a statement and expressed gratitude to population for his support. As he stated, the phrase “much need to be done yet” will never be outdated. As for the government program “More Benefit to People”, Roland Akhalaia will attempt to benefit each family from this program. Narazeni population was satisfied with nominated MP candidate from Zugdidi region. As they declared the ideology of “National Movement” is absolutely acceptable and suitable.”

- The headline of information released on the web-page⁹ of Bolnisi municipality is sufficient to prove that the only value of published news is to promote political party activities of “United National Movement”. The headline provides that “Koba Nakhopia, majoritarian MP candidate, met with youth organization of the National Movement Bolnisi branch.”
- Number of information released on the web-page of Akhmeta Municipality¹⁰ carry out open agitation against the main opposition force, “Georgian Dream” and express political sympathy to the ruling party. Press-releases published on the web-page have the following headlines:
 1. „Provocation of the Dreamers“;
 2. „Majoritarian candidate of Akhmeta region, from the National Movement, continues meetings with population“;
 3. “The briefing planned by “Georgian Dream” aimed to mislead population.“;
 4. “Soviet nostalgia of Georgian Dream“;
 5. “Temur Goderdzishvili, the head of Akhmeta branch of “Georgian Dream” does not remember Russian Aggression.“
 6. “Locals attending the meeting couldn’t conceal their material interest to “Georgian Dream”.
 7. “Majority of questioned population still trust Petre Tsiskarishvili;
 8. “Who is the new chairman of “Georgian Dream” office in Akhmeta region?” and others.

Hereby we submit the list of municipalities, which carried out pre-election agitation through official web-sites. The report also suggests the links of press-releases/news, date, titles and in some cases brief extracts from the released materials (it is placed between the symbols //):

1. **Samegrelo-Zemo Svaneti regional administration** (<http://www.szs.gov.ge/cgi-bin/admin/tviuri.pl>)- 1. “**David Bakradze presented a majoritarian candidate of the “National Movement” in Senaki**” (29.08.2012); 2. “**The President of Georgia met with local population in Chkhorotsku and delivered a speech: extract:** /“Individuals funded by the money of our enemy have long list of objects to be ruined, long list where they are going to obstruct us ...we are optimists, we will achieve victory” (04.08.2012); “**The President of Georgia visited Svaneti**” / **excerpt:**“There are various political forces in Georgia who have lots of money and who, in addition, have the long lists of objects to be demolished, as well as the list of sites that should not be constructed/ (03.08.2012) ;
2. **Board of Senaki Gamegoba – “David Bakradze submitted majoritarian MP candidate of the “National Movement” in Senaki”;** (<http://www.senaki.ge/index.html>) (29.08.2012);
3. **Tsalenjikha municipality** – “David Bakradze presented the majoritarian MP candidate of the “National Movement” in Tsalenjikha” (<http://www.tsalenjikha.ge/index.html>) (23.08.2012);
4. **Martvili Municipality** – “Presentation of the majoritarian candidate of the “National Movement” in Martvili region.” (<http://www.martvili.ge/index.html>) (21.08.2012);
5. **Zugdidi Municipality** - “Bakradze named majoritarian MP candidate in Zugdidi region from the ruling party” (<http://www.zugdidi.ge/>) (21.08.2012);
6. **Mestia Municipality** – “David Bakradze, Chairman of the Parliament, visited Mestia Municipality today” – (<http://www.mestia.ge/index.html>) / excerpt: “David Bakradze, the chairman of the Parliament named Kandid Kvitsiani for a majoritarian MP candidate to residents of Mestia region” / (23.08.2012);
7. **Lanchkhuti Municipality**-“David Bakradze in Lanchkhuti” (<http://www.lanchkhuti.org.ge/index.php/2011-07-25-06-45-33/321-2012-08-22-15-52-42>) / excerpt: At the meeting, David Bakradze has named Giorgi Gogvadze, head of executive body of local municipality, as majoritarian MP candidate of the National Movement. He was ordered to visit each street, village, family with a view to find out what need to be done and to solve all the problems of population gradually./ (22.08.2012)
8. **Samtredia Municipality** – “The President in Samtredia” (http://samtredia.com.ge/index.php?p=news_index/9_10/004) / excerpt: After nominating Merab Janelidze, a familiar face for Samtredia residents, for majoritarian MP candidate from National Movement, the President also talked about other important issues.
9. **Akhalkalaki Municipality**-(http://akhalkalaki.ge/portal/alias_Akhalkalaki/newsid_3416/callerModID_6857/tabid_3207/default.aspx) / excerpt: On August 15, David Bakradze, chairman of the Parliament, officially nominated Samvel Petrosian, former head of Akhalkalaki Police, for majoritarian MP candidate./ (16.08.2012);

⁹ The information was accessible on the following web-page: <http://www.bolnisi.ge/#!lang/ka/cat/news/topic/212>; Later on, it was removed from the web-page of local self-governing body.

¹⁰ www.myakhmeta.ge; at present the web-page does not operate, it is switched off;

10. **Dusheti Municipality** – “Naming of majoritarian MP candidate” (<http://dusheti.org.ge/?l=G&m=11&st=0&id=94>) /excerpt: On August 18, David Bakradze, chairman of the Parliament, presented majoritarian candidate of the “National Movement” in Mtsekhetia-Mtianeti region. / (21.08.2012) ;
11. **Kaspi Municipality** – “Majoritarian MP candidate” (<http://www.kaspi.org.ge/news/199#cont>) / excerpt: Chairman of the Parliament stated, that still much need to be done in the municipality, initiated cases need to be ended, therefore, Kakhaber Khachirashvili, will monitor and take care of fulfillment of planned activities from the legislative branch./ (20.08.2012);
12. **Dmanisi Municipality** – “David Bakradze, chairman of the Parliament, had official visit in Dmanisi municipality” (<http://dmanisi.com.ge/More.aspx?page=news&n=199&lang=geo&text>) /excerpt: “Chairman of the Parliament, named Kakhaber Okriashvili, as majoritarian MP candidate from the United National Movement for 2012 Parliamentary Elections (2.08.2012);
13. **Bolnisi Municipality** – “Koba Nakhopia, majoritarian MP candidate met with representative of Bolnisi Youth Organization of the National Movement: (<http://www.bolnisi.ge/#llang/ka/cat/news/topic/212>)(20.08.2012);
14. **Akhmeta Municipality (www.myakhmeta.ge)-1.** “Provocation of the Dreamers” (01.09.2012); 2. „Majoritarian MP candidate of Akhmeta region, from the National Movement, continues meetings with population“ (30.08.2012); 3.“The briefing planned by “Georgian Dream” aimed to mislead population.“ (25.08.2012); 4.“ Soviet nostalgia of the Georgian Dream”(21.08.2012); 5. “Temur Goderdzishvili, the head of Akhmeta branch of “Georgian Dream” does not remember Russian Aggression“ (18.08.2012); 6. “Locals attending the meeting could not hide their material interests to the “Georgian Dream”. (17.08.2012); 7. “Majority of questioned population still express trust to Petre Tsiskarishvili (14.08.2012); 8. “National Movement nominated Petre Tsiskarishvili for MP candidate in Akhmeta again.” (03.08.2012); 9. “Majority of Ozho population relate Tamur Goderdzishvili’s transfer in “Georgian Dream”, with his business interests” (01.08.2012); 10. “Who is the new head of “Georgian Dream” Akhmeta Office?!” (31.07.2012);11. How Teimuraz Goderdzishvili will respond to the electorate, who has voted for him and expressed trust? (25.07.2012)

According to Article 48 of the Election Code, it is prohibited to use communication and information service dedicated to local self-governing bodies in support or opposition to any election subject. According to Article 49 of the same Code, it is prohibited to carry out pre-election agitation in the process of fulfilling official functions. Correspondingly, GYLA considered, that responsible persons of the mentioned municipalities used to violate requirements of election legislation, which was the ground for sentencing them to administrative liability, in particular, to imposing penalty in the amount of GEL 2000. GYLA also believes that for publication of express agitation materials on the web-page of Akhmeta municipality the issue of disciplinary liability of the head of Akhmeta municipality should have been stated.

On September 6, GYLA applied to the Central Election Commission with a statement asking to examine circumstances of the case immediately and to draft records of offence in terms of relevant individuals. GYLA also applied to interagency commission for free and fair elections asking to monitor websites of state agencies, to observe effectively fulfillment of election legislation by state officials and to undertake relevant measures envisaged by law. GYLA applied to the State Audit Service and urged it to get interested in the mentioned facts and to examine if there were illegal contributions in certain cases in favor of the governing party.

Upon GYLA's statement, on September 20, Interagency Commission for Free and Fair Elections issued a recommendation, and called on local self-governing bodies and state agencies:

- To examine compliance of the content of print and electronic publications with election legislation and to eliminate such practice if any;
- To refrain, in pre-election period, from distributing print materials and video products that are not created for election purpose, however illustration of the election subject there represents use of administrative resource for political party purposes.

Apart from this, election administration also reacted on GYLA's application. In particular, the Central Election Commission sent the application to relevant district election commissions, which from their side, drafted protocols of administrative offence in terms of all offences, totally, against 14 individuals and sent it to the court. By the decision of the first instance court, all 14 individuals were found guilty and were imposed payment of administrative penalty in the amount of GEL 2000.

While examining administrative offence cases, it has been determined that individuals responsible on technical display of information were held liable for releasing of agitation information on municipality web-page. For example:

- **Gameoba of Akhalkalaki municipality** – Serman Murjikneli, web-master ;
- **Administration of state envoy in Zugdidi, Martvili, Mestia, Senaki, Chkhoritsku, Tsalenjikha, Khobi municipalities and in Poti** – Irakli Sichinava, the chief specialist of emergency situations' amangement and others.

GYLA considers unacceptable to hold liable web-masters, in the framework of administrative offence case, for use of municipality web-pages for political party purposes. In view of this, GYLA applied to the Central Election Commission for detailed examination of the circumstances of the case, in particular, for identifying decision-makers on publication of specific materials on the web-page and state officials who gave such orders. Only after detailed study of the facts it

will be possible to make decision on applying relevant responsibility measure. We regret that mostly, our recommendation was not accepted.

Some doubts on use of youth programs for political purposes

In May 2012, the state launched some programs envisaging visits of students from various higher institutions in Anaklia. According to information released in media¹¹, some students complain of unfair selection procedures. In particular, they reported that information on implementation of the program was not open and selection process mainly depended on students' political viewpoints and their loyalty to the ruling party.

With a view to inspect information, GYLA sent some letters to three agencies: the Ministry of Sport and Youth Affairs, LEPL the National Center of Children and Youth and Tbilisi State University. GYLA is interested in receiving maximal information about the programs by which students were taken to Anaklia. In the applications, GYLA's interest was students' selection process.

It was determined on the basis of received information, that the state implemented two major programs and in their framework students from various higher educational institutions visited Anaklia: These programs are:

1) The Program "Patriot"

Annual budgetary funding for 2012: 3, 000, 000 (three million) GEL;

Number of Beneficiaries: up to 5000, including the students: up to 25000;

Age of beneficiaries: 15-20;

Location: Anaklia;

Selection criteria:

- a) Participants will be selected on the bases of applications released on official website of the Center and other addresses;
- b) Participants will be selected on the bases of recommendation of relevant services of local governors.

2) The Program "Youth Festival"

Annual budgetary funding for 2012: 3 850 000 (three million, eight hundred fifty thousand) GEL;

Number of Beneficiaries: up to 10000;

Age of beneficiaries: 14-28;

Duration of the project: For 46 days, from May 26 (until July 11)

Location: Anaklia;

Selection criteria: In "the youth festival Anaklia 2012" (school of leaders), youngsters with best academic achievements, as well as those actively involved in sport and cultural activities, will participate in the program. The Ministry of Sport and Youth Affairs will select the program participants by submission of accredited higher institutions, regional gameobas and the Ministry of Education, Culture and Sport of Adjara autonomous republic."

According to information submitted by LEPL National Center of Children and Youth, up to 10 000 individuals took part in the programs implemented in Anaklia, among them 4709 students.¹²

The unified electronic system of state procurements illustrates 4 pieces of procurements carried out by LEPL National Center of Children and Youth in 2012 in terms of procurement of hotel service in Anaklia. The system depicts only acquisitions implemented by bidding or simple electronic bidding. Information on procurement of hotel service via simple procurement (noncompetitive procurement form) was not provided there. The chart illustrates procurements carried out by the Center for acquisition of hotel service in Anaklia:

Chart:

#	Tender Announcement day	Hotel Location	Provider	Guests	Service timeline	Value in Laries
	25.01.2012	Anaklia	LTD Sani	6300	42 Calendar days from May 15	1 271 100
	25.01.2012	Anaklia	Hotel Anaklia	3570	42 Calendar days from May 15	499 800
	15.06.2012	Anaklia	Hotel Anaklia	330	6 Calendar days from July 23	49 500
	15.06.2012	Anaklia	LTD Sani	720	6 Calendar days from July 23	108 000
Overall: 10 920 people; 1 928 400 (1 million nine hundred and twenty eight thousand and four hundred Laries)						

¹¹ See: <http://www.youtube.com/watch?v=6I9iKh6Zg8Y>;

¹² The letter of Valerian Sharikadze, FOI officer, letter #05-14/490 of June 20, 2012 of LEPL National Center of Children and Youth;

Examination of official documents revealed that regardless of high expenses born on implementation of the program, criteria for selection of beneficiaries has not been identified. Hereby we will discuss each provision from official documents, on selection of participants:

- 1) The annex of the Director's order of LEPL "National Center for Children and Youth" provides about the Program "Patriot 2012": "Participants are selected on the bases of applications displaced on the official web-page of the LEPL National Center of Children and Youth, the Ministry of Sport and Youth Affairs and other addresses." The order does not contain any reference about individuals who will examine the application and the manner how it will be conducted, what are the selection criteria, how should the successful candidates be revealed and other issues.
- 2) The annex¹³ of the Director's order also provides that "participants are selected by considering recommendations of the President's envoys-local governors", yet it does not specify any criteria for relevant services of the governors or the ways of disseminating information among interested individuals;
- 3) The annex¹⁴ of the Director's order¹⁵ of the LEPL "National Center for Children and Youth" provides about the Program "Patriot 2012": "Youngsters with best academic achievements and those actively involved in sport and cultural activities, are eligible to participate in the youth festival Anaklia 2012. Selection will be implemented by the higher educational institutions accredited by the Ministry of Sport and Youth Affairs, and by submission of regional Gameobas and the Ministry of Education, Culture and Sport." The program does not envisage description of the selection rules that might be applied by the entities (accredited educational institutions, regional gameobas and the Ministry of Education, Culture and Sport of Adjara Autonomous republic). It is also unclear which levers are possessed by the Ministry of Education, Culture and Sport for implementing such selection process.

While no normative acts specify selection criteria for participants of the "Patriot 2012" and "Youth Festival 2012", there is no indication on dissemination of information about competition and part of students complain of selection process, there are increasing doubts on conduct of selection process in a biased manner, by considering political viewpoints and loyalty to the ruling party.

GYLA considers that retrieved materials should be sufficient for the State Audit Service, for launching examination of the case and for determining the facts. In particular, it should define if there was any illegal contribution from state agencies or Legal Entities of Public Law in favor of the ruling party. GYLA stated the problem at some meetings, including Interagency Coordination Commission for Combating Corruption and requested from the State audit Service conduct of relevant proceeding for examining the issue. According to the explanation made by the General Auditor at the meeting, examination of the issue is beyond the mandate of the State Audit Service. Indeed, the agency has not made any decision on contributions implemented by the state agencies in favor of the ruling party. Georgian Legislation provides the opposite from the State Audit Service. According to Article 26, clause b of the Organic Law of Georgia on Political Union of Citizens; it is prohibited to receive contributions from "State Agencies, state organizations, Legal Entities of Public Law, companies established with state participation, save for the cases envisaged by the law." According to Paragraphs 2 and 21 of the Article 26, funds transferred to the political party account, as well as material and non-material goods received by the party in a discount/or in privileged conditions (including privileged credit) and service (apart for the voluntary activity fulfilled by a volunteer), as well as funds, material and non-material goods donated free of charge/or in a discount/ or in privileged conditions (save for the voluntary service of a volunteer) in support to a party or an individual envisaged by Article 26 1 of the law are considered to be contribution. In view of this, the State Audit Service was obliged to take relevant measures for investigation of the case, to draft protocol of administrative offence if illegal contributions emerged and to send it to the judiciary. The Audit Service should have forwarded the case materials to the Prosecutor's Office if it had doubts on existence of elements of criminal offence.

Some doubts in terms of recruiting ruling party activities in local self-governing bodies

On July 5, 2012 TV Company Maestro broadcasted the story in the program "Without Accreditation". The program demonstrated long interview with Rusudan Tsiklauri, the former coordinator of the "United National Movement". According to the respondent, she was the head, so called coordinator, of the election district #48 in Nadzaladevi Election district. In addition, as a representative of the self-governing body, she was in the Board of Trustees of the secondary school No. 32, with a right to vote. In response to the question, if she knew that membership of the Board was formal and she received salary for being a coordinator of the "United National Movement", her answer was positive. In addition, she also named the person, who submitted such information. He is Mamuka Gigeshashvili, member of the "United National Movement" and member of Tbilisi local council after self-government elections of 2010. In response to the journalist's question, she also provides that the method of appointing coordinators on various positions applies only in the capital. Party coordinators are also designated as deputy heads of kindergartens and as members of the Board of Trustees, she added. Rusudan Tsiklauri reports that her reimbursement comprised 500 Laris. She has already taken part of money in the office of the "United National Movement", located in Tsotne Dadiani street #105. Afterwards, Rusudan Tsiklauri

¹³ Annex 4, clause a) of the order #01-p of January 5, 2012;

¹⁴ Annex 4, clause b) of the order #01-p of January 5, 2012;

¹⁵ Annex 4, clause b) of the order #01-p of January 5, 2012;

speaks about the party structure, in particular, she specified subordination issue between various employees, the scope of their activities and methods. Micro-coordinators or social agents are subordinates of coordinators. This human resource is also applied by local government of the capital for conduct of various inquiries. For example, on November and December 2011, Tbilisi City Hall arranged a door-to-door public opinion survey in the frames of the program "Plan the Budget of Your City". The survey was carried out by using the individuals employed in the "United National Movement" and they received GEL 150 for conduct of the work. The program was implemented by Tbilisi City Hall. During the door-to-door survey, population was interrogated about their political viewpoints, in particular, which party were they voting for. In the program, Rusudan Tsiklauri also reports on some mechanisms of falsification of elections.

The given scheme of funding "coordinators" of the "United National Movement" attracted GYLA's special attention. As it was distinguished, the main source of their income was budget of Tbilisi self-governance. Local staff was employed on different positions in local self-governments and the key motive for recruitment was their loyalty to the United National Movement. Party coordinators were mainly employed in Tbilisi public schools and kindergartens. In some cases coordinators were local government representatives in boards of trustees, whereas in other instances, they were deputy directors in kindergartens.

With a view to inspect the information and to collect more data, GYLA applied with request of public information to several agencies: Tbilisi City Hall, Tbilisi Local Council, the State Agency for kindergartens' management and the political party "United National Movement." It should be noted, that administrative agencies failed to provide requested information within the terms envisaged by legislation. The issue was discussed at the press conference held on August 10, 2012 within "This Affects You Too" Campaign. In particular, the statement released by NGOs provided:

"We also remember, that no reaction followed so far in terms of the statement made by the former coordinator of the "United National Movement" on the facts of violation of law by the ruling party, including recruitment of part coordinators in the state service, broadcasted by the TV Company "Maestro" in its program "Without Accreditation". Furthermore, notwithstanding our statements on request of public information, Tbilisi City Hall and the local council did not submit information and thus grossly violated the law.

Indeed, reluctance of state agencies to disclose information on public expenditures is especially vivid, whereas the State Audit Service requires unreasonable and unprecedented transparency from political party affiliated natural persons. In view of this, the responsibility of State Audit Service to respond timely and adequately on the instances of misapplication of administrative resources increases ever more, yet we cannot remember even a single decision adopted in that regard. "

GYLA was successful to receive public information from the Tbilisi City Hall and Tbilisi Agency of Kindergarten Management, only after this press-conference. According to information submitted by Tbilisi City Hall, it has one representative appointed in all boards of trustees in public schools throughout the capital. Tbilisi local budget envisages 840,000 GEL for reimbursement of these persons. In its application, GYLA requested detailed information about selection criteria, procedures and rules of recruitment of Tbilisi self-government representatives in boards of trustees. In response, we were informed that the city service of social affairs and culture appoints city hall representatives in board of trustees. Such rule of appointment based on recruitment of individuals without competition, creates the fertile conditions for employment of citizens for upholding and promoting political interests and ideology.

According to the information provided by the State Agency of Kindergarten Management, directors admit teachers and other employees without any competition in kindergartens, including the deputies. Directors are appointed by the founders of the kindergartens, or the Tbilisi City Hall. According to information provided by the agency, in 2007 directors of kindergartens were appointed on the bases of competition arranged by Tbilisi government.

In response to our application, the agency submitted the list of kindergarten directors composed of 158 individuals, yet it did not submit the list of deputy directors. According to Rusudan Tsiklauri, coordinators of the "United National Movement" were designated for the position of deputy directors. In view of this, we were not able to inspect the information. In parallel, Tbilisi City Hall released information of 175 individuals who are employed in Boards of Trustees in public schools throughout Tbilisi. Initially, "United National Movement" send written denial on disclosure of information concerning party coordinators, while later on, after half and a month, it submitted only the part. Comparison of the lists demonstrated that from the directors' list composed of 158 individuals, three of them coincide with the lost of coordinators consisting of 3601 individuals. For unavailability of relevant document, we could not compare list of coordinators with the deputy directors' list. Out of 175 members of the Board of Trustees of Tbilisi Secondary Schools, 4 names are found in the list of coordinators provided by the "United National Movement". As it is seen, coincidences are not frequent, yet for inspecting exactness of the mentioned results, validity of the provided lists needs to be determined.

Inspection carried out by GYLA is not comprehensive, especially if taking into account unavailability of lots of necessary information. In view of this, the issue should be examined by Competent individuals for the serious charges broadcasted on TV.

Initiation of a new project by the Khoni Municipality in the pre-election period

Article 49(3) of the Georgian Election Code prohibits initiation and/or implementation the following types of activities during the period between the date when the election was appointed and the date when the election results were summarized:

- projects not previously foreseen in the national or local budget;
- increase in budgetary programs that were already foreseen in the national or local budget;
- initiation of unplanned transfers to the local budget;
- increase in planned transfers to the local budget.

The logic behind this prohibition is to impose limitation upon national and local self-governance bodies in the pre-election period to prevent them from abusing the freedom of financial decision-making powers and making use of administrative resources for the benefit of individual political parties. GYLA monitored compliance with the cited provision in the pre-election period. The case of Khoni Municipality turned out to be interesting because its legislative organ enacted amendments increasing the social assistance scale in the pre-election period.

The case is about a Resolution no. 4 adopted by the legislative organ of the Khoni Municipality on 27 January 2012 approving rules of issuance and receipt of social assistance from the budget of the Khoni Municipality. The Resolution was amended on 15 August;¹⁶ according to the amendments, families of particularly poor citizens became entitled to additional pecuniary assistance as a lump sum payment in the amount not exceeding 1,000 (one thousand) Lari to cover costs of urgent medical services. With this decision, the legislative organ of the Khoni Municipality made it possible, during the pre-election period, to implement a project not previously foreseen in the local budget, which was a violation of Article 49(3) of the Election Code. In such cases, the Election Code empowers authorized persons to address the court demanding stoppage of incurring the costs. GYLA resorted to this legal mechanism. A magistrate judge of Khoni rejected GYLA's claim. The judge deemed that no changes have been effected to the Municipality budget and the case was merely about specifying the list of beneficiaries of social programs. The judge thus reckoned that there was no violation of the provisions of the Election Code.

5.2. Voter bribery

Regardless of whether it is committed during any pre-election period or not, voter bribery is prohibited by the Georgian legislation. Depending on the circumstances of an individual case, voter bribery may qualify as an administrative violation or a criminal offence. If committed during a pre-election period – that is, between the date when a legal act appointing the election was published and the date when the final results of the election were published – voter bribery will entail, in addition, judicial cancellation of the election registration of the relevant election subject (a political party, a political bloc or a candidate to Parliament membership). During August and September, GYLA analyzed a total of 3 voter bribery cases.

Alleged bribery of voters in Dusheti by Zurab Otiashvili

On 27 August this year, the Mtskheta-Mtianeti Information Center reported¹⁷ alleged voter bribery by Zurab Otiashvili. According to the report as well as the news published on the official website of the Dusheti Municipality, on 25 August this year, the legislative and the executive organs of the Dusheti Municipality and the Office of the State Envoy (Governor) in the Dusheti organized a local folk festival “Vazhaoba”. In the course of the celebration on this occasion, Zurab Otiashvili – a representative of the political association “United National Movement” – assisted Giorgi Basilashvili, a local resident, with 500 Lari. There are several pieces of evidence corroborating this:

In an audio recording published on www.icmm.ge,¹⁸ Giorgi Basilashvili confirmed that Zurab Otiashvili assisted him by giving him cash;

In a comment given to a journalist, Zurab Otiashvili himself confirms the same stating that “[Giorgi Basilashvili] is a poor man and, just humanely, I helped him; if you see him, you would also help him.”

In a broadcasting story prepared for the Maestro TV Company,¹⁹ Giorgi Basilashvili and his friend have again confirmed that Zurab Otiashvili was helping Voters with cash. They are saying, in particular, Basilashvili received cash from the concert anchorperson saying it was a gift from Zurab Otiashvili.

It should be noted that, as early as 18 August, a week before the “Vazhaoba” local festival, Zurab Otiashvili was nominated to the Parliament membership under direct election system in front of the local population by Davit Bakradze, Chairman of the Parliament and a leader of the political association “United National Movement”. Mr. Otiashvili was having meetings with the local residents as a candidate to the Parliament membership, as confirmed by a series of video

¹⁶ The pre-election period of the 1 October 2012 Parliamentary Election means a period between 1 August and 19 October.

¹⁷ <http://www.icmm.ge/ka/site/articles/2376>

¹⁸ *Ibid.*

¹⁹ <http://maestro.ge/?address=uc&id=34482&page=3>

footages. For example, in a footage published on 23 August,²⁰ a local official Tskaruashvili is meeting the local population together with Zurab Otiashvili propagating Zurab Otiashvili's merits as a candidate to MP. The aggregate of facts confirm that Zurab Otiashvili was acting on behalf and in favor of the political association "United National Movement" with election goals. According to reports broadcast on 31 August this year, "a candidate of the United National Movement under direct election system in the Dusheti Election District will be Nino Khutsishvili and not Zurab Otiashvili";²¹ however, this change had no impact upon the how the criminal conduct occurred on 25 August should be qualified.

Pursuant to Article 164¹ of the Criminal Code of Georgia, directly or indirectly giving money to a person for election goals constitutes the crime of voter bribery and is punishable with deprivation of liberty for up to 3 years or with a fine. The conduct of Zurab Otiashvili, a representative of the political association United National Movement, contains elements of the very crime of voter bribery. For this reason, on 4 September, GYLA addressed the law enforcement bodies with an application urging them to timely investigate the allegation and take measures envisaged by the applicable law. According to information provided by the Inter-Agency Commission for Free and Fair Elections, investigation has been launched in this case. No other information is available to us about the investigation.

It should be noted that, according to GYLA's findings, law enforcement authorities were keen on immediately responding to allegations of voter bribery on the part of opposition activists, but the same is not true about Zurab Otiashvili – a candidate to membership of Parliament and an activist from the United National Movement. For example, it took the justice system only 3 days after allegations were made about voter bribery to impose preventive measures under the Criminal Procedure Code upon the activists of the political association "Georgian Dream – Democratic Georgia" whom we reported about in our previous report: Mikheil Meskhi, Gaga Ambroladze and Nino Kurua. Of these individuals, Meskhi and Ambroladze were ordered to custody and Kurua was imposed a bail. They were charged with promising to hand over a material value to voters. Despite the fact that the allegation against Otiashvili is more serious, we have seen no such response in relation to the opposition activists on the part of the law enforcement bodies.

Alleged bribery of the Poti voters by Tengiz Sarishvili

On 6 and 11 September this year, Information Agency "Info 9" published two stories on its website about the meetings held by Tengiz Sarishvili, a candidate of the United National Movement to Membership of Parliament under direct election system, in the Election District no. 70 in Poti with the local population. At both meetings, the election candidate is making telephone conversations in front of the local residents promising the citizens to resolve their day-to-day problems such as road gravelling or water pipe repair. It is obvious that the National Movement candidate was trying to get the voters interested by promising to have their road graveled and water pipe repaired – actions constituting voter bribery.

The story broadcast by "Info 9" on 6 September²² is about Tengiz Sarishvili's pre-election meeting with the residents of the Dumbadze Street in Poti. The video footage clearly shows the election candidate speaking to somebody named Mr. Nugzar, "a chief of the agency", and getting the citizens interested by promising to make a material donation: "Mr. Nugzar, this is Tengiz Sarishvili speaking. It's here, on Dumbadze street ... the junction is damaged. So, on Dumbadze street ... I'm in the port now. I'm meeting with the population and ... I think it's there ... no, there was no problem, it was just that they probably missed it ... err, what is it called, the device was out of order and, if the device has been restored, please send someone to this people ... Yes, Sir. Ok, my dear Nugzar, very well. Thank you." Then he addressed the citizens: "The chief of the agency will come here today." "Yes, very well, Mr. Nugzar, the people are hearing your promise." The story also includes a comment made by citizen Dodo Vashadze, a voter, where she says: "We are extremely grateful to Mr. Nugzar. He listened to us, accepted our remarks and gave us a promise. So, today, someone is already coming here to repair the water pipe." The cited comment corroborates that the voters perceived Mr. Sarishvili's actions as a promise. In the beginning of the story, one can see a senior citizen (voter) on the footage expressing dissatisfaction that the water issue has been unresolved for already a month. Magda Menabde, head of the press office, explained that the meeting was taking place with the residents of the Guria Street and it was held within the pre-election campaigning.

Another story broadcast by "Info 9" on 11 September²³ concerned another pre-election meeting of the election candidate from the United National Movement with the population. The video footage shot by the mentioned media outlet features Mr. Sarishvili talking with someone over the phone during which he suddenly tasks that person to apply a gravel layer to the road. In particular, one can hear the following conversation on the footage: "These places are impassable and ... when we'll start from here and bring the road scraper to ... err ... the Chitadze and Melikishvili streets and ... err Didgori, then we can send the scraper to that place and make Ira pebble a couple of trucks of gravel onto the road."

Such a phone conversation in front of citizens makes up the elements of the crime of voter bribery, since it is aimed at getting the Georgian citizens interested "by promising to hand over a material value to them (irrespective of the actual value)". It should be noted that not all of the promises made by an election candidate are considered unlawful for the purposes of the Georgian legislation. For example, pursuant to Article 25²(3) of Law of Georgia on Citizens' Political

²⁰ <http://www.youtube.com/watch?v=4Y2LVCOpSLE>

²¹ <http://icmm.ge/ka/site/news/2412>

²² <http://info9.ge/?l=G&m=1000&id=4014>

²³ <http://info9.ge/?l=G&m=1000&id=4373>

Association, a promise is lawful if it relates to future distribution of budget resources and future implementation of State policies. Promises made by Tengiz Sarishvili, a candidate from the United National Movement, obviously cross the limits of lawfulness, since they are not related to future distribution of budget resources or future implementation of State policies; instead, Sarishvili pledged to resolve the local resident's routine problem immediately, thereby getting them interested.

For this reason, on 28 September this year, GYLA lodged a lawsuit with the Poti Town Court demanding, under Article 47(2) of the Election Code, that the court cancel the election registration for Tengiz Sarishvili, a candidate to membership of Parliament from the "United National Movement – More Benefits for the People". The court rejected the lawsuit saying that Tengiz Sarishvili did not bribe citizens with his personal money. The court stated that the election candidate provided information about the local residents' problem to the authorized agencies that were in charge of dealing with the problem. The court further stated that the Poti self-governance bodies were laying water pipes and repairing the roads and both of these activities were part of their competence; hence, they were not falling within the prohibition contained in the Election Code and were not constituting voter bribery. GYLA's appeals complaint was also rejected and the judgment of the first instance court remained in force unchanged.

Alleged bribery of the Lanchkhuti voters by Gia Gogvadze

On 20 September of the current year, in its information program at 15:00 hrs, Channel 9 showed a story depicting voter bribery in the Election District no. 61 in Lanchkhuti by Qetuna Tsintsadze, representative of Giorgi Gogvadze, a candidate to membership of Parliament from the "United National Movement – More Benefits for the People". According to the televised story, Giorgi Gogvadze sent a 100-Lari bill to Tamar Gurgendidze, a resident of Village Chochkhati of the Lanchkhuti Municipality, through his representative Qetuna Tsintsadze. The footage includes a comment made by Tamar Gurgendidze, in which she corroborates the same. She says: "Qetuna Tsintsadze, deputy governor of Chochkhati, came to my place and handed a 100-Lari bill to me; she said the money was from Gia Gogvadze and I should have stayed ready so that they would help me out for the rest too. Until now, I was refraining myself but I decided not to abstain any longer. If they wanted to help me, they could do so before the elections."

Voter bribery is a criminal offence under the Georgian legislation.

To verify the above-described information, GYLA's representative visited Village Chochkhati of the Lanchkhuti Municipality on 25 September, this year. Gurgendidze stated to our representative that she is registered in the database of socially unprotected individuals, her husband is bedridden constantly in need of expensive medications, and the family lives in a constant financial hardship. Mrs. Tamar had addressed the local self-governance body with a request to provide any assistance to her family but no allowance had been issued. Several days ago, Tamar Gurgendidze received 100 Lari from a village governor and a promise that she would get another onetime assistance in the future too.

5.3. Decisions made by the Election Administration in the pre-election period

The case concerning registration of Giorgi Glunchadze, an independent election candidate

On 10 August 2012, an initiative group of voters submitted to the Kharagauli District Election Commission documentation required for the registration of Giorgi Glunchadze, an independent candidate to membership of Parliament under direct election system. The documentation included a list of voters supporting that candidate. The District Election Commission declared part of the signatures in the voters' support list void allowing the initiative group a 2-day term to rectify the shortcoming. The initiative group then submitted the signatures anew, as demanded by the District Election Commission. The same day, based on a motion of the prosecution office, the Zestaponi District Court ordered that Giorgi Glunchadze's supporting voters' list and the related registration documentation be extracted from the Election Commission's documents. On 16 August this year, on its website, the Central Election Commission of Georgia published an announcement authored by Kharagauli District Election Commission No. 48, which stated that registration of Giorgi Glunchadze, an independent election candidate, had been suspended for an indefinite period because of the removal of original copies of Giorgi Glunchadze's registration documents from the District Election Commission. GYLA is of the view that, in the given case, the authorities must have adhered to the provision contained in Article 78(3) of the Criminal Procedure Code, which stipulates that "[If] a document extracted and appended to a criminal case file is necessary for the ongoing registration, reporting or other lawful purposes, the document or its copy may be returned to its owner or be handed over to the same for temporary use." Indeed, the making of a decision about candidate registration by the District Election Commission – an administrative body tasked to do so within its normal functioning – was a lawful purposes within the meaning of the cited provision of the Criminal Procedure Code.

GYLA published a number of public announcements in the media calling on the Kharagauli District Election Commission no. 48 to immediately withdraw the extracted documents from the relevant authorities; in the same announcements, GYLA urged the relevant investigation authorities, on their turn, to immediately submit the documents to the District Election Commission. On this matter, GYLA also informed the Inter-Agency Commission for Free and Fair Elections. As we found out later, our recommendation was taken into account. On 21 August 2012, the documentation required for the candidate's registration was returned to the Kharagauli District Election Commission and, on 22 August, the Commission registered Giorgi Glunchadze as an independent election candidate on the basis of the said documents.

It shall be impermissible to jeopardize the right of Georgian citizens to be elected to the Parliament of Georgia, for any artificial reasons. GYLA welcomes the decisions of the Kharagauli District Election Commission and the Prosecution Office taken in compliance with the Georgian legislation and allowing Giorgi Glunchadze, an independent election candidate, to exercise his passive right to election.

Exercise of their voting rights by citizens of Georgia outside Georgia

In its second interim report on the monitoring of the pre-election environment²⁴, GYLA wrote about the problem of limitations imposed upon the Georgian citizens' right to take part in the election outside Georgia. The matter was about an order issued by the Georgian Minister of Foreign Affairs amending the rules of consular registration. According to the amendments, it became mandatory for citizens to undergo consular registration to additionally submit a certificate on the place of residence abroad. On 24 July 2012, GYLA negatively assessed the amendments²⁵ stating that the newly introduced rule was adversely affecting voting right of Georgian citizen in abroad who: 1) were illegally present in a foreign country; or 2) whose host countries in abroad would not issue such certificates. Later, the Ministry of Foreign Affairs enacted another amendment to the consular registration rules eliminating the second problem but allowing the first one to remain in force anyway.

The Foreign Minister's order caused a great confusion among the Georgian voters illegally present in foreign countries. From legal point of view, the situation was not favorable indeed resting on the ground of vague regulatory provisions. It should be noted that the Central Election Commission responded to this problem belatedly enough when only several days were left until the Election Day, on 9 September 2012.²⁶ In its resolution, the Central Election Commission specified that individuals not having consular registration and wishing to obtain one for taking part in the election had to merely submit an application and a copy of their ID cards to the relevant consular offices. The same resolution extended the term for the submission of documents for 3 days fixing 13 September as the final deadline.

We think that Central Election Commission's belated response to the problem significantly limited the right of Georgian citizens in abroad to exercise their passive electoral right resulting in a small number of persons registered with the consular offices for election purposes.

Introduction of photo- and video-taping rules on the Election Day²⁷

On 24 September 2012, the Central Election Commission adopted Resolution no. 42/2012 "on determining some of the election-related procedures"²⁸. In GYLA's opinion, the Resolution contradicted the Election Code of Georgia; in particular, it was violating the right of individuals authorized to stay in the balloting premises (including journalists and election observers) to audio- and/or video-tape the election process, except in the balloting booth and without interfering with the voting process. The said Resolution introduced a number of important limitations. Details of the Resolution and actions taken by GYLA are described in Chapter - "Actions against Media" of this report.

Problem related to accommodation of precinct election commissions

Pursuant to Article 58(2) of the Election Code of Georgia, a precinct election commission shall not have a seat and voting shall not place within the same building where any of the following is stationed: a political party, national and local authorities (except there is no other building available on the territory of the election precinct suitable for holding an election process in accordance with this Law; the Central Election commission shall make a decision on this matter), and police offices (except precinct election commissions created in exceptional circumstances). GYLA addressed the election administration several times demanding prevention of rules enshrined in the law. In September 2012, we addressed the Vani District Election Commission No. 53 about the fact that the Precinct Election Commission NO. 7 was stationed in the building of the local executive body in Village Gadidi. GYLA requested that the District Election Commission study the issue and consider relocating the Precinct Election Commission into the building of the Public School of Village Gadidi.

On 17 September this year, GYLA addressed the Martvili District Election Commission No. 65 about the fact that the Precinct Election Commission No. 34 was stationed in the local office [of what?] in Village Sergieti. By its letter dated 20 September, the District Election Commission informed us that no other suitable building was available in the vicinity to station the precinct election commission.

²⁴ Reporting period: 1 April – 31 July; Date published: 2012; page 5

²⁵ <http://gyla.ge/geo/news?info=725>

²⁶ Resolution of the Central Election Commission no. 37/2012 "on determining new terms and rules for voters' registration, making up election lists and their handing over to the CEC and Voter Lists' Specification Commission for the 1 October 2012 Election of the Parliament of Georgia"

²⁷ Resolution of the Central Election Commission no. 37/2012 "on determining new terms and rules for voters' registration, making up election lists and their handing over to the CEC and Voter Lists' Specification Commission for the 1 October 2012 Election of the Parliament of Georgia" http://cesko.ge/files/2012/DADGENILEBA/D_37.pdf

²⁸ http://cesko.ge/files/2012/DADGENILEBA/d_42.pdf

5.4. Violation of pre-election agitation rules

Use of hate language during pre-election campaigning

During the election campaigning preceding the 1 October 2012 Parliamentary Election, one of the problems was the use of hate language by representatives and candidates of political parties. GYLA responded to the problem several times. On 5 April of the current year, several non-governmental organizations, including GYLA, disseminated a joint statement²⁹ urging the ruling and opposition parties to say “no” to rhetoric containing xenophobia and religious or ethnical intolerance. On 25 April 2012, GYLA also made a statement³⁰ concerning the use of hate language by Azer Suleimanov, Member of Parliament, urging him to refrain from using unacceptable terminology. A group of non-governmental organizations, including GYLA, also responded to the use of hate language and racist expressions by Davit Darakhvelidze, a candidate from the political coalition “Georgian Dream”, on 19 October 2012 during his election campaigning in the Ambrolauri District.³¹

In the pre-election period, that is, since the Election Day is appointed, it becomes possible to initiate legal proceedings against the use of hate language by election subjects in their election programs. As early as in August, political association “Free Georgia” disseminated in pre-election advertisement through social networks.³² The association has been registered by the Central Election Commission as an election subject participating in the 1 October 2012 Parliamentary election. The advertisement includes some of the aspects of the election program of the political association “Free Georgia”, in other words, views of the political parties about a number of issues, which the party intends to add flesh if it is successful to come to power. In addition to other issues, the advertisement contained the following phrases:

“We will nationalize forests and pastures misappropriated by foreigners. We will return the soil to the Georgian peasant. We will replace English scripts and Turkish flags with Georgian ones. We will stop the construction of the Azizie Mosque in Batumi. We will ban the undue propaganda of homosexuality and sects.”

In addition to the above-cited phrases, the images used in the advertisement were also worth noting. For example, while speaking of foreigners in a negative context, in the ad, one can see Chinese workers and, while speaking of “undue propaganda of homosexuality and sects”, one can see images of LGBT (Lesbian, Gay, Bi, Transsexual) individuals holding a peaceful and lawful manifestation on 17 May this year. LGBT’s procession was impeded by groups of aggressively motivated individuals – an action that was strictly condemned by both local and international non-governmental organizations.

It should be noted that, pursuant to Article 45(3) of the Election Code of Georgia, contents of pre-election advertisements and election programs of political parties must meet a number of requirements. First of all, such materials must not include propaganda of war or a call for overthrowing or forcibly changing the constitutional order of Georgia, infringing upon the territorial integrity of the country or provoking national, local, religious or social animosity. We believe that the advertisement / election program produced by the political association “Free Georgia” are overstepping the afore-determined limitations, since they contain calls for national, religious and ethnic animosity and themselves constitute an expression of such animosity. Although the Election Code does not provide a definition of the term “calls for”, but, pursuant to Article 1(d) of the Law of Georgia on the Freedom of Word and Expression, this term means “any statement the author of which aims at provoking or obviously admits provocation of a certain action”. In the case in question, the political association “Free Georgia”, being the author of its election program, aimed at attracting voters in the 2012 Parliamentary Election and getting them interested with a promise that, should the party win the election and come to power, it would take strict measures against vulnerable groups of minorities. Having such plans by a political party is incompatible with democratic values and the human rights law. The offering of the mentioned election program to voters and calling for their support contains signs of “calling for national, religious and ethnic animosity”.

In this context, it is interesting to look into the jurisprudence of the European Court of Human Rights. The Court dealt with a similar case in 2009. In the case *Féret v. Belgium*,³³ the applicant was a president of a radical rightist party in Belgium who was convicted of kindling discrimination and racial hatred in the society through disseminating leaflets during his election campaigning.

Mr. Féret was Chairman of the “National Front” political party and a member of the Belgian House of Representatives. During its election campaigning, the party disseminated leaflets and posters presenting non-European immigrants as criminal-minded individuals aspiring to make use of benefits they were getting by living in Belgium. The leaflets also contained mockery of them with an inevitable risk of provoking distrust, rejection and even hatred towards foreigners. At prosecutor’s request, Mr. Féret’s parliamentary immunity was lifted and criminal proceedings were launched against him. He was sentenced to 250 hours of community work in relation to integration of immigrants and a 10-month conditional imprisonment sentence. Mr. Féret was declared incapable of occupying any public office for 10 years.

The European Court explained that political speeches inciting hatred based on religious, ethnic or cultural prejudice pose a threat to social peace and political stability in democratic countries. The applicant’s official status as a Member of

²⁹ <http://gyla.ge/geo/news?info=656>

³⁰ <http://gyla.ge/geo/news?info=666>

³¹ <http://gyla.ge/geo/news?info=787>

³² <http://www.youtube.com/watch?v=L9HZljogclc>

³³ *Féret v. Belgium* - 15615/07, Judgment 16.7.2009 [Section II]

Parliament cannot be considered a circumstance mitigating his responsibility. It is crucial for politicians to avoid making comments in their speeches that may strengthen intolerance. Politicians must pay particular attention to defending democracy and its principles, since their ultimate goal is to assume power. In this judgment concerning Belgium, the European Court also underlined the importance of pre-election campaigning, which may make a hate language even worse. The Court stated: "... in case of racist or xenophobic speeches, [an electoral] context contributes to promoting hatred and intolerance...The impact of racist and xenophobic speeches worsens and is more damaging. [Political parties] can advocate solutions to problems related to immigration. However, in doing so, they should avoid promotion of racial discrimination and usage of vexatious or humiliating words or attitudes, since such behavior may provoke reactions among the public that are incompatible with a peaceful social climate and undermine confidence in democratic institutions. The Court examined the texts in question disclosed by the applicant and considers that ... the language used by the applicant clearly incited discrimination and racial hatred, which must not have been camouflaged as election campaigning." Accordingly, the Court found that measures imposed upon the applicant were not violating his right to freedom of expression under Article 10 of the European Convention.

Judgment of the Constitutional Court of Georgia dated 18 April 2011 concerns the limitation imposed by Article 45(3) of the Georgian Election Code upon election subjects in a pre-election period. In particular, in its paragraph 90, the judgment says: "It is not possible for a constitutional right to be aiming at impairing democratic order protected by the Constitution itself and creating a basis for committing unlawful conduct. The threshold of the freedom of expression lies wherever the expression endangers the principles and values declared in the Constitution. A constitutional right may be limited in order to ensure a value protected by the Constitution. The Georgian constitution recognizes and affirms the right to thought and expression, the freedom of mass media, but, at the same time, envisages grounds for imposing limitations upon this right too, including, for the purpose of achieving a legitimate aim such as the protection of others' rights. The freedom of expression may be restricted when any given expression crosses this threshold between the freedom of expression and others' rights."³⁴

The advertisement disseminated by the political association "Free Georgia" promotes enhancement of stereotypes hindering full-fledged integration of religious, national or sexual minorities into the society. In general, the Georgian legislation does not prescribe sanctions for the use of hate language. The only exception is a pre-election period when election subjects bear a special responsibility in this regard. The "Declaration on the use of racist, anti-Semitic and xenophobic elements in political discourse" adopted by the European Commission against Racism and Intolerance (ECRI) on 17 March 2005 also stresses the essential role and responsibility of political parties in combating racism.

Article 45(3) of the Georgian Election Code echoes this special role and responsibility of politicians and political parties and violation of this provision leads to sanctions under Article 79 of the same Code. According to the provision referred to above, in compliance with the requirements of the Election Code during a pre-election propaganda is a violation of the law. Political association "Free Georgia" did not comply with the requirements of Article 45(3) of the Election Code during its pre-election propaganda, which constitutes trespassing against the law punishable with a fine of 2000 Lari.

Against this background, the Georgian Young Lawyers' Association, the Women's Initiatives Support Group, the Citizens' Movement "Multinational Georgia", the Bishop of the Evangelist-Baptist Church of Georgia, LGBT Georgia, and organization "Identity" addressed a written statement to the Central Election Commission of Georgia urging to draw up a protocol on the commission of an administrative offence by the political association "Free Georgia" and to forward it to the relevant court. The Central Election Commission of Georgia dealt with the complaint lodged by a group of non-governmental organizations deciding to uphold their request. As a result, the Central Election Commission sent a protocol on administrative offence to a court and the court ordered political party "Free Georgia" to pay a fine of 2,000 Lari.

Involvement of the Church and clergy in pre-election propaganda

According to information published by the "Frontnews" information agency,³⁵ in the pre-election period, a flag of the coalition "Georgian Dream" was flying over the fence of the St. Iliia the Right temple in Saguramo. Photos disseminated by the same information agency confirm the same. The article provides citations of their views by clergymen who not only deny but openly express their sympathy towards a specific political movement seeing nothing unlawful in that they erected the political subject's flag above the surrounding wall of the temple.

It is important to ascertain whether the above-described conduct is a violation of the election legislation. Article 46(2) of the Election Code states: "It is prohibited to post election posters on objects of worship, buildings and premises of cultural heritage, in or on the buildings of State authorities and local self-governance bodies, courts, prosecution offices, military units and police stations as well as on road signs." The purpose of the limitation imposed by this provision is to prohibit the placement of propaganda materials on institutions and buildings, which are obliged by law to adhere to the principle of political impartiality and which must be perceived as politically neutral by the public. Accordingly, the prohibition of exhibiting various materials upon these institutions is logical, though the cited provision prohibits only election posters, which is quite narrow concept by definition. We believe that interpretation of this provision should derive from its purpose, which is to prohibit the placement of not only election posters, but also of any material serving the goals of pre-election campaigning.

³⁴ See also Judgment of the Constitutional Court of Georgia No. 1/3/421,422 dated 10 November 2009, par. 6

³⁵ http://www.frontnews.ge/?action=news_read&npid=5030&lang=geo; last login on 26 November 2012

The Georgian Election Code does not define the concept of propaganda materials; however, the Code does contain a definition of a pre-election propaganda, which is “the exhorting of voters to support or not to support any election subject or a candidate for election subject as well as any public activity promoting or hindering the election of such a subject or candidate and/or containing signs of pre-election campaigning, including involvement in the organization / holding of a pre-election activity, storage or dissemination of election materials, work on supporters’ lists, and presence in the representations of political parties.”

We believe that interpretation of the above-cited provisions in their entirety leads to a conclusion that it should be prohibited to post not only propaganda posters on places of worship but also any material directed at supporting or rejecting an election subject. Accordingly, such interpretation would encompass all sorts of materials directed at supporting or rejecting an election subject, including a flag of any individual election subject.

For these reasons, we believe that there was a violation of the rules prescribed by the Georgian Election Code.

During the pre-election period, clergymen were manifestly expressing their political thoughts in the course of performance of their normal duties and participation in various pre-election events. Although not prohibited by the applicable law, we think that, because of their status and their role in the lives of a certain part of the society, clergymen should exercise particular caution in enjoying their freedom of expression. Moreover, this is especially true for the members of the Holy Synod, who have also been participating in pre-election activities and clearly expressing their political views.³⁶ Again, the law does not prohibit this. The only circumstance, which falls within a direct prohibition by the law, is the participation of a religious organization in pre-election propaganda. A religious organization can be represented only by specific individuals and subjects. For example, the Georgian Apostolic Autocephalous Orthodox Church, as a religious organization, can be represented, without a special permission to that effect by the following entities and persons: the Clerical Convention, the Catholicos Patriarch of Georgia, the Holy Synod and the Georgian Patriarchate (represented by the Chorepiscopos and the Secretary).³⁷ The scope of prohibition prescribed by the legislation is narrow and inadequate to ensure the achievement of the goals of the law. Therefore, it might be appropriate to consider widening of the list of persons subject to the limitation for the purposes of the law.

5.5. Dismissal from office

In the pre-election period the public was seized with politically-motivated dismissals of lecturers from the Ivane Javakhishvili Tbilisi State University. Lela Gaprindashvili and Khatuna Charkviani addressed GYLA for assistance in this matter. They believed that they had been dismissed from office due to their dissenting political views.

The case concerning Lela Gaprindashvili

Lela Gaprindashvili has a Ph.D in philosophy and, since 2001, has been lecturing at the Tbilisi State University. In 2008 – 2012, she was Associated Professor at the Social and Political Sciences Faculty of the Tbilisi State University.

On 19 June 2012, the Tbilisi State University announced a competition for the vacancies of associated professors and assistant professors at the TSU’s Social and Political Sciences Faculty. On 26 July of the same year, Lela Gaprindashvili submitted her application for participation in the competition to the University with the appropriate documentation attached. By the end of September, she found out that another candidate was chosen who was the only rival for her and who was less experienced. According to Lela Gaprindashvili, the commission’s negative evaluation of hers and refusal to recognize her as a competitor is unlawful violating her lawful rights and interests, for the following reasons:

a) In giving a negative assessment to Lela Gaprindashvili, the University commission stated that the reason was failure by Lela Gaprindashvili to submit a syllabus. However, according to the applicable rules, if any necessary document was missing in the application package submitted to the commission, the latter should have allowed a term to rectify the shortcoming, which has not been the case.³⁸ Furthermore, the competition commission could view her authored syllabus on the University website or, according to the statutory requirement, allow her 2 days to submit the syllabuses.

b) The competition commission’s decision also states the following as another reason for rejecting Lela Gaprindashvili’s candidature: “The concept paper submitted is incompatible with the requirements prescribed for a scientific concept paper”. According to Lela Gaprindashvili, the concept paper she had submitted to the commission was fully consistent with the mentioned requirements. In 2009, another competition was held as a result of which she was appointed Associate Professor and, at that time, she had submitted a concept paper using the same method. No one objected to that methodology then. It should also be noted that there exists no document determining what requirements a concept paper should meet.

c) The competition commission’s third argument is a technical one too: the commission indicated that the work sub-

³⁶ For reference, see, for example, a video footage showing the participation of Archbishop Job of Urbnisi and Ruisi in the event organized by the Coalition “Georgian Dream” in Mtskheta: http://www.youtube.com/watch?v=tAKFIZ9FaKo&feature=player_embedded#!

³⁷ The Constitutional Agreement between the State of Georgia and the Georgian Apostolic Autocephalous Orthodox Church, Article 1

³⁸ Article 5(9), Resolution of the Academic Council dated 7 May 2012 “on unified rules of organizing competition for and recruitment of academic personnel at the Ivane Javakhishvili Tbilisi State University”

mitted for the commission's review contained 6 pages twice in the same paper, 13 pages were not numbered and the page numbers were not coinciding with the table of contents. The commission must have evaluated the content of the work, which they had no objection to and, thus, their negative assessment merely for this technical shortcoming is not exactly understandable.

According to Lela Gaprindashvili, in making its decision, the competition commission should have taken into account her academic degree, teaching experience, works and publications and decide on these grounds, which had not been the case. The commission's low evaluation of her by the third criterion (scientific and research activity) is unclear, since, in her application form, she had indicated 8 publications, participation in 4 scientific conferences, participation in 6 grant projects, 2 cases of cooperation with foreign scientific centers, a work paper and a research concept paper submitted for the competition.

Lela Gaprindashvili believes that her removal from the competition right at its first stage was a political decision and not a low evaluation of her academic level. The political decision, on its turn, was warranted by her support to student as they were protesting against the University Administration and the Faculty of Social and Political Sciences. In her opinion, the students' demands (to have the textbooks translated into the Georgian language, to punish the violent members of the Students' Self-Governance Body, and to afford a higher degree of independence to the University) were fair and aimed at improving the teaching process at the Ivane Javakhishvili Tbilisi State University. For these reasons, Lela Gaprindashvili believes that the University and the faculty management decided not to make her participation in the competition possible and pre-planned her striking out from the competition at its very first stage not to allow her try to convince the commission during an interview.

The Georgian Young Lawyers' Association is defending Lela Gaprindashvili's interests in a dispute against the University. The first instance court rejected our lawsuit claim for declaring the decision of the competition commission and the Academic Council void. The first instance judgment has now been challenged in the Appeals Court.

The case concerning Khatuna Charkviani

Khatuna Charkviani is a Doctor of Journalism. She has been lecturing at the Ivane Javakhishvili Tbilisi State University since 2005. On 19 June 2012, a competition was announced to fill the academic vacancies of associated professors and assistant professors at the TSU's Faculty of Social and Political Sciences. On 3 August 2012, Khatuna Charkviani filed her application for the vacant position of Assistant Professor, together with a package of required documents. By the end of August, she learnt that a second round of the competition had been held, which she did not participate. Later, she found out that other candidates have been approved for the applied position but 1 position still remained vacant. Khatuna Charkviani believes that the competition commission made an unlawful decision in relation to her violating her lawful rights and interests, for the following reasons:

a) As a reason for her low evaluation, the commission stated that the motivation letter she had submitted was vague and incomplete and the syllabus did not provide adequate detalization of the teaching outcomes. According to Khatuna Charkviani, these reasons are completely unsubstantiated, since she had been teaching at the University with these syllabuses and had won 3 similar competitions previously with no one having any objections as to her syllabuses or motivation letters.

b) Khatuna Charkviani also regards it incorrect that she received low evaluation under the third criterion (scientific and research activity) and was denied a competitor's status on this ground. She states that the, in making its decision, the commission must have taken into account her newspaper publications as well as qualifications and academic degree, which has not been the case.

Khatuna Charkviani points out that the University Administration started persecuting her on political motives since spring this year, when she became politically and socially active.³⁹ She believes that the commission's decision, being unlawful and unsubstantiated, has been politically motivated. With GYLA's assistance, Khatuna Charkviani appealed against the commission's decision in the court. The case is currently pending before the court.

5.6. Acts of pressure and intimidation

Acts of pressure and intimidation were observed in pre-election period. In majority of facts, undefined individuals were involved in the cases, whereas according to citizens, in one case some police officers participated. GYLA observed signs of criminal offence in the cases, including those directed against human health, as well as facts of illegal entry in the apartment and acts of intimidation.

For lack of information on the incidents GYLA was unable to release findings on the cases. Like in other cases, however, GYLA called on relevant state agencies for adequate reactions with a view to investigate the facts with signs of criminal offence.

³⁹ Khatuna Charkviani was registered as a candidate for membership of Parliament for the 1 October 2012 Parliamentary Election and was number 9 in the party list of election subject "Jondi Bagaturia - Kartuli Dasi"

Abesalom Kuchashvili's Case

On September 21, 2012 information was released on intimidation implemented upon Abesalom Kuchashvili's family, resident of village Tsereteli, Marneuli region and activist of "Georgian Dream".

As reported, within certain period, some undefined individuals used to send intimidating letters to the Kuchashvilis' family appealing them to stop contact with "Georgian Dream". Information was also disseminated on fire accident in Kuchashvili's barn.

GYLA's employees checked the information on the place and communicated with Kuchashvili. He confirmed his membership of "Georgian Dream" and proactive participation in political activities, which as Kuchashvili reported, served as a ground for acts of continuous pressure and coercion upon his family since May 2012. The family received anonymous letters, some individuals broke window glasses of his house, and there was an attempt to fire his barn. Investigation was carried out on the facts and Abesalom Kuchashvili and his family members were questioned.

Later on, GYLA attempted to contact the family again, however, they objected to communicate on the phone. The family also refrained from GYLA's visit and personal contact. As Kuchashvili's lawyer mentioned with GYLA, police interrogated Kuchashvili without lawyer's presence and certain psychological pressure was observed during questioning. According to Kuchashvili, while being questioned, handcuffs were placed near him on the table. The lawyer also stated that, a statement has been filed to the prosecutor's office on all facts, including the ones observed during interview. As it is known, Marneuli regional prosecutor's office has been investigating the fact.

Incident in Tkhilistskaro

On September 10, 2012 information agencies released information⁴⁰ on some families being attacked in the village Tkhilistkari, Kvareli municipality by armed individuals. Local population reported that they were police representatives.

With a view to examine the fact, GYLA's representatives met with population and interrogated Ketino Khatiashvili and Eliza Togiashvili, the victims. Both of them reported that aggressors introduced themselves as policemen and were wearing arms. Victims also claimed that attackers were drunk. They were especially aggressive in Tigashvili's family. One of them asked Elza Tigashvili why the whole village attended the meeting of "Georgian Dream". It is noteworthy, that a day before the incident in village Tkhilistskaro, "Georgian Dream" had a public meeting in Telavi.

GYLA's monitor also communicated with "Georgian Dream" coordinator in Tkhilistkaro. As he mentioned, two other families were also attacked, who for the reason of fear, hesitated from disclosing the incident. The coordinator stated that they had contacted the police, however, the district inspector advice them to refrain from disclosing the fact. GYLA is not informed about start of investigation and the further process.⁴¹

Incident in Ditsi, Gori

On September 16, 2012 Zakaria Vatitadze, "Georgian Dream" activist and resident of the village Ditsi, was celebrating St. George's church day in his family. At about 19:00 in the evening, Erasti Archvadze, one of the activists, was in front of the house in the street, when Gogita Gochashvili and Levan Maisuradze, from Kurta community Gamgeoba passed by the car there. Beso Kakhniashvili was also with them.

Erasti Archvadze was wearing Georgian Dream T-shirt. While noticing him, the cars stopped and Gogita Gochashvili, Levan Maisuradze and Beso Kakhniashvili demanded from him to take off the T-shirt and tear it off. Archvadze resisted. In response, nearly 10 persons assaulted him physically. The fight was accompanied by verbal assault. Having heard the noise, the head of the family and other individuals, Gocha and Manana Sadzaglishvilis among them, left the house. They attempted to settle the dispute, yet they were also assaulted physically. Gocha and his brother were beaten, while the lady received bruise near the eye. The incident was confirmed by Gocha and Manana Sadzaglishvilis' child.

As a result of interference, it was possible to terminate the conflict. Consequently, 6 individuals received bodily injuries and were transported to Gori hospital, yet they were released immediately though Erasti Archvadze had numerous injuries. All injured were taken to Tkhviavi police, where they were examined. Investigation was launched on the case.

Cases of Pressure and Intimidation in Ninotsminda

On September, 2012 it was reported that that representatives of "Georgian Dream" office in Ninotsminda, were not allowed to work. In particular, they were not able to rent an office, since apartment owners were under terror. According to "Georgian Dream" representatives, they were spied on intensively. Mass media also released information thereon.⁴²

⁴⁰ See: <http://ick.ge/ka/articles/12298--video.html>;

⁴¹ Media also reported on three attacks observed in Telavi after the meeting of "Georgian Dream" on September 9, 2012. Some undefined individuals beat three persons who allegedly were from Pankisi to attend the meeting of "Georgian Dream". According information collected by GYLA the aggressors were not identified. Police questioned only the victims. Forensic expertise was also anticipated.

⁴² <http://info9.ge/?l=G&m=1000&id=4356>;

With a view to examine the issue, GYLA representatives visited Ninotsmida and met with “Georgian Dream” representatives. They reported, that all apartment owners who had negotiations with Georgian Dream on renting the space were under pressure from the head of Gamgeoba, and afterwards they rejected. After disclosing the fact, Interagency Commission for Free and Fair Elections offered three alternative venues, however “Georgian Dream” representative objected since recommended buildings were useless for their purposes. Members of “Georgian Dream” headquarter also showed photos of the cars that were following them in Ninotsminda and Akhalkalaki. GYLA representatives also met with Alexander Mikeladze, deputy head of Gamgeoba who denied the acts of pressure from the side of Gamgeoba representatives.

Information submitted to GYLA from various persons in terms of Ninotsminda incidents illustrated that there was a need for involvement from the side of law enforcement officers and incidents required additional examination. Specifically, validity of information in terms of implemented pressure, spying upon representatives of the election subjects and facts of kidnapping individuals need to be determined, as well as signs of criminal offence in the cases. The incidents should receive adequate response.

Elguja Taboridze’s Case

On August 8, 2012 Elguja Taboridze, resident of Kaspi municipality was threatened. Elguja Taboridze confirmed the fact in private communication with GYLA representatives. As he reported, while being in Kaspi agrarian market with his son on August 8, 2012, chief of Kaspi police Mr. Malkhaz Barnovi visited him. Mr. Barnovi had threatened that Taboridze would lose his house, unless his son lived his political activities from abroad.

It should be noted, that Taboridze’s son lives and works in Brussels. He is a wrestler and carries out spot activities in Brussels. In addition, he is politically active person. In 2004-2005 he was Labor Party member, while since 2011 he joined “Georgian Dream” and actively participated in manifestations for support of “Georgian Dream” abroad. He was one of the organizers and participants of manifestation held on July 15, 2012. The event was broadcast by Channel 9, which was followed by the visit of the chief of Kaspi Police and Taboridze’s family became target of threats.

According to Elguja Taboridze, after the broadcast of Channel 9, he communicated with his son and asked him to stop political activity with a view to save his family, yet he received negative response.

Luka Kurtanidze, MP candidate from “Georgian Dream” intimidating village envoy

On September 2012, footage was disseminated on “YouTube”⁴³ illustrating Luka Kurtanidze’s, MP candidate from “Georgian Dream” conversation with the envoys of Ninigori and Kabala villages of Lagodekhi municipalities. He met the envoys Tengiz Samkharadze from village Ninigori and Jemal Niazov from village Kabala.

At both meetings, Kurtanidze warns envoys to stop agitation in support of ruling party and to leave the political activities. Video recording reveals that his tone is aggressive and has intimidating context. In particular, Luka Kurtanidze demands from Tengiz Samkharadze to stop visits in local populations and agitation. He also warns him “if he plans to live in Georgia, he shall cut ties with the ruling party”. The recording illustrates Luka Kurtanidze’s speech where he says that everyone, who will implement agitation in Saakashvili’s support, will be his personal enemy. He also threatened Jemal Niazov, the envoy from Kabala territorial unit and advised him to stop Saakashvili’s advertising campaign if he planned to live in Georgia.

Luka Kurtanidze confirmed the fact with Kakheti Information bureau⁴⁴ and specified that he used to meet and warn individuals who dismissed teachers from public schools and who violated the law.

GYLA considers that there might be signs of criminal offence in his conduct and law enforcement officials must react adequately thereon.

The facts of restricting independence of members of precinct election commissions

GYLA was informed on facts of calling out some members of the precinct election commission by “Georgian Dream”. Election Code envisages the opportunity of pre-term termination of the authority for members of election commissions, yet only in cases directly stipulated by law. Moreover, as regards members of precinct election commission, the legislation sets some restriction on calling out the member of the commission later than 15 days before the elections.

In the instant case, the actual reason of such conduct was unknown, yet as Luiza Gogokhia, member of the precinct election commission reported in her communication with GYLA, the real reason of such behavior was failure to fulfill oral directives of “Georgian Dream” central office by more than 10 members of the commission. In particular they were prohibited to vote for certain issues stated in the process of work. Election Code envisages independence principle in terms of appointed or elected members of the commission and stipulates that member of the Election Commission

⁴³ <http://www.youtube.com/watch?v=zuD1C8YqjWU;>

⁴⁴ <http://ick.ge/ka/articles/12494--video.html>

is not a representative of appointing/electing subject. He/she is free in their activities and is governed by Georgian Constitution, Law and relevant by-laws. Furthermore, any influence or interference in the activities of the member of election commission with a view to affect decision making process, is prohibited and should be punished by law.⁴⁵

GYLA considers that in the case concerned, Coalition “Georgian Dream” gave instructions to commission members which restricted their independence and violated Article 8.21 of the Election Code. Furthermore, notwithstanding the intent of the law to punish instances of interference in independent work of members of the Commission, the law does not envisage provision with relevant composition and sanction for such conduct. It is important to improve the gap while implementing amendments to Election Code.

5.7. Application of liability measures

GYLA expresses deep concern on the frequency of applied administrative arrests in pre-election period. According to information released by various sources, in several cities of Georgia, some days before the elections (from September 21 until September 24) 23 administrative arrests were observed for disobedience to lawful instructions of the police. Detainees were mostly “Georgian Dream” members or affiliated persons. One of the members of Coalition confirmed the fact and mentioned that detainees were coordinators of the Coalition and members of the mobile group. Among the detained persons were individuals who actively participated in protest rallies against torture and ill-treatment in prisons.⁴⁶

In pre-election period, Ministry of Interior intensively released information on facts of arrest for police assault and disobedience. In particular, disseminated information indicated that on the same day, some individuals had committed the identical offence in similar circumstances. Specifically, verbal assault was observed in all cases after lawful reaction of the police on violation of traffic rules. Coincidences and deficiencies in all submitted cases generated some doubts in terms of politically motivated arrests.

Applied form of administrative arrest contradicts with all guarantees of fair trial. Furthermore, undeveloped legislative base, as well as defective judiciary practice, turns administrative detention into unlimited power in the hands of law-enforcement individuals.

While judiciary is unable to fulfill controlling function and ensure protection of human rights, the situation becomes especially alarming. Moreover, judiciary with its unreasoned trust and loyalty to law enforcement officials hinders effective administration of justice and thus turns administrative arrests into arbitrary and uncontrolled process. In view of this, application of administrative liability measures for political motives will hardly be prevented.

GYLA considers that developments in pre-election period confirmed again passive and pro-forma role of judiciary while examining cases of administrative imprisonments. In the cases where GYLA’s lawyer represented interests of detainees, incorrect interpretation of law leading to gross violation of human rights was observed. GYLA took a lead in David Patsatsia’s, Dachi Tsaguria’s and Kakhaber Zhorzholiani’s cases. In none of the cases, was the defense given a chance to question the opposing party, which restricted implementation of the right to defense significantly. Furthermore, the court did not grant any of the defense motions, save for questioning of police officers. Court also rejected to request video and other recording illustrating the incident at the scene of action. All the listed facts, together with passiveness revealed by judiciary in terms of inconsistencies in the case, enhanced doubts on alleged political motivation and interests in applied administrative arrests.

In view of recent situation and risks connected to application of administrative arrests for political motives, on September 25, 2012 GYLA called on all relevant bodies to refrain from application of the mechanism that comes in conflicting with human rights’ standards.⁴⁷ In addition, GYLA urged judiciary to abstain from practice of arbitrary, unreasoned and illegal arrests and to ensure fair examination of cases by observance of impartiality principle.

Following GYLA’s statement, Giga Bokeria, head of Interagency Coordination Council for Free and Fair Elections also reacted on administrative arrests. According to him, the number of administrative detainees reached 30. He called on law-enforcement officers “to apply more lenient sanction, fine for instance, where it is possible and rational.” As he reported, “it is our definite recommendation to law enforcement officials.”

Beka Jikidze’s Case

On September 1, 2012 law enforcement officers detained Beka Jikidze together with his friends. Initially he was moved to police department located in Varketili, at Shuamta street, whereas later he was placed in Tbilisi pre-trial detention isolator. GYLA communicated with Jikidze’s lawyer, who confirmed the facts released by media.

Beka Jikidze is a district coordinator of “Georgian Dream” youth organization, while his mother is a member of “Georgian Dream”. The whole family supported political course of “Georgian Dream”. According to the lawyers’ statement, for the past month white Volkswagen was spying upon him.

⁴⁵ Election Code of Georgia, Article 8.21

⁴⁶ We mean video recordings released by mass media about torture and ill-treatment in prisons on September 18, 2012 period.

⁴⁷ ob: <http://gyla.ge/geo/news?info=762>

As Beka Jikidze reports, police assaulted him physically and verbally and made him confess fact of robbery with use of knife. The police officers stated that they possessed recordings proving committing of offence by him. In pre-trial detention isolator officers from MIA tend to abuse him verbally and subjected him to degrading treatment.

Beka Jikidze applied to relevant state organs with a view to launch investigation about illegal conduct implemented against him and asked to punish offender police officers. He also demanded dismissal from illegal imprisonment.

Currently, Beka Jikidze's case is being examined by a court. On December 2012, his pre-trial detention was substituted by warranty.

Mirza Khabareli's and Temur Chagelishvili's Case

Mirza Khabareli and Temur Chagelashvili, members of "Georgian Dream" from Kareli region were sentenced to administrative imprisonment for 60 days by the court. Soso Sazandarishvili, head of Republican Party Kareli branch also confirmed the fact in communication with GYLA.

On September 11, 2012 Mirza Khabareli and Temur Chagelishvili residents of the village "Dzlevisjvari", Kareli region, from "Georgian Dream" visited regional envoy in Breti, Kareli municipality with a view to determine registration issue of land plots being in their ownership. Temur Chagelishvili was wearing "Georgian Dream" T-shirt, which irritated Melor Eliashvili, the envoy. As a result, their interaction turned into a conflict. While leaving the room of the envoy, Temur Chagelishvili noticed the president's picture on the wall and used bad language in his direction. In response, Melor Eliashvili abused Bidzina Ivanishvili and all his partners. The incident turned into personal humiliation. Female employees witnessing the incident abused Chagelishvili physically. Mirza Khabareli settled the conflict between the parties. He did not interfere in a dispute. After 40 minutes, Mirza Khabareli returned to Melor Eliashvili to determine the reason of conflict with Chagelishvili. Melor again started to insult Bidzina Ivanishvili and his partners. The same day, at about five o'clock, Mirza Khabareli and Temur Chagelishvili were summoned in Kareli police and were arrested. As a result, they were sentenced to 60 days of administrative imprisonment.

Natik Rasulov's Case⁴⁸

On September 25, 2012 at about 10 o'clock, Natik Rasulov, member of the Coalition "Georgian Dream" and member of election commission at Sagarejo Election precinct #11, was driving a car from the polling station to his house. The car of Sagarejo police followed him and by switching on the vehicle lights signed him to stop. Natik Rasulov obeyed. Gia Mamisashvili and Beka Rostiashvili, policemen demanded ID card and driving license. Natik Rasulov handed the requested documents. Afterwards, police officers declared that he had been arrested and had to follow them in police department. Later on, on December 25, 2012, Sagarejo regional court sentenced Natik Rasulov to 40 days of administrative imprisonment as per Article 173 of Code of Administrative offences, disobedience to lawful order or instruction of police officers.

In Natik Rasulov's case, the first instance court ignored number of provisions envisaged by the Code of Administrative Offences and consequently adopted unreasoned and unlawful decision. The court did not consider substantial circumstances of the case, in particular, it failed to present valid and well-reasoned evidences for proving the fact of Natik Rasulov's offence. Azad Gamzaev, questioned in the case with witness status, gave contradictory evidences to the ones submitted in protocol of offence. In the moment of arrest and while drafting the record of administrative offence he had no access to defense and did not receive explanation on the rights envisaged by Article 252 of the Code. In addition, the court failed to prove impossibility of attaining the legislative aim by using more lenient sanction. The court only stated that "in view of personality of an offender and the specificity of committed offence, application of penalty does not ensure aims of offence." With assistance of GYLA's lawyers, the decision of the first instance court was challenged in Tbilisi Appeal Court. By its post-election decision of October 3, 2012, Appeal Court partially satisfied the complaint and discharged Natik Rasulov from the court-room. The served sentence was considered sufficient.

Zakaria Gagniashvili's case

According to Zakaria Gagniashvili, on September 25, 2012 while repairing the tape recorder in his stopped car, police officers approached him and arrested him unreasonably. Zakaria did not resist the police. Gagniashvili reports that his arrest was politically motivated and related the fact to his "Georgian Dream" membership. Patrol officers drafted the record of administrative offence as per Article 173 of the Administrative Code of Offences, disobedience to lawful order or instruction of the police. According to the person who drafted the record, Gagniashvili was driving the car with untied belt and that was the reason of stopping him. Moreover, he was drunk and assaulted policemen. In view of above, Sagarejo district court found Zakaria Gagniashvili guilty and sentenced him to 40 days of administrative imprisonment. He was deprived of the right to defense. He was not explained his rights while being arrested, his lawyer was not informed about defendants' whereabouts and the case has been examined without him.

⁴⁸ He was arrested earlier, on August 17, 2012. GYLA's lawyer represented his interests. The details of the case are provided in the report on page (...)

In Gogniashvili's case, the court founded its decision solely on the protocol of administrative offence and explanations of the police officers who drafted the document. The court did not express interest to other details of the case, has not examined other evidences (some other individuals witnessed Zakaria Gagniashvili's arrest), uphold the stated position unconditionally and sentenced Zakaria Gagniashvili to such severe penalty as administrative imprisonment. In its judgment, the court did not provide any reasoning on the necessity of using administrative detention as preventive measure. With assistance of GYLA's lawyer, the decision of Sagarejo regional court of September 25, 2012 was challenged in Tbilisi Appeal court. By the decision of Appeal court adopted in post-amendment period, on October 4, 2012, submitted complaint was partially satisfied and Zakaria Gagniashvili was released from the courtroom. Already served administrative detention was considered sufficient.

Khutsishvili's and Rostomashvili's case

On September 5, 2012 mass media released information on Levan Khutsishvili's and Z. Rostiashvili's detention. Allegedly their detention was politically motivated since both were "Georgian Dream" members. On September 4, 2012 in the evening, they were at Rostiashvili's family in the village Shilda, Kvareli municipality. At about 12 o'clock, while being on the balcony, Bacho Nikolozishvili, their neighbor, assaulted them verbally. Khutsishvili and Rostiashvili report that it was advance planned provocation, since after five minutes from the incident, police car stopped in front of their house and police officers arrested them. They were placed in Kvareli pre-trial detention isolator. Lawyers could not meet with them on the day of arrest and the next day.

According to Nino Khutsishvili, Lavan Khutsishvili's sister, she was at the scene of action and met Bacho Nikolozishvili. They had a dispute and Bacho Nikolozishvili assaulted her verbally and physically, in addition he also abused her physically. Nino Khutsishvili managed to record the facts by the mobile phone. She applied to Khvareli police for aid, submitted video recording and requested initiation of investigation, yet the police made no reaction on the case.

Vakhtang Mrelashvili, the judge of Khvareli municipality found both individuals guilty and sentenced them to payment of fine in the amount of GEL 400 by decision of September 5, 2012. The decision has not been challenged and it was enforced.

Kapiton (Kakha) Zorzoliani's Case

Kakha Zorzoliani, member of Mestia District Election Commission appointed by political party from the Coalition "Georgian Dream" has been detained on the bases of Archil Sopromadze's complaint, CEC representative. According to Sopromadze, Kapiton Zhorzoliani assaulted him verbally at the session of the commission held on September 20. Mestia regional court, by its September 23, 2012 decision found Kapiton Zorzoliani guilty as per Article 166 (petty hooliganism) envisaged by the Code of Administrative Offences and sentenced him to 40 days of administrative imprisonment. The decision has been challenged in Administrative Chamber of Kutaisi Appeal Court.

The case materials, as well as other additional evidences attached to the case provided that facts indicated in Archil Sopromadze's complaint have not been observed actually. Explanations of individuals attending the session at Mestia District Election Commission on September 20 were submitted to the Appeal Court. They have not been questioned by the first instance court with witness status and in their statement they did not confirm the fact of Archil Sopromadze's assault. Regardless of the defense motion, the first instance court also failed to interrogate Archil Sopromadze, the applicant and other members of the commission witnessing the fact. The first instance court founded its decision solely on the statements provided by the person who had drafted the record of administrative offence. In addition, the defense, was not given chance to question him.

The appeal court considered the appeal inadmissible, however, shortly after elections, Mestia regional court altered its decision on the bases of the protest submitted by the prosecution. Specifically, it restricted the term of administrative detention and as a result, Kapiton (Kakha)Zorzoliani, has been discharged from pre-trial detention isolator.

Ilia Kelekhsashvili's, Mamuka Mazmishvili's and Zviad Imerlishvili's case

On September 23, 2012, while driving a car from Tbilisi to Kareli, Ilia Kelekhsashvili, Mamuka Mazmishvili and Zviad Imerlishvili⁴⁹ have been arrested by police officers near the village Urbnisi. Initially, arrested persons were transported in the direction of Ruisi village. Police officers asked them why they supported "Georgian Dream" and their candidates. Afterwards, the arrested persons were taken to Khashuri regional court. At the hearing it was determined, that police officers had stopped the car for violation of traffic rules, in particular, for driving the car with untied belt. Furthermore, it was also reported that Kelekhsashvili, Mazmishvili and Imerlishvili had disobeyed to lawful orders of the police. According to the resolution of Khashuri Regional Court, the detainees disobeyed police and obstructed officers in drafting the record of administrative offence. Ilia Kelekhsashvili reports that police's statements were false and there was no disobedience from their side. Nevertheless, the court found them guilty and sentenced to a month of administrative

⁴⁹ Ilia Kelekhsashvili was also member of precinct election commission #40, in Kareli election district #33.

imprisonment as per Article 173⁵⁰ of the Code of Administrative Offences. The decision of Khashuri regional court has been challenged in Tbilisi Appeal Court. The court upheld the decision, yet later on, shortly after elections, the first instance court changed its decision. In particular, it restricted the term of imprisonment and consequently the detainees have been dismissed from the court room.

Kakhaber Mumladze's Case

On August 19, 2012, Kakhaber Mumladze attended "Georgian Dream" manifestation in Rustavi. After the end of the meeting, he decided to have a supper in a restaurant "El-Depo". The order took much time and it caused Mumladze's and his friends' dissatisfaction. Shortly afterwards, three other individuals joined the restaurant, who also made an order. Azer Mamedov was among them. He was wearing T-shirt of the "United National Movement" and demanded to serve the order quickly. This way he attempted to demonstrate his power, as of party member. It caused Kakhaber Mumladze's irritation and called on Azer Mamedov to take off the T-shirt. No assault was observed from his side. After the dispute, Azer Mamedov left the restaurant and summoned patrol officers, who appeared on the scene of action immediately. Kakhaber Mumladze was arrested by the police.

On August 20, 2012 Rustavi City Court examined the case of administrative offence and satisfied claim of police officers. GYLA's lawyers represented Kakhaber Mumladze's interests. He was sentenced to maximal a sentence, administrative imprisonment for the period of 90 days for petty hooliganism envisaged as per Article 166 of the Code of Administrative Offences. The City Court did not accept evidences submitted by the defense, in particular, it did not take into account that Kakha Mumladze was a father of four minors and the III group invalid and veteran of military forces. The decision of the city court has been challenged in the appeal court, which has not examined the case. However, shortly after the elections, Rustavi City court changed its decision on the bases of the protest submitted by the prosecution. Specifically, Rustavi city court restricted the term of administrative imprisonment and Kakhaber Mumladze has been discharged from the court room.

Since the day of arrest, Kakhaber Mumladze refused to take food. On August 22, 2012 GYLA's representatives informed head of pre-trial detention isolator in Kvemo Kartli region about the fact. On August 30, 2012, Kakhaber Mumladze reported that no one attempted to inspect his health condition when he was starving and he has not been allowed on air for this period. Furthermore, he had no access to necessary hygienic things, such as soap and a towel, as well as to shower. He was not provided a pen and a paper and his letters never reached the addressee. On September 3, 2012 GYLA's representatives sent a complaint to the head of pre-trial detention isolator on inhuman and degrading treatment implemented upon Kakhaber Mumladze. No reaction followed on the case.

Kamaladin Mamedov and Natik Rasulov's case

On August 17, 2012 Tinatin Khidasheli, MP majoritarian candidate from "Georgian Dream" and her supporters were holding a meeting with Sagarejo population near the market of Iormugalo village. It was a peaceful meeting and population received "Georgian Dream" newspapers. A group of young individuals, approximately five persons, attempted to obstruct the peaceful meeting of party representatives with local population. They were shouting and assaulted the assembled persons. One of the journalists was recording the incident by a camera. While noticing the journalist, members of the group attacked her and abused her physically. The fact was also recorded. Supporters of "Georgian Dream" attempted to settle the issue.

On August 18, 2012, Sagarejo regional court (Tsisana Sirbiladze, the judge) sentenced Kamaladin Mamedov and Natik Rasulov to 15 days of administrative imprisonment for petty hooliganism, as per Article 166 of the Code of Administrative Offences.

The court founded its judgment solely on police evidences, which is impermissible and jeopardizes liberty of any individual. The court was obliged to inspect circumstances of the case comprehensively and impartially and afterwards to make its final decision. The court, however, failed to do so. Even though defense has submitted some valid evidences in the case, Sagarejo court did not pay attention to them in its decision. The evidences were following: video recording on CD, which clearly illustrated participants of the incident (K. Mamedov and N. Rasulov were not there) and witness evidences. Mamedov and Rasulov have not committed any offence. The recording depicts them standing far from the disputing parties. GYLA's lawyer represented their interests in a court. The decision of the first instance court has been challenged in Appeal Court. The case was considered inadmissible.

Patsatsia, Tsaguria and Aladoshvili's Case

GYLA provided court representation to David Patsatsia, Dachi Tsaguria and Beka Aldoshvili arrested on September 21-22, 2012. Their cases were examined by Tbilisi City Court (judges Miranda Eremadze and Dmitry Gvritshvili), sentencing Patsatsia to 40 days, Tsaguria and Aldoshvili to 10 days of administrative imprisonment on charges of malicious disobedience to lawful orders of the police.

⁵⁰ Disobedience to the legal orders or instructions of law enforcement or military officers

The analysis of the cases concerned gives rise to justifiable doubt that detention was motivated for their political and civil activities rather than for any misconduct.

According to D.Tsagulia and B. Aldoshvili, after being brought to police, they were beaten by group of police officers. Other individuals dressed in civilian forms also participated in their physical abuse. As the detainees reported, after being beaten, policemen humiliated them, touched them with a broom and took their photos. They also assaulted them verbally. GYLA urged the prosecutor's office to investigate the case immediately.

During the court proceedings, there were a number of flagrant violations of the law by the judges, which deprived the defense from the possibility of proving that the detainees had not committed the offence. Below is a brief overview of some of the violations:

1. As judges clarify, neither detainees nor their lawyers have the right to ask questions to the prosecution, claiming that it is not allowed by applicable legislation. This interpretation is clearly illegal and contradicts concrete norms of procedure law as well as founding principles. Para.3 of Article 42 of the Constitution of Georgia stipulates that "The right to defense shall be guaranteed" but when court prohibits a defendant or his lawyer from asking questions to a police officer who is accusing the detainee of malicious disobedience or any other offence, it is unclear how the right to defense can be guaranteed. It is further noteworthy that these judges have examined a number of cases with GYLA's participation, without hindering formal procedure of asking questions in any way (for instance, Judge Dmitry Gvritoshvili examined the case of Davit Patsatsia on May 27, 2011 and February 25, 2012). Since then, there have not been any changes in regulations governing court proceedings; however, clearly there have been changes in approach of judges, which was extremely pro forma even without changes in the regulations. Court proceedings on September 21-22, 2012, clearly showed that the police officers were lying as suggested by discrepancies in their statements. It produces a reasonable doubt that the court prohibited the defense from asking questions in an attempt to avoid making lies of the policemen and discrepancies in their statements even more apparent.

2. The defense filed up to ten motions none of which were granted, except for questioning of police officers. Although requested by the lawyer, the court never requested video footage of cameras from the scene, highly likely to have recorded the arrest. The court did not order examination of the patrol inspector's shirt, which the policemen claimed was torn by Dachi Tsaguria during arrest, despite the fact that one could see the shirt had been torn with a sharp object. In Tsaguria's case, although required by law, the court refused lawyer's request about hearing statement of the police officer who drew up the record of violation first and then examining the witness police officer, in order to prevent the former from hearing statement of the latter and replicating it. In Patsatsia's case the court refused to question as a witness the person who accompanied Patsatsia at the time of his arrest, stating that he was a stakeholder and therefore, would not give a reliable testimony. The judge did not ask questions about contradictions and discrepancies in testimonies of the policemen, and as we have already noted, neither did he allow the defense to ask questions, etc. GYLA appealed city court decisions in Tbilisi Appeal Court. The case was considered inadmissible.

Aleksander Tsagareli's Case

Aleksander Tsagareli is a member of the student movement – "Laboratory 1918". Since September 18, 2012, he was actively involved in protest rallies arranged by students against acts of torture and ill-treatment determined in penitentiary establishments. On September 24 he participated actively in students' protest rally, which started from the University yard and continued to building of the Ministry of Defense and Justice. After the end of the rally, Tsagareli attended the concert organized in front of the first building of Tbilisi University. The concert was a protest to the developments in prison establishments. After the end of the concert (on September 25, at about 00:40) he planned to go home. While he was stopping taxi in front of the second building of Tbilisi University, three police officers approached him and without any explanation, asked him to sit in the car. Though he was unaware of the reason of arrest, he obeyed. Some individuals also witnessed the fact.⁵¹ While being arrested, he was not informed about his rights. Afterwards he was taken to pre-trial detention isolator, in Digomi.

The trial was held in Tbilisi City Court on September 25, 2012, at about 9.30. It was determined that protocol had been drafted as per Article 166⁵² and 173⁵³ of the Code of Administrative Offences. Koba Gotsiridze, the judge of Administrative Chamber of Tbilisi City Court examined the case. He found Tsagareli guilty and sentenced him to payment of fine in the amount of GEL 400.

The judge gave to the defense only five minutes for getting acquainted with case materials. In the instant case, Alexander Tsagareli was not guaranteed the right to fair trial. The rendered judgment is continuation of the defective judiciary practice, which has been applied recently on similar cases and which has been criticized repeatedly by the public defender and international organizations. The standard of proof applied by the court in the case concerned, is beyond any legal norms. The court stated, that "Police officer possesses adequate skills for evaluating events adequately. His explanation is based on witnessed fact of offence that took place in his presence, therefore, this source of prove cannot be substituted by any other one." The court did not grant the defense motion on questioning witnesses of arrest. Even

⁵¹ See; <http://www.youtube.com/watch?v=BPSYX6YKkzg>

⁵² Petty Hooliganism

⁵³ Disobedience to lawful order or instruction of police officer and military servant

though witnesses were in the court building, the court stated that “it would delay examination of the case.” It should be noted, that the judge wanted to finish the hearing as quickly as possible and mentioned several times that he had to hear another case at 10 o’clock and had not much time for listening to the defense. The judges also did not grant motion on requesting video footage from the camera installed near the second building of Tbilisi State University. In its argument the court stated that “it is unclear whether the recording is comprehensive and if it reflects the incident”, while the fact should have been determined at the trial by examining evidences. According to the standards established by the European Court of Human Rights in the case *Ashugiani vs. Armenia*, (firstly, domestic courts are obliged to assess evidences of the case ... Failure of the courts to examine defense’s evidences, to summon witnesses of the defense and to make decision without assessing various evidences constitutes violation of Paragraph 1, Article 6 of the Convention.)

The court considered police explanations as only valid evidence, yet the defense was not even given chance to ask questions. The court expressed no interest if Tsagareli’s detention was linked to students’ protest rallies. It should be noted that such doubt emerged even from the first days of his arrest.

GYLA provided court representation in the case. The first instance court decision was challenged in the appeal court. The court did not examine the complaint and shared the decision of the city court.

5.8. Pre-election meetings

Within the reporting period, Georgian Young Lawyers’ Association and “International Society for Fair Elections and Democracy” continued monitoring over the public assemblies held by political parties. They observed exercise of the right to assembly and manifestation. Monitors of the organization observed the assembly held by the United National Movement on September 8, in 10 cities (Zugdidi, Ozurgeti, Batumi, Ambrolauri, Akhaltsikhe, Kutaisi, Gori, Telavi, Rustavi and Mtskheta), as well as pre-election meetings organized by the Georgian Dream in Batumi (August 5, 2012), Rustavi (August 19, 2012), Ambrolauri (August 27, 2012), Telavi (September 9, 2012), Akhaltsikhe (September 15, 2012), Zugdidi (September 22, 2012), Tbilisi and Kutaisi (September 29, 2012). Monitoring observed no violations and the meetings were held in peaceful environment.

Pre-election meeting of “Georgian Dream” candidate for MP in Jgali village

On August 22, 2012, social networks and media⁵⁴ released information about the incident in Jgali village, Tsalenjikha municipality. According to released video materials, while Giorgi Nachkhebia, “Georgian Dream” Candidate for MP was holding pre-election meetings with population, plant protection activities were implemented against white butterflies by special equipment in violation of security norms. Immediately, on the day of incident, Interagency Coordination Council for Fair and Free Elections released a statement providing that:

“Local population was informed in advance about the planned pest killing process that is already applied practice in the West Georgia. Footage submitted by Georgian Dream to the commission confirm that the process was carried out along the whole perimeter of road, which is approved method in the region. In view of this, no intentional spraying was implemented against participants of pre-election campaign. The used equipment is safe for human health. According to local hospitals nobody had applied to them with complaint of being poisoned by the gas used for elimination of American butterflies.”

In its statement, however, the Commission does not pay adequate attention to the security norms and to inspection of their observance. In the document we meet only the following phrases “applied practice” and advance warning of local residents, which can not be treated as sufficient security measure. Information released on the web-site of the Ministry of Agriculture illustrates that: “ On August 21 Tsalenjikha residents were informed about planned plant protection procedure. Moreover, they were also warned immediately before start of the process”⁵⁵. According to National Food Agency, “shortly before the start of the process, local residents have been warned by megaphones”. Released footage does not confirm the fact of warning residents in the moment of application of pesticides. The Ministry of Agriculture reports that American drug “Detsis” was applied, which according to the state catalogue falls within the III class drugs, meaning “less dangerous”.

It should be noted that use of the drug “Detsis”, applied against white butterflies, is regulated by some normative acts, specifically according to the order⁵⁶ of the Ministry of Agriculture of November 30, 2006 and the order of May 17, 2010⁵⁷

- Plant protection services are obliged to warn local residents about anticipated works before starting processing of plants in cities and populated areas. **Warning signs should be placed in the entrance and exits of targeted areas for certain period. Admission of humans and animals is prohibited on the areas within indicated period.**
- Pesticides might be applied after receiving of relevant qualification, which implies knowledge of agronomic

⁵⁴ <http://tv.9.ge/?=6&id=5374>

⁵⁵ <http://www.moa.gov.ge/index.php?pg=nw&id=454>;

⁵⁶ Order of the Ministry of Agriculture #2-211” on approving of the rule for storage, transportation, realization and application of pesticides and agrochemicals”, articles 12 and 23;

⁵⁷ Order of the Ministry of Agriculture #2-75 “on approving of the catalogue of pesticides to be applied to Georgia”, Article 24.

and plant protection fundamentals and principles, as well as knowledge of safety rules for humans and environment.

- Application of any pesticide in immediate vicinity of children's, sport and medical institutions, as well as schools and restaurants ... near houses and ventilation equipments is prohibited.
- If massive dissemination of pest or plant disease is anticipated, it is allowed to use pesticides in selective areas in a minimal norm in yards and plots in the vicinity of houses.

Released footage, however, illustrate that security norms have not been observed comprehensively in Jgali village. Effectiveness of advance warning is also questioned, since in the process of pesticide application, number of individuals was gathered on targeted area. Even though relevant competent persons should have noticed participants of the meeting, they did not stop the process and neither have appealed the participants to leave the territory.

Violation of security norms irrespective of the fact whether it coincides with pre-election agitation or meetings, constitutes violation of law according to legislation. However, since the process coincided with the meeting it affected the process of meeting in some degree and raised doubts in terms of hindering and interfering manifestation process. Breach of security norms also violated public order and peace and affected their physical condition in a certain degree. According to released footage, participants of meeting had cough and uncomfortable feeling in the area of eyes and nostrils.

Statements of "Georgian Dream" representatives in terms of poisoning population with gas are exaggerated, yet GYLA considers that Interagency Commission and other competent persons should examine the case more carefully and comprehensively and should assess its compliance with Georgian legislation. Final conclusions might be made only after comprehensive analysis of the case. The Commission failed to examine due observance of security norms in Tsalenjikha, Jgali village and possible effects of breach of norms on pre-election meeting. In the case concerned, employees of National Food Agency have breached security norms and thus violated Article 174² (Abuse of Power in order to Interfere with Meetings and Manifestations) and Article 98¹ (Violation of the Rules of Transporting, Storing and Using Chemical Pest Killers and Chemical Fertilizers) of the Code of Administrative Offences of Georgia. On September 8, 2012 GYLA sent a letter on the case to Zurab Kharatishvili, chairman of the Central Election Commission, Bachana Akhalaia, Interior Minister and David Koberidze, head of the LEPL National Food Agency and called on them to examine the incident in details and to respond adequately within their competence.

On September 3, 2012 we received David Koberidze's letter⁵⁸ providing that "employee of the Agency has not implemented deliberate spraying on participants of the meeting". The document does not contain information on investigation of evidences during proceeding. It does not either provide any reference to protection of security measures. In view of this, submitted document lacks sufficient reasoning.

As regards the Central Election Commission, it forwarded GYLA's letter to Tsalenjika district election commission #68 for reaction.⁵⁹ The Commission was obliged to determine if abuse of power had been observed with a view to interfere with meetings and manifestations. By its September 27 decision, Trsalenjika district election commission refused to satisfy the application on drafting the protocol of administrative offence. It should be noted, that district election commission founded its judgment solely on the information provided by state agencies: Interagency Coordination Council for Free and Fair Elections, the Ministry of Agriculture of Georgia and Gamgeoba of Tsalenjikha municipality and expressed no interest in questioning organizers of pre-election meeting and its participants. The Commission concluded: "It is proved that pest killers were applied according to advance plan, before start of the process. As usually, population was notified in advance and no deliberate act was implemented against participants of the meeting. In view of this, the issue of administrative liability should not be stated". As far as the commission conducted only one sided, general analysis, it is quite difficult to speak about impartiality of adopted decision.

Manifestation of "Georgian Dream" in Signagi

On September 26, 2012 Bidzina Ivanishvili, "Georgian Dream" leader had a meeting with Signagi residents. GYLA's Telavi office sent its representative there with a view to implement monitoring of the process. The manifestation was planned in front of the Gamgeoba building of Signagi municipality. However, participants of the meeting were disallowed to assemble there since vehicles had been gathered on the square. Near Signagi entrance, in the vicinity of prosecutor's office, activists of "United National Movement" dressed in T-shirts were mobilized and have made so called "Corridor of Shame" on the road. The car of GYLA's Telavi office also had to go through the corridor.

Finally, "Georgian Dream" manifestation was held on the square behind the police office. After the end of the meeting, when "Georgian Dream" cars were leaving Signagi, they had to pass through the so called "Corridor of Shame" where activities of the United National Movement were beating feet, threw plastic bottles, poured out water and assaulted participants of the manifestation. Some activities were especially aggressive, who supposedly were drunk. Women were also hostile. Police officers observed the fact.

According to journalists, before GYLA's arrival, there was an incident between "Georgian Dream" supporters and activists of "the United National Movement". As a result, one of the activities and a journalist received bodily injuries.

⁵⁸ #1-7-10/1466

⁵⁹ #26/2012;

Activists of the “United National Movement” were distinguished for their aggressiveness, they were holding flags and bottles and used them for damaging the cars. One of the activists has broken the glass and injured his hand. There were also following shouts: “there is no place for traitors in Georgia”. Monitors had such impression as though Levan Bezhashvili, majoritarian candidate for MP in Signagi region, was coordinating the process. He was on the scene of action, yet made no reaction on violations.

5.9. Political Party Funding

The Chapter concerns breach of legislation concerning political party finding, revealed by GYLA in the reporting period. Each of them needs to be examined by the state audit service.⁶⁰

Contributors registered in the database of vulnerable families

In its second pre-election monitoring report, GYLA made reference on the donors who at the same time were registered in the database of vulnerable families. Out of 2322 natural persons who contributed to the ruling party in the period of January 1- August 8, 2012, 151 were representatives of vulnerable families. The minimal amount of contributed sum was GEL 50, whereas the maximal amount was GEL 60000. Financial Monitoring Council examined the origin of transfers made by 18 contributors registered in the database.

GYLA considered that 48⁶¹ individuals evoke special suspicion in terms of donated amount and their category in the database. GYLA applied to state audit service with a view to examine the cases, yet no reaction followed.

The similar practice continued in pre-election period. 486 natural persons have contributed to the political subjects in the period of August 8-September 12, 2012. Out of them, 14 individuals have been registered in the database of vulnerable families and origin of 6 donations generated special doubt.

According to socio-economic conditions, three contributors belong to the category of families that are in extreme poverty. This category unites “families, when family members can hardly purchase food and their income is insufficient for acquiring products for normal nutrition”. Those individuals receive state allowance, they are considered insolvent and are entitled to state legal aid. They are also exempted from judiciary costs, have health insurance vouchers and can receive occupied lands in their possession.

Another three donors, on the bases of their application and assessment of socio-economic conditions belonged to socially vulnerable families. Yet, in view of comparatively higher rating score, they do not receive state allowance or any other benefits.

We consider that the cases required adequate response from the State Audit Service, yet it did not happen.

The Chart submits detailed information about donations implemented by individuals who are registered in the database of vulnerable families.

#	Name and Surname	Party	Score	Amount in Georgian Laries	Period of donation	Comment
57. 001 and less score						
1.	Avtandil Tetradze	Georgian Dream	54920	30	8.22.2012	
2.	Eliko Kvanchiani	National Democratic Party	32780	200	8.24.2012	
3.	Akaki Gachechiladze	“Giorgi Targamadze-Christian Democratic Movement”	42230	616	8.28.2012	Non Monetary Donation
Score 100 000 above						
4.	Maia Dekanosidze	Free democracts	143500	16200; 6100; 13850; 22300 Sum: 58450	9.12.2012; 9.22.2012; 9.14.2012; 9.20.2012	
5.	Amiran Iamanidze	“Giorgi Targamadze-Christian Democratic Movement”	119760	2100	8.28.2012	Non Monetary Donation
6.	Dimitri Jorbenadze	United National Movement	418260	40000	8.31.2012	

⁶⁰ As for imposing sanctions on law breakers it is already impossible after the Parliament adopted the law on Exemption from Administrative Penalties on December 19.2012. According to Article 1 of the Law, it aims non-permanent and exceptional release from administrative penalty of natural persons and legal entities, who were penalized as per Article 34² of the Law of Georgia on Political Union of Citizens or might be penalized for the act committed before October 1, 2012. Nevertheless, investigation of the facts of the case by the State Audit Service and verification of existence of offence might be of certain importance for establishing relevant practice in terms of political party funding.

⁶¹ Pre-election monitoring second interim report , GYLA, 2012 April-July, pg 27.

Expenses born on hiring lobbyists in the United States

On September 6, 2012 NGOs: Georgian Young Lawyers' Association, Transparency International Georgia and International Society for Fair Elections and Democracy released joint statement on lobbyist contracts. According to the statement, before Parliamentary elections of October 1, election campaign is also carried out beyond Georgia's borders. For the past months, Bidzina Ivanishvili, opposition leaders and National Security Council of the Government have hired lobbyist companies abroad. NGOs thought that role of foreign lobbyists and possible effect of their activities on election campaign should have become the issue of wide-scale discussion. According to Civil.ge, government of Georgia pays at least 1,83 million USD to lobbyist companies (the Podesta Group, Orion Strategies LLC, Prime Police Group, Gephardt Group Government Affairs, LynxDC) operating in Washington DC., as well as to the consultant Gregori A.Maniatis. Consultations envisage strategic advice, support in communication field, lobbyist activities and "service related to government relationship" on the issues such as free trade, Georgia's integration in NATO and Transatlantic structures, and "democracy issues", as well as the aid on "pre-election issues". According to NGOs' statement, Bidzinda Ivanishvili pays more than 300 000 USD in a month to four lobbyist companies (Parry and Roman Associates Inc, Patton Boggs LLP, Donwey McGarth Group Inc, National Strategies LLC). According to publicized contracts, the obligation of hired companies imply lobbying of members of US congress and administration of the President, Media Monitoring and retrieval of information, media relations and campaigning via digital source, including preparation of video advertisements and documentary films and establishment of "network of supporters" in the US., Europe and Georgia by means of social media and website. (<http://democracyingeorgia.org>).

According to "Foreign Country Representative Registration Act", contracts signed with companies representing the government of Georgia and Bidzina Ivanishvil should be registered in US Justice Department. The contracts are published on the website.⁶² Lobbyists of Georgian government and Ivanishvili were also operating in Brussels and other capitals of the Europe, yet details of their activities are secret since no strict rules of registration are applied in the European Union.

NGOs considered that Georgian Government, as well as Bidzina Ivanishvili should have disclosed all the contracts made with lobbyist companies and should have published addition information on the tasks and activities of hired lobbyists with a view to convince public that contract envisaged activities are in line with legislative stipulations on political party financing. Furthermore, according to NGOs, Georgian government, as well as Bidzina Ivanishvili should have refrained from making too much influence by the lobbyist activities on political process in Georgia.

Despite NGOs request to disclose the information, neither Bidzina Ivanishvili, nor the government of Georgia has released additional information on lobbyist contracts.

GYLA has examined lobbyist contracts made by Bidzina Ivanishvili, "Georgian Dream" leader and the Georgian government that operate in the United States and that are available publicly. GYLA intended to inspect compliance of the contracts with Georgian Election legislation. After studying the documents released on website of the US justice department⁶³, it was determined that National Security Council of Georgia has made five contracts with US lobbyist companies, while Bidzina Ivanishvili, private person, has made only two contracts.

Two contracts made by Georgian government directly provide that lobbyist companies should provide assistance on pre-election issues as well. There are no other details in the contract. The three other contracts made by the National Security Council provide that the company should also lobby issues upon parties' negotiation. Such stipulation means that contract leaved wide discretion to the parties. It is also unknown what kind of issues might be negotiated. All contracts obliged the lobbyist companies to submit periodic reports on the fulfilled activities. According to the past experience, the reports are not transparent. For example, in 2009, together with other documents, GYLA requested from Foreign Ministry the report submitted by Lobbyist Company "Orion Strategy". The official response submitted by the Ministry provides that the Ministry had been informed about implemented lobbyist activities orally. "The Ministry does not have any written document on implementation of contract envisaged activities." Since the reporting was oral, the Ministry had no official document for public disclosing.

In view of the mentioned unclearness and absence of detailed information, it is important to convince all relevant state agencies and public at large that lobbyist contracts are not used for lobbying the ruling party by state expenses. Otherwise we would have abuse of administrative resources and illegal donations of state agencies to the ruling party which is punishable by law. Therefore, we consider that information on lobbyist service procured from state funds should be open. In addition, the State Audit Service should express interest on existence of any misconduct in the lobbying process, should investigate the issue duly and timely and submit its impartial findings to public.

Lobbyist contracts made by the private entity Bidzina Ivanishvili, also generate interests in view of their compliance with election legislation. According to one contract, the company should provide advocacy and expertise on the issue of restoration of Georgian citizenship and inform US Congress and administration on harsh measures applied by Georgian government in terms of Bidzina Ivanishvili and Katu Bank. As opposed to the first one, the second contract specifies election objectives and provides that lobbyists would carry out certain lobbyist and "campaigning" activities, which implies: creation of "message" platform in coordination with campaign team. It will be used for domestic campaigning

⁶² <http://www.fara.gov./qs=foreignpincipal.html>:

⁶³ <http://www.fara.gov./qs=foreignpincipal.html>

and for activities of a consultant in the United States. The contract also envisages organization of coalition “Citizens for Democracy in Georgia”, formation of the web-site and others. According to the contract, along with other issues, the consultants will maximize the website online visibility through coordination with other Georgian Dream online assets. Consultants will build an army of online supporters with significant digital reach and influence that can increase positive sentiment towards the goals of client’s (note: B.Ivanishvili) campaign. The goal is to create a network of supporters in the U.S., Europe and most importantly within Georgia to help engage and push client’s messages.” The contract also envisages other interesting issues agreed by the parties.⁶⁴

Aims of lobbyist contracts made with National Strategy reflect the objectives of “Georgian Dream” election campaign. It should be noted that the contract was made by Bidzina Ivanishvili, as a private person, rather than a political party. As far as private person bears expenses instead of a political party, observance of illegal donation becomes highly possible and the issue should be examined by the State Audit Service. We consider that the State Audit Service should examine circumstances of the case and determine if illegal donation was really implemented by Bidzina Ivanishvili in favor of “Georgian Dream”.

5.10. Activities against media

In pre-election period media was deeply concerned with resolution #42/2012 “on determination of some election procedures” adopted by the Central Election Commission on September 24, 2012. GYLA considered the act unreasoned. It believed that the resolution violated rights of individuals, entitled to be in polling premise (including the journalists and election monitors), to carry out proto-video recording, save for the polling booth, without hindering election process. The resolution envisaged some important restrictions:

1. Photo-video recording in the polling venue should be conducted from the preliminary determined place by the head of the commission, from where election process is vivid;
2. Minimal distance for any individual for photo-video recording from the target should be three meters;
3. If an individual, entitled to be in the polling venue, moves with a camera or leaves the venue, s/he is deprived of the chance to continue recording.

GYLA considered, that by the adopted act Central Election Commission (CEC) exceeded the scope of granted competences stipulated by law. According to Para.3, Article 14 of the Election Code of Georgia, CEC is entitled to adopt resolutions on other issues that are not regulated by the Law and other bylaws on unexpected issues pertaining to elections and other procedures within its competence.” Para. 3, Article 30 of the same law provides that CEC’s resolution is a bylaw, which might be adopted only in cases directed stipulated by law. The resolution might also envisage adoption of certain instructions describing election procedure, which shall not imply the new or different norms from the legislative stipulations, or it might specify procedures already provided for by the law.

CEC resolution is completely new and different act. Furthermore, the Commission failed to name the cases when media representatives hindered election process. According to the position of the Commission, recommendation of the Venice Commission of taking away video-eye from the polling stations served as the bases for adopting the resolution. GYLA believes that recommendation of Venice Commission was directed to possible control of the electorate, rather than to unreasoned restriction of media’s and election monitors’ rights. In addition, adopted act cannot justify position of the commission as though voters are afraid of cameras and recordings. Undertaken measures for elimination of fear are absolutely useless. It should also be noted, that the Commission did not consider some instructions of the Election Code that might be applied in case of obstruction of the process. CEC also failed to provide reasonability of restricting the recording process during the polling day. It is obvious, that Commission maintains the provision on photo-video recording only formally, yet it established some different, sharp norms, while the act itself does not determine acts of obstruction. It should be noted, that the act has been adopted a week ahead of elections. Furthermore, CEC resolution does not meet the standards established by the Law of Georgia on Freedom of Speech and Expression.

On September 26, 2012 Georgian Young Lawyers’ Association, Media Club, International Society for Fair Election and Democracy, Transparency International Georgia and Association of Free Development and Rights challenged the resolution of the Central Election Commission in a court requesting its invalidation. The court did not satisfy the complaint. It stated that “the Central Election Commission was competent to determine specific rules for photo-video recording by by-law, in particular to define conditions for video recording so that not to inhibit implementation of election process.” Appeal Court also uphold the decision of the first instance court.

In the reporting period (August 1-September 30), instances of violence and interference in journalists’ activities have been decreased as opposed to the previous period, yet some notable incidents were still observed:

Incident in Zugdidi

On September 21, 2012 the Majoritarian MP candidate of the “United National Movement” Roland Akhalaia and his neighbor assaulted journalists, gathered near his house, verbally and physically and disallowed them to carry out pro-

⁶⁴ <http://www.fara.gov/docs/6123-Exhibit-AB-20120807-1.pdf>;

professional activities. According to journalists, in the moment of incident, patrol police car passed by slowly and recommended the gathered individuals to move on the pavement, yet notwithstanding their demand, police officers made no reaction.

The case contains elements of criminal offence envisaged by the Penal Code. In view of this, the fact need to be investigated timely and duly, so that to ensure personal security of media representatives and to prevent reoccurrence of the fact.

2. Eliso Janashia's and Iza Salakhaia's Case

On September 13, 2012 Editor of the Internet edition TSpres, Eliso Janashia, and journalist of the same edition, Iza Salakhaia were prevented from carrying out journalistic activity by the priest Grigol and other clergyman in Poti Cathedral, which is under construction. In particular, they were not allowed to take an interview.

According to Eliso Janashia, the clergymen assaulted her verbally and physically and damaged her camera. The footage disseminated by news agencies confirms that the journalists were not allowed to carry out their professional activities and their camera has been damaged. Investigation has not ended so far on the case.

3. The case of Vasil Dabrundashvili, GNC journalist and Bachana Buliskiria, a cameraman

On August 22, 2012 the fact of interference in journalists' activities was observed in terms of Vasil Dabrundashvili, GNC journalist and Bachana Buliskiria, a cameraman. There was also fact of journalists' physical abuse.

As they explained, while visiting the facility for wood processing with a view to check provided information, some strangers attacked them. Strangers abused them physically and damaged cameras and other facilities. The Ministry of Interior reacted on the fact with a statement. It mentioned that investigation has been launched into the accident that took place among the GNS team and Kachmazashvili -Chichikashvili. Investigation has not been finished so far.

The fact of attacking house of Nodar Chachua, a journalist

On August 14, 2012 when returning home late at night, Nodar Chachua, a journalist, saw that his apartment was in a mass. The journalist considers that, invasion of his flat was an attempt to threaten him. It should be considered, that on July 27, 2012 the similar act of coercion was implemented against the journalist. As he reports, three unknown individuals threatened him and attempted to extract from him information in exchange to financial compensation.

According to the journalist, those unknown individuals instructed him to have sexual contact with one of his male co-employees from the Channel 9. Nodar Chachua reports that the persons, as they declared, were representatives of "some service", which "solves problems to individuals, yet brings serious problems as well."

It should be noted that the journalist remembers some identities of the strangers. In particular, their mobile number and the number plate of the car by which the individuals were moving. The case has been investigated by Isani-Samgori Police unit. The investigation case not ended so far on Nodar Chachua's case.

Khurvaleti Incident

On August 8, 2012 the team of TV Company "Maestro" prepared a commentary about IDPs settled in Khurvaleti, in IDP community after military conflict with Russia. Part of local settlers expressed aggression against Tamta Gazashvili, a journalist from "Maestro" and did not allow recording. In private communication local population reported that only "heads of communities" are entitled to talk with them. One of such persons stated that they themselves control the situation in the settlement. Finally, part of citizens started to throw stones to the journalists and made them leave the territory. No adequate reaction followed on the fact so far.

6. POLLING DAY

According to the decision made by GYLA's board, GYLA was monitoring 35 election districts and polling stations abroad through observers sent to election precincts on the polling day and distributed among mobile teams.⁶⁵

As usual, GYLA's monitoring entailed a compilation of methods: monitoring at polling stations throughout the Election Day; monitoring through mobile teams where team members visited polling stations within an individual district to identify violations, if any; representation in district and central election commissions for drawing up legal documents, participating in decision-making and providing legal expertise. Before closing of polling stations, mobile team members selected more or less problematic precincts and stayed there to attend vote counting and observe tabulation.

⁶⁵ GYLA was observing the October 1, 2012 parliamentary elections in the following districts: Mtatsminda, Vake, Saburtalo, Krtsanisi, Isani, Samgori, Chughureti, Didube, Nadzaladevi, Gldani, Kutaisi, Tskaltubo, Sachkhere, Batumi, Khelvachauri, Kobuleti, Khulo, Poti, Zugdidi, Ozurgeti, Lanchkhuti, Chokhatauri, Gori, Khashuri, Kareli, Kaspi, Akhaltsikhe, Rustavi, Marneuli, Bolnisi, Gardabani, Telavi, Lagodekhi, Sagarejo, Dusheti. It also monitored the elections in London, Great Britain; Budapest, Hungary; New York, US; Paris, France and Berlin, Germany.

Furthermore, there was a hotline operating in GYLA throughout the day allowing citizens to report any alleged election violations. Where applicable, a mobile team took further actions by visiting the scene.

Tbilisi – there were 92 observers of GYLA in Tbilisi, including 70 observers dislocated at individual precincts. They were assisted by a mobile group comprised of 15 observers. GYLA had seven observers dislocated at polling stations abroad.

Various regions of Georgia – there were total of 215 observers of GYLA monitoring election precincts.

GYLA's observers were present on permanent basis at 35 DEC's and at the Central Election Commission to monitor the Election Day and post-Election Day procedures.

On the Election Day, several briefings were held at a **media center** founded by local monitoring organizations. Representatives of press and other media outlets were provided with information about election violations reported by GYLA's observers and through a hotline at that time.

Violations on the Polling Day

GYLA was monitoring course of the elections in 35 election districts in Tbilisi and throughout 9 regions of Georgia as well as five polling stations abroad in the US, Great Britain, France, Germany and Hungary.

Despite certain procedural violations, the process was mostly peaceful, except for at Khashuri Election District N35 where special forces interfered with vote counting in several election precincts. As the interference constituted grounds for annulment of precinct results, GYLA filed a complaint with corresponding DEC.

GYLA's observers reported procedural violations such as

- Flaws related to inking of voters;
- Casting a ballot instead of someone else;
- Inaccuracies on voter lists and particularly, absence on voter lists of persons registered within a consular office, and registration of civilians at special precincts;
- Illegal restriction of video shooting at polling stations;
- Illegal expulsion of observers from several election precincts;
- Other Procedural violations (flawed hand-over acts; insufficient number of ballot papers and envelopes; broken seals, etc.).

GYLA's observers filed total of 147 applications/complaints, including

- 10 complaints and 40 applications after opening of a polling station and before start of the polling;
- 59 complaints and 32 applications before after start and before end of the polling;
- 6 complaints over tabulation procedures

Violations at the opening of polling stations and at the start of the polling

Violations at the opening of polling stations at the start of the polling were reported at several election precincts.

Broken seal of ballot paper package⁶⁶ and arbitrary distribution of functions between PEC members following casting of lots.⁶⁷

Violations during polling

During polling GYLA's observers reported restriction of the work of media, engagement in agitation in violation of law, improper realization of the authority of PEC members and problems related to a mobile ballot box; in particular,

- At a number of precincts there were illegal prohibition of video shooting reported. Sagarejo District is particularly notable. Commission members demanded that cameramen shoot only ballot boxes, not allowing them to record the whole precinct on camera, which amounts to violation of law;
- In Sagarejo, Iomurghanlo, there were frequent cases of agitation at election precincts, including marking of ballot papers demonstratively, without PEC members taking any legal measures against the violation. PEC Chairperson at Sagarejo Precinct N45 was engaged in agitation;
- A voter marked as "registered within a consular office" on the voter list cast a ballot in Saburtalo Precinct N28, which amounts to violation;
- The problem of indicating necessary information in hand-over acts was reported in Tskaltubo Precinct N5 and Isani Precinct N7.

⁶⁶ Sachkhere N73 and Didube N1 election precincts

⁶⁷ Special precinct N91, Saburtalo N3 District

Exercising control on expression of free will of voters

Persons stationed in near proximity of some polling stations were registering voters that arrived at the station, which amounts to an indirect control of a free will of voters, restricting a possibility for them to make a free choice.

GYLA was contacted on hotline by citizens, expressing their concern over the fact. GYLA called on political parties to stop controlling expression of free will of voters and allow them to make a free choice.

There were Special Forces mobilized in near proximity of precinct N69 (in Saburtalo District N3) and precinct N31 (in Krtsanisi District N4) after the polling was finished. Further, police was actively concentrated in precincts N16, 29 and 31 (Krtsanisi District N4). Police officers were asking identity of voters arriving at precincts and the reason they had arrived. There were police and public servants mobilized in near proximity of precinct N49 in Dusheti District.

Voter lists

Certain problems were reported on the Election Day in relation to voter lists. Many people contacted GYLA reporting that they could not find their names on voter lists;

Some voters found signatures along their names on the list. Such cases were reported in precincts N23 and 58 in Batumi, 21 precinct in Saburtalo and N63 precinct in Gori.

Not only military servicemen and persons deprived of liberty but also civilians serving in military and penitentiary facilities were registered in voter lists of special election precincts participating in proportional and majoritarian elections. It amounts to violation of election law. Such cases were reported in precinct N11 in Gori and precinct N115 in Gldani Penitentiary Facility N8.

Some Georgian citizens abroad, who had been registered with consular offices prior to the elections, complained that they did not find their names on voter lists at precincts.

Interference with the work of observers

Restriction of observer's right was reported in precinct N49 in Dusheti and precinct N32 on Kaspi District. GYLA's observer was illegally expelled from Marneuli Precinct N50, after she decided to file a complaint. Later, with the involvement of the CEC, the observer was allowed back into the precinct. GYLA's observers had problem entering the special precinct N116 and precinct N77 in Gldani but the problem was later eliminated.

Procedural violations that could have posed a real danger of vote rigging

Problems were reported about inking of voters on the polling day. The liquid was unstable. GYLA's observers verified and the stain was not visible when exposed to ultraviolet light.

The following types of problems were reported in relation to the use of election ink:

- Although verified a number of times, stain was not visible under ultraviolet light (e.g. precinct N91 in Saburtalo, precinct N24 in Krtsanisi);
- The liquid was of poor quality and left a trace only after it was shaken well (e.g. precinct N55 in Nadzaladevi, precinct N8 in Batumi);
- Liquid did not leave a trace when applied on nail (e.g. precinct N8 in Kobuleti, precinct N41 in Nadzaladevi);
- Double voting by persons who had already undergone the inking procedure (precinct N58 in Saburtalo, for instance).

In precincts where the foregoing problems were reported, GYLA's observers filed complaints, demanding suspension of polling

- At precincts where the problem was reported, GYLA's observers wrote complaints, seeking suspension of the polling process until quality liquid was provided to the PEC. Despite complaints filed by GYLA's observers with several precincts, polling continued with poor quality liquid or without inking of voters at all.

Violations in vote counting and tabulation of results

Certain problems related to filling out summary protocols were reported, mostly by recording inaccurate information.

Further, in individual cases despite the fact that all votes had already been counted, the information was not recorded in protocols until 6-9am, i.e. completion of the Election Day procedures was artificially hindered. Later it turned out that PEC chairperson were waiting for corresponding instructions from DECs.⁶⁸

⁶⁸ Election precincts of Batumi N79 and Khashuri M35

In around 10 election precincts of Khashuri Election District N35 the election process, including tabulation of results was conducted in major violations of law. In particular, many pieces of evidence, including explanations of PEC members confirmed that summary protocols at the precincts were drawn up in a way that did not reflect expression of voters' will or information in protocols drawn up by PECs was later rewritten. Further, several precincts of Khashuri District were invaded by Special Forces forcing PEC members to record election results in summary protocols according to their instructions. This has resulted in a number of gross violation of election law, greatly impacting due reflection of voter will and essentially changing polling results from election precincts. Further, individual cases also involved violations against criminal law that needed to be looked into by the authorities. GYLA filed with DEC for annulment of results from the election precincts #1, #2 #3, #5, #8, #9, #10, #19, #45 #46 and #26 in Khashuri but the complaints were not upheld. Notably, considerable violation of procedures during examination of complaints was reported. In particular, the commission failed to duly examine evidence, which also amounts to a violation. GYLA appealed decision of the DEC in court, and applied to the office of the chief prosecutor for a probe in alleged violations of criminal law.

7. MONITORING OF PROCEDURES FOR CONSIDERATION OF COMPLAINTS AND TABULATION OF RESULTS FOLLOWING THE ELECTIONS

GYLA was monitoring post-election procedures in Tbilisi and 35 district election commissions. In case if violations, GYLA filed corresponding complaints with DEC, the Central Election Commission or court.

In its appeals GYLA placed special weight on imposition of disciplinary and administrative liability on PEC members that committed violence, as one of the means for prevention of other violations in the future.

Following the Election Day, total of 98 complaints were filed with the DEC, seven with the CEC and 16 in court (12 in city/district courts and 4 in appellate court).

98 complaints filed with the DEC by GYLA sought the following:

- **19 complaints** sought imposition of administrative liability on a PEC member. DEC upheld 7 complaints;
- **57 complaints** sought imposition of disciplinary measures on members of 98 election commissions, including 97 precinct election members and 2 district election chairpersons. DEC upheld 29 complaints;
- **28 complaints** sought annulment of results from 41 election precincts. DEC upheld 2 complaints;
- **19 complaints** sought recounting of results from 102 election precincts. DEC upheld a single complaint.

Decisions of the DEC refusing the claim were appealed by GYLA with the CEC and in court.

7 complaints filed by GYLA with the CEC sought the following

- **5 complaints** sought imposition of disciplinary liability on commission members involved;
- **5 complaints** sought annulment of ordinances of seven DEC;
- **1 complaint** sought annulment of ordinances of 2 DEC chairpersons;
- **2 complaint** sought drawing up of a protocol of administrative violation against 5 commission members involved.

The CEC upheld only a single complaint out of the seven.

12 complaints of GYLA filed with city courts sought the following:

- **2 complaints** sought imposition of administrative liability on commission members involved;
- **4 complaints** sought annulment of results from 15 election precincts;
- **2 complaints** sought recounting of results from 92 precincts;
- **4 complaints** sought imposition of disciplinary liability on 9 commission members involved.

City/district courts upheld 5 complaints in part and 1 in full out of the twelve.

4 complaints filed by GYLA in appellate court sought the following:

- **Two complaints** sought annulment of four election precincts;
- **1 complaint** sought imposition of administrative liability against four commission members involved
- **1 complaint** sought repealing the first instance decision and recounting of results from 5 precincts

The appellate court upheld two complaints.

As a result of complaints filed by GYLA with DEC, liability was imposed on total of 51 commission members, including

- Reprove - 19 commission members;
- Warnings - 15 commission members;
- Salary deduction, fully or in part – 10 commission members;
- Fine – 7 commission members.

Below is the report of GYLA's monitoring of consideration of complaints and tabulation of results according to each election district.

Mtatsminda Election District N1

GYLA's observers did not file a complaint with Mtatsminda Election District

Vake Election District N2

GYLA's observers did not file a complaint with Vake Election District N2

Saburtalo Election District N3

GYLA's observers filed total of 6 complaints with Saburtalo Election District

GYLA's observer in PEC N91 of Saburtalo District Election Commission N3, Ketu Mamamtavrishvili filed three complaints with the DEC. One complaint was filed over inking procedure. In particular, when examined it was found out that the ink trace can be wiped off from hand. The observer filed a complaint seeking suspension of the polling process and elimination of the problem but the complaint was not upheld. We filed with the DEC over the commission's failure to act seeking annulment of the PEC N91 results, PEC N80 results and imposition of disciplinary liability on the PEC N80 chairperson and secretary.⁶⁹

Another complaint filed also involved PEC 91 over arbitrary distribution of powers among the commission members, amounting to violation of para. "c" – "g" of Article 61 of the Election Code. The complaint sought imposition of liability on members of the PEC N91. The complaints were rejected and appealed with corresponding election commission. The claims were rejected and the decision of the PEC was appealed in the District Election Commission which also rejected the claims.⁷⁰ As the procedure for appealing was rather obscure, the complaint over arbitrary distribution of powers determined by casting of lots among the PEC members was filed with the CEC, whereas GYLA's lawyers filed a lawsuit with Tbilisi City Court. The CEC did not consider the complaint, saying that the claim should have been brought before court.

Tbilisi City Court upheld the claim in part.⁷¹ In particular, ordinance 40/2012 of Saburtalo DEC N3 was declared null and void, and the court ordered the DEC to issue an administrative-legal act on imposition of disciplinary liability on the chairperson and the secretary of PEC N91. With its October 8, 2012 decision Saburtalo DEC N3 rejected Ketu Mamamtavrishvili's claim again.⁷² As to the complaint over the inking procedure, Tbilisi City Court's Board of Administrative Cases rejected the claim. The decision was appealed in Tbilisi Appellate Court that rejected the claim and upheld the decision of Tbilisi City Court.⁷³

GYLA's observer Kakha Kozhoridze filed a complaint with Saburtalo DEC N3 over the chairperson of PEC N1 saying that he had several ID cards, including ID cards of deceased persons. As there was a high likelihood of election fraud by the chairperson, GYLA's observer sought suspension of the authority of the PEC chairperson by imposing a disciplinary liability. The DEC did not consider the complaint.⁷⁴

GYLA's observer Sopo Japaridze filed two complaints with Saburtalo DEC N3. The first complaint was filed over a allowing a citizen Gvantsa Chkuasleli to cast a ballot at PEC N28 even though she was included in the unified voter list under the voters "registered with consular office". The complaint sought imposition of disciplinary liability on the PEC chairperson. Saburtalo DEC granted the claim and imposed a disciplinary liability – reproof on the PEC chairperson.⁷⁵

The second complaint sought imposition of a disciplinary liability on chairperson of the PEC N87 within Saburtalo DEC N3 over a voter casting a ballot with an ID card although he was an IDP, which amounts to violation of subparagraph "b", para.2 of Article 65 of the Election Code stipulating that persons forcefully displaced from the occupied

⁶⁹ The election precinct N91 was a PEC set up in exceptional case and attached to the DEC N80

⁷⁰ Ordinances of Saburtalo DEC N3 #40/2012, #41/2012, #42/2012 and protocol of Saburtalo DEC N3 meeting

⁷¹ Case #3/4090-12 05.10.2012

⁷² Saburtalo DEC N3 Ordinance #54/2012

⁷³ Verdict dated 08.10.2012, case #3b/1287 -12

⁷⁴ Protocol N6 of the meeting of Saburtalo DEC N3

⁷⁵ Saburtalo DEC N3 Ordinance #51/2012

territories of Georgia must present an IDP card in addition to their ID cards. Saburtalo DEC granted the claim and the chairperson was imposed with a disciplinary liability – reproof.⁷⁶

Krtsanisi Election District N4

GYLA's observers filed four complaints with the DEC.

GYLA's observer Lali Petriashvili filed four complaints with the DEC seeking imposition of disciplinary liability on chairpersons of the PECs N11, 21, 23 and 27. The PEC chairpersons provided members of the commission accompanying mobile ballot box with a full package of ballot papers, both for majoritarian and proportional voting, 50 ballot papers each, despite the fact that number of voters registered in the list of the mobile ballot box was much less. It amounts to violation of para.3 of Article 66 of the Election Code stipulating that PEC chairperson should provide members of the commission accompanying mobile ballot box with necessary number of ballot papers certified by registrar signature and a special stamp. The DEC rejected claims of GYLA's observer and the decision was appealed in the CEC. The CEC did not consider the complaint, stating that it should have been appealed in court.

The appeal was also filed in Tbilisi City Court but the claim was rejected. The court ruled that PEC chairpersons have the discretion to determine number of ballot papers to be provided to commission members accompanying a mobile ballot box.

Isani Election District N5

GYLA's observers filed two complaints with the DEC.

GYLA's observer Nika Gablishvili filed a complaint with PEC N29, over the PEC chairperson deeming 142 proportional and majoritarian ballot papers invalid during counting of votes. As voters had circled one election subjects and crossed out all the others on these ballot papers, the chairperson deemed that will of voter had not been expressed and made a sole decision. As the decision was later protested by other members of the commission as well as observers, it was formally put to the vote. GYLA's observer sought deeming the impugned ballot papers valid and imposing liability on the chairperson. The complaint was not admitted at the precinct. Complaint was also filed with the DEC. GYLA's observer sought annulment of the summary protocols of the precinct N29, recounting of ballots, and imposing disciplinary liability on the chairperson and the secretary of the PEC. The DEC delivered ordered examination of ballot papers deemed invalid at the precinct N29. As a result of the examination, the DEC made important changes in majoritarian and proportional summary protocols of the election results, greatly affecting the number of votes received by election subjects. The DEC did not resort to any measures of liability.

GYLA's observer Beka Dochviri filed a complaint with the DEC seeking imposition of disciplinary liability on the chairperson of the PEC N77. The Chairperson refused to let inside the station one of GYLA's observers, Tamar Tskhadadze, who had arrived at 07:30am at the polling station. By doing so, the chairperson deprived the observer from an opportunity to realize her legal rights and responsibilities. The Chairperson explained that observers should have arrived at 7am. Under the DEC chairperson's decision, a disciplinary measure (reproof) was imposed on the chairperson of the PEC N77.⁷⁷

Samgori Election District N6

GYLA's observer filed two complaints with the DEC

GYLA's observer Lela Gvishiani filed a complaint with the DEC, seeking imposition of disciplinary liability on the PEC N120 chairperson. There were 600 special envelopes at the election precincts N120⁷⁸ instead of 576, which amounts to violation of para.8 of Article 63 of the Election Code. The DEC did not uphold the claim.

GYLA's observer Ketevan Kachlishvili filed a complaint with Samgori DEC N6 over the fact that total number of majoritarian ballots in summary protocols of the PEC N21 was 32 less than total number of signatures of voters that cast a ballot. GYLA suspected that majoritarian ballots papers had not been counted correctly and demanded recounting. The PEC rejected the claim saying that the information in protocols of majoritarian polling did not provide grounds for questioning accuracy of the data as number of votes received by election subjects and the number of votes deemed invalid could have been less or equal to the number of voters, under the Guidelines for Precinct Election Commissions adopted by the CEC under its August 3, 2012 resolution. The PEC deemed that the difference between the number of ballot papers counted and the number of signatures was caused due to the fact that invalidated ballot papers had not been recorded in majoritarian summary protocol. Therefore the PEC decided to recount invalidated majoritarian ballot papers. According to the recount, number of the ballot papers was 26. Subsequent changes were made to the PEC summary protocol, under the section of invalidated ballot papers.

⁷⁶ Saburtalo DEC N3 Ordinance #52/2012

⁷⁷ Isani DEC N5 Ordinance #019/2012

⁷⁸ A precinct set up in exceptional case

Chughureti Election District N7

GYLA's observers filed five complaints with the DEC.

GYLA's observer Asmat Jangulashvili filed two complaints with the PEC N18 over an IDP allowed to vote without an IDP card. Further, a citizen who had an ID card missing an address was allowed to cast a ballot. The first complaint sought imposition of a disciplinary punishment on the PEC chairperson and registrar. The second complaint sought imposition of a disciplinary punishment on the PEC chairperson only. The PEC did not take any further actions on either of the complaints. GYLA's observer Asmat Jangulashvili filed with the DEC over both incidents. The DEC rejected both claims and ruled that a voter with an ID card missing an address was included on the list for the registration tables; therefore, under the CEC resolution he had the right to cast a ballot even without the address. GYLA's observer Asmat Jangulashvili filed a complaint with the CEC as well, seeking annulment of the PEC N7 resolution and imposition of disciplinary liability on the PEC registrar and chairperson. GYLA's complaint was not considered by the CEC, stating that the decision should have been appealed with the CEC.

Complaints filed in court – GYLA's observer Asmat Jangulashvili appealed the decision of the DEC in Tbilisi City Court. The court granted the claim in part by ordering the DEC chairperson to reconsider imposition of a disciplinary liability on the PEC N18 chairperson and the registrar. Subsequently, the DEC reconsidered the issue and imposed a disciplinary punishment (reproof) on the chairperson.

GYLA's observers Maia Khutsishvili, Mariam Bochorishvili and Mariam Gogosashvili filed three complaints with the PECs #43, #14, 15, 39, 44, #30 and #23 over the failure to record number of special envelopes in hand-over acts, which amounts to the violation of stipulations of Article 63 of the Organic Law of Georgia Election Code. The complaints sought imposition of disciplinary punishment on chairpersons of the PECs and the DEC. The complaints were left without a response. Similar claims were filed with the DEC which rejected them for the lack of grounds. GYLA's observers appealed the DEC decision in the Central Election Commission. The CEC rejected the claim, stating that the resolution of the DEC should have been appealed in court.

Didube Election District N8

GYLA's observers filed total of 3 complaints with Didube DEC N8.

GYLA's observer Giorgi Apriashvili filed two complaints with the PEC N1 over unsealed ballot paper package and allowing voters registered in a special list to cast a ballot both through a proportional and a majoritarian system. **The first complaint** was filed over violation of para.6b of Article 61 and para.11 of Article 63 of the Election Code, stipulating that after the counting of ballot papers they must be sealed again and confirmed by parties involved with their signatures. The second complaint was filed over giving both ballot papers (proportional and majoritarian) to a voter on a special list, amounting to violation of para.5 of Article 32 of the Election Code, stipulating that voters on a special voter list may cast a ballot in both majoritarian and proportional elections if a voter changes location within the territory of the same electoral district. The failure of the PEC to act was appealed in the DEC. The complaint sought imposition of disciplinary liability on PEC members involved. The DEC rejected the claim due to the fact that two different types of ballot papers were provided to the voter without determining his place of registration. Further, the DEC rejected the claim filed by Giorgi Apriashvili over the unsealed package of ballot papers.

GYLA's observer Tamta Mikeladze filed a complaint with the DEC seeking imposition of disciplinary liability on members of the PEC N28, over the fact that an IDP was allowed to cast a ballot based only on his ID card. It amounts to violation of para.2b of Article 65 of the Election Code, stipulating that persons displaced from the occupied territories of Georgia must submit IDP cards in addition to their ID cards for casting a ballot. The stipulation was violated in the given case. The DEC ruled that under the resolution of the CEC N41/2012, dated September 21, 2012, a voter may cast a ballot if his/her personal number in ID card and at least three of the following – name, surname, DOB and address is the same as the one in the unified voter list. The DEC rejected the claim⁷⁹, explaining that the violation could not have affected transparency of the elections and expression of voter's will.⁸⁰ The DEC's resolutions were appealed in Tbilisi City Court. The court granted the claim of GYLA's observer, repealing the resolutions of the Didube PEC N8, ordering the respondent to issue a new individual administrative-legal act following evaluation of circumstances relevant to the case. Subsequently, Didube DEC N8 issued reproofs against chairpersons of the PECs N28 and N1 and a member of the PEC N1.⁸¹

Nadzaladevi Election District N9

GYLA's observer filed one complaint with the DEC.

GYLA's observer Ketevan Kratsashvili filed a complaint with the DEC over her illegal expulsion from the PEC N42, seeking drawing up an administrative-legal act against the PEC chairperson, supervisor of the ballot box and

⁷⁹ Ordinance of Didube DEC N8, #27/2012

⁸⁰ Ordinances of Didube DEC N8, #25/2012 and #26/2012

⁸¹ Ordinances of Didube DEC #8 - #29/2012, 30/2012 and 31/2012

members of the PEC who supported the act of her expulsion, in compliance to Article 91 of the Election Code. GYLA's observer, who was a member of the team accompanying a mobile ballot box, expressed disapproval on several occasions before the PEC chairperson. Her concerns were taken into account despite the fact that it intimidated members of the commission. Nevertheless, GYLA's observer was forced into leaving the polling station – for instance, she was refused to be provided with copies of the hand-over act for special envelopes and ballot papers; information from ballot papers received were recorded in demonstration protocols only after the observer expressed disapproval; one of the registrars remedied an error related to inking only after the observe pointed out; the observer also expressed disapproval of documents that the ballot box was covered with, which intimidated the PEC member supervising the box. The DEC chairperson refused to draw up a protocol of administrative offence, stating that the claim was unsubstantiated.

GYLA's observer Lina Ghvinianidze filed a complaint with the CEC, seeking imposition of responsibility on Nadzaladevi DEC N9 Grigol Gogua. The observer alleged that the DEC chairperson had violated election law, which amounted to disciplinary offence under Article 78 and 79 of the Law of Georgia on Public Service. GYLA's observer saw the DEC chairperson personally making changes to the protocol of corrections of the PEC N92 and expressed disapproval. The DEC chairperson making changes to the summary protocol of the PEC N92 was witnessed by members of the PEC N91. Further, the protocol of corrections in the summary protocol of results from the PEC N92 (proportional elections), which was later posted on the website of the CEC, had been corrected not one but two times. It proved that the second correction had been made later, in violation of applicable procedures, whereas copies of the legally valid summary protocols provided to GYLA confirmed that protocol of corrections in the summary protocol of proportional elections at the precinct contained one correction related to para.24. This was confirmed by members of the PEC N92, Naziko Shiukashvili and Shorena Purtseladze. Notably, the DEC N9 of Nadzaladevi did not address the issue. The CEC rejected the claim of GYLA's observer. The decision was based on circumstances that had not been duly studied and examined by the CEC. Witnesses named by GYLA were not summoned to the CEC meeting.

Complaints filed in court – the decision of the CEC was appealed in Tbilisi City Court but the claim was rejected. In particular, the court stated that the evidence submitted was insufficient to prove the claims raised in the complaint. Further, the court upheld witness testimonies saying that the changes were made later at the precinct as opposed to the district with participation of all members of the commission. Although certain essential discrepancies were evident in witness testimonies, the court ruled them as essentially similar and did not find disciplinary violation by the DEC chairperson. Further, the plaintiff's motion to question two members of the PEC N92 was rejected by court.

Gldani Election District N10

GYLA's observers filed three complaints with Gldani DEC.

GYLA's observer Maka Bilanishvili filed a complaint with PEC N41 in Gldani District N10 over a PEC member on a special list not allowed to cast a ballot in majoritarian elections. The complaint sought realization of Gocha Bokhashvili's active election right and prevention of similar violations in the future. The DEC took into account the explanation provided by the registrar saying that the voter had been registered in a different district, and rejected the claim as unfounded and unsubstantiated.

GYLA's observer Ana Vacheishvili filed a complaint with Gldani District N10 over the failure of a member of the PEC N7 to have a voter sign along his name. The complaint sought taking of further actions envisaged by law. The DEC rejected the claim as unfounded and cited explanatory not of a registrar saying that the registrar himself acted carelessly and forgot to have the voter sign. Therefore, grounds for holding the PEC member responsible did not exist.

GYLA's observer Lika Tsiklauri filed a complaint with Special Precinct N115 in Gldani District N10 over personnel of Gldani N8 prison (employees of the office of the correspondence, cleaning crew, etc.) being included in the unified voter list, allowing them to cast a ballot both in proportional and majoritarian elections. These voters fell short of the requirements of para.5d, Article 31 of the Election Code of Georgia and therefore, they did not have the right to cast a ballot. To support the claim, the complaint included information about witnesses one of whom identified a member of the cleaning crew who was provided with a ballot paper for both proportional and majoritarian elections. According to the complaint, Ms Mzia Kakalashvili, registered in a different election precinct, cast a ballot in both majoritarian and proportional elections at the PEC N115. She informed an observer (confirmed by a witness) that she was not a military servicewoman and worked in the department of human resources, office of the correspondence. GYLA's observer sought that persons who fell short of the requirements of para.5d, Article 31 of the Election Code be prohibited from casting a ballot; it also sought annulment of results of majoritarian elections at the special precinct N115. Similar complaint was filed with Gldani DEC but was rejected. The DEC's refusal was appealed in Tbilisi City Court, seeking annulment of part of the unified voter list of the PEC N115 provided to the Central Elections Commission in which individuals who fell short of the Code's requirements had been included. Further, the claim also sought annulment of the DEC's refusal and results of majoritarian elections at the special precinct N11, Gldani District N10. The court rejected the claim, stating that when there is a certain inaccuracy in the voter list the law prescribes procedures for making changes within a limited period of time, rather than deeming the list null and void. Therefore, the court ruled that the claim for deeming part of the PEC N115 voter list unfounded. Further, the court requested official information about Mzia Kakalashvili, according to which he had a rank of a major. The court ruled that the evidence, the plaintiff's statement and witness testimonies did not prove that the voter had cast a ballot in violation of law at the special precinct N115. Subsequently, the court did not find any grounds for granting the claim.

Sagarejo Election District N11

GYLA's observers filed 8 claims with the DEC.

GYLA's observer filed two complaints involving the PEC N45. The first complaint was filed over the PEC chairperson engaging in agitation during polling and sought holding the chairperson responsible. The PEC chairperson entered the cabin to assist a voter and told her in Azerbaijani language to circle "besh" (number five). The fact was witnessed by voters and observers at the precinct. Under the decision of Sagarejo DEC N11, a protocol of administrative violation was drawn up against Eldar Jalilov and the case file was referred to court. The second complaint of GYLA's observer was filed over systematic agitation of Merab Chikovani at the precinct N45, seeking responsibility of the PEC chairperson N45 and annulment of the election precinct of Zemo Lambalo. The PEC chairperson's failure to act promoted systematic agitation, which was recorded in the logbook by the observer but without a success. Sagarejo DEC N11 rejected the claim for annulment of the PEC N45 results.

GYLA's observer Boris Macharashvili filed a claim seeking annulment of the PEC N49 and imposition of liability on the PEC chairperson and secretary. The complaint was filed over changes made to the summary protocol of majoritarian elections without drawing up a protocol of corrections. The DEC upheld part of the appeal. It ruled that the mistake in the summary protocol was technical in nature, which was later remedied by the PEC. The DEC stated that this fact could not have affected determination of polling results in a legal manner.

Complaints filed in court: GYLA appealed the ordinance of Sagarejo DEC in Sagarejo District Court, seeking annulment of the ordinance and imposition of legal measures on offenders. Sagarejo District Court upheld the claim in part. It annulled the ordinance N35/2012 of Sagarejo DEC N11, summary protocol of the PEC N49 majoritarian elections and ordered the DEC N11 to recount the polling results and deliver subsequent decision. The court ordered the DEC N11 to draw up a protocol of administrative offence against the chairperson and/or secretary of the PEC N49 for the violation envisaged by Article 87 of the Election Code. Under the October 8 decision of the DEC, secretary of the PEC N49 was imposed with an administrative liability and the case was referred to court.

Lagodekhi Election District N15

GYLA's observers filed 9 complaints with the DEC.

GYLA's observer Aleksi Tusniashvili filed three complaints over corrections in the summary protocols of majoritarian and proportional elections in Chiatura PEC N13, summary protocol of proportional elections in Kabali PEC N19 and summary protocol of proportional elections in Ganjala PEC N35. The corrections were not accompanied with corresponding protocols. GYLA's imposing administrative liability on the PEC chairpersons and secretaries under Article 87 of the Election Code. The DEC upheld part of GYLA's claim involving the PECs N13 and 35. The DEC refused to annul any of the protocols and to order recounting of ballot papers. It drew up protocols of administrative offence against the PEC secretaries and referred the case to court. The DEC did not find PEC chairpersons responsible. The DEC granted GYLA's claim in part. As to the PEC N19, the DEC rejected the claim for being groundless and did not draw up a protocol of violation against the secretary or the chairperson.

GYLA's observer Aleksi Tusniashvili filed a complaint involving Karajala PEC N22 over the following: in the protocol of corrections enclosed to the summary protocol of proportional elections sum of the number of votes received by election subjects and number of invalidated ballot was less than the number of voter signatures. GYLA sought annulment of the summary protocol and the enclosed protocol of corrections, as well as recounting of votes. In response, the DEC explained that similar complaint filed over violations at the very same election precinct was considered at the meeting of the election commission on October 3, 2012, and the claim was granted by the commission. As a result, salaries of the chairperson and member of Karajala DEC N22 were deducted with 25% and 15% respectively.⁸²

GYLA's observer Aleksi Tusniashvili filed a complaint involving Matsma PEC N4 over the following: in the summary protocol of majoritarian elections, the sum of the number of votes received received by election subjects and the number of invalidated ballots was 21 less than number of voter signatures. The complaint sought annulment of the summary protocol, recounting of votes and imposing disciplinary liability on the PEC chairperson. The DEC rejected the claim.

GYLA's observer Tsiala Utiashvili filed a complaint over making of corrections in the summary protocol of majoritarian elections in Chabukiani Election Precinct N26 without drawing up corresponding protocol of corrections. GYLA sought drawing up of a protocol of administrative offence against the PEC chairperson and secretary. The DEC rejected the claim, citing lack of proof that there were any corrections made in the document.

GYLA's observer Tsiala Utiashvili filed a complaint over corrections made to the summary protocol of majoritarian elections in Ganjala Election Precinct N20. The summary protocol was not accompanied with the protocol of corrections. GYLA demanded drawing up of the protocol of administrative offence against the PEC chairperson and secretary. The correction in question had been made to the name of one of the members of the PEC. The DEC rejected GYLA's claim stating that there is no need to draw up a protocol of correction for correcting a name.

⁸² Ordinances N18 and 19 of Lagodekhi DEC N15, dated October 3, 2012

GYLA's observer Tsiala Utiashvili filed a complaint over correction made to the summary protocol of proportional elections in Uzuntala Election Precinct N21 and demanded drawing up of a protocol of administrative offence against the PEC chairperson and the secretary. The DEC rejected the claim.

GYLA's observer Tsiala Utiashvili filed a complaint over absence of secretary's signature in the summary protocol from the election precinct of Gurgeniani N7, seeking imposition of disciplinary liability on the PEC chairperson. The DEC granted the claim.

GYLA's observer Tsiala Utiashvili filed a complaint over corrections made to the summary protocol of the proportional elections in Kartubani Election Precinct N14. The summary protocol was missing the protocol of correction. The complaint sought annulment of the summary protocol of proportional election, recounting of ballot papers and imposition of fine on the PEC chairperson and secretary. The DEC rejected the claim.

GYLA's observers filed two complaints involving Baisubani PEC N16. GYLA's observer Aleksi Tusniashvili filed a complaint with the DEC over the fact that the sum of the number of votes received by election subjects and the invalidated ballot papers was 19 less than the number of voter signatures. The complaint sought annulment of the summary protocol, recounting of ballot papers and imposition of disciplinary liability on the PEC chairperson. GYLA's claim was rejected by the DEC. GYLA's observer filed another complaint with the DEC over the summary protocols missing time and date stamps, and sought imposition of disciplinary punishment on the PEC chairperson and secretary. The DEC granted the claim and issued a reproof to the secretary and the chairperson.

GYLA's observers filed two complaints involving Giorgeti Election Precinct N24, The first complaint was filed by GYLA's observer Aleksi Tusniashvili over correction made in the summary protocol without drawing up the protocol of correction. The complaint sought annulment of the summary protocol, recounting of votes and imposition of administrative liability on the PEC chairperson and the secretary. The DEC upheld GYLA's complaint in part, without granting the claim for annulment of the protocol and recounting of ballot papers. The DEC drew up a protocol of administrative offence against the PEC secretary and referred the case to court. The DEC did not impose a responsibility on the chairperson. The second complaint was filed by GYLA's observer Tsiala Utiashvili over the summary protocol of Giorgeti PEC N24 missing a date and a time stamp. The complaint sought imposition of disciplinary liability on the PEC chairperson and secretary. The claim was granted in part and the DEC chairperson was imposed with a disciplinary liability – warning.

Complaints filed in court: GYLA's observers appealed the decisions in Gurjaani District Court, seeking annulment of the resolutions 24 #25 #26 #27 and #28 of Lagodekhi DEC N15, adopted in October 2012; annulment of the summary protocols from PECs #13, #14, #19, #24, #35; imposition of fine on chairpersons and secretaries of the PECs #14 and #19. The court rejected GYLA's appeal deeming it groundless. GYLA appealed the decision in Tbilisi Appellate Court, seeking annulment of Gurjaani District Court's judgment and annulment of the results from the PECs #13, #14, #19, #24, #35 and recounting of ballot papers. It also sought imposition of fine on chairpersons and secretaries of the PECs #14 and #19.

Telavi Election District N17

GYLA's observers filed five complaints with the DEC.

GYLA's observer Marekh Mgaloblishvili filed two complaints over corrections made to the data recorded in the majoritarian summary protocol of election results at the PEC N5 and the election results at the PEC N17. Both complaints sought annulment of election results at both precincts, recounting of ballot papers and holding the chairperson and the secretary responsible.

Telavi DEC N17 granted GYLA's claim in part. It refused to annul the protocols and order recounting of ballot papers, citing para.1 of Article 60 of the General Administrative Code of, as the summary protocol was not enclosed with a protocol of corrections. The DEC granted the claim seeking imposition of liability on the PEC chairperson and/or secretary. According to the evidence in the present case, protocols of violation were drawn up against the PEC N5 secretary and the PEC N17 chairperson, according to which the cases were referred to court under Article 87 of the Election Code.

GYLA's observer Marekh Mgaloblishvili filed a complaint over the fact that at the PEC N11 the sum of the votes received by election subjects and the invalidated ballot papers was more than signatures of voters who had cast a vote. The difference was 12 in one protocol and 11 in the other. GYLA filed a complaint with the DEC, seeking annulment of polling results from the PEC N11. The DEC rejected the claim but ordered drawing up of a protocol of correction. The protocols were drawn up by the PEC and the case was enclosed with explanatory notes of 13 members of the PEC.

GYLA's observer Marekh Mgaloblishvili filed a complaint with the DEC involving PEC N16 over the following fact: in the summary protocol of the PEC sum of the votes received by election subjects and invalidated ballot papers was more than signatures on the list, whereas the sum of the votes received by election subjects and invalidated ballot papers in the summary protocol of majoritarian elections was less than signature of voters who had cast a ballot. The complaint sought annulment of the PEC N16 results. The DEC rejected the claim. The DEC delivered a decision to draw up a protocol of correction. The case has been enclosed with explanatory notes of thirteen members of the PEC.

GYLA's observer Marekh Mgaloblishvili filed a complaint involving PEC N25 over the following: the protocols were missing some important details; in particular, number of voters on a special list and number of ballot papers. Further, the sum of the votes received by election subjects and the invalidated ballot papers was 13 less than number of signatures of voters who had cast a ballot. GYLA sought annulment of summary protocols, recounting of ballot papers and imposition of disciplinary measure on members of the PEC. The DEC upheld part of the complaint by rejecting the claim about annulling the protocol and recounting the ballot papers. It granted the claim to impose a disciplinary liability on members of the PEC; in particular, PEC chairperson and secretary were officially reproved.

Rustavi Election District N20

GYLA's observers did not file a complaint with the DEC.

Gardabani Election District N21

GYLA's observers filed a single complaint with the DEC.

GYLA's observer Gvantsa Sakanelashvili filed a complaint with the DEC seeking criminal and administrative liability of the chairperson of the PEC N25. GYLA's observer instructed to seal the mobile ballot box again, as the seal had been peeled off. The chairperson got angry and started quarreling with GYLA's representative. She threw the mobile ballot box down and the box was cracked. The DEC imposed a disciplinary punishment on the chairperson of the PEC N25, Gulnshanda Neimatova and deducted 5% of her salary.⁸³

Marneuli Election District N22

GYLA's observers filed four complaints with the DEC.

GYLA's observer Ketik Kakashvili filed two complaints involving PEC N50. The first complaint sought imposition of disciplinary liability on the chairperson and the secretary of the PEC N50. It alleged that the PEC failed to carry out casting of lots in compliance with law for distribution of functions among its members; rather, the functions were distributed by the chairperson. Further, the PEC received ballot papers 100 less than the number of voters registered at the precinct. Due to the fact that voters entered the PEC and cast a ballot without inking, GYLA's observer filed another complaint, seeking elimination of the violation and annulment of the precinct results. The DEC annulled polling results from the PEC N50.⁸⁴ The decision was appealed by the election subject *United National Movement – More Benefit to the People* in Bolnisi District Court. The court repealed the decision and ordered the DEC to recount the ballot papers from the PEC N50.

GYLA's observer Lasha Parastashvili filed two complaints with the DEC, seeking annulment of the polling results from the PEC N50. Summary protocols at the precinct had been drawn up incorrectly; in particular, paragraph 4 in the summary protocols supposed to indicate total number of voters who cast a ballot wrongfully indicated the number of voters registered in the unified list – 1422. The DEC annulled results of the PEC N50. Further, the chairperson was imposed with disciplinary liability by deduction of his salary for ten days.⁸⁵ With the second complaint **GYLA's observer Lasha Parastashvili** sought reassessment of polling results from all polling stations under the DEC N22 due to a number of violations identified in the process of counting of ballot papers at the PEC N50. The complaint was filed over the following violation: votes in favor of Bidzina Ivanishvili – Georgian Dream had been attributed to another election subject – United National Movement – More Benefit to the People. Further, the latter had also been attributed with number of invalidated ballot papers at the precinct as well as the number of valid ballot papers. The DEC rejected the claim. GYLA appealed the decision in Bolnisi District Court but **the court rejected the claim** stating that the impugned acts had been issued by the respondent in compliance with stipulations of Article 60 of the General Administrative Code of Georgia.

Bolnisi Election District N23

GYLA's observers filed one complaint with the DEC.

GYLA's observer Khatuna Shubitidze filed a complaint seeking annulment of the polling results from the PEC N38 and imposition of disciplinary liability on the PEC Chairperson. The complaint was filed over the PEC member regulating flow of voters using an ordinary light instead of a UV light for checking the ink trace. The DEC rejected the claim about annulment of the polling results but granted the claim about imposition of disciplinary liability on the PEC chairperson and ordered 10% deduction of the chairperson's salary.

⁸³ Ordinance #36 of Gardabani DEC N23, dated October 2, 2012

⁸⁴ Ordinance #41/2012 of Marneuli DEC N22, dated October 2, 2012

⁸⁵ Ordinance #49/2012 of Marneuli DEC N22, dated October 3

Dusheti Election District N28

GYLA's observer filed three complaints with the DEC.

GYLA's observer Sergo Isashvili filed a complaint with the DEC seeking imposition of liability on the deputy chairperson of the PEC N1 for alleged violation of the Election Code as well as the Code of Ethics of the Election Administration by engaging in a conflict with representative of media, a journalist of Channel 9. The DEC granted the claim and issued an official reproof against the deputy chairperson for disciplinary violation.

GYLA's observers filed two complaints with the DEC seeking imposition of disciplinary liability on the chairperson and the secretary of the PEC N49. Although requested by GYLA's observer a number of times, the PEC members failed to place on registration table alphabet cards on the table which confused voters. The DEC issued a warning against the chairperson and a reproof against the secretary of the PEC N49.

GYLA's observer Sergo Iasashvili filed a complaint with the DEC seeking imposition of liability on the PEC chairperson and secretary, as they had interfered with realization of observer's rights. GYLA's observer Khatia Petriashvili was hindered from effective monitoring. After 6pm observers had limited possibility to monitor the process as they were prohibited from talking with other observers and threatened that they would have them removed from the station if they failed to carry out the monitoring from one spot. The DEC chairperson ruled that the evidence presented by GYLA's observer Khatia Petriashvili to prove allegations about restriction of observer's right and interference in the work of an observer, including witness statement was insufficient and rejected the claim.⁸⁶ The decision was appealed in the CEC. The latter annulled the ordinance of the Dusheti DEC chairperson and ordered the DEC to make a decision after thorough examination of all available materials. The DEC delivered a protocol of administrative violation against the chairperson of the PEC N49, which was referred to Mtskheta District Court for consideration. Mtskheta District Court found the chairperson guilty of administrative offence and ordered fine in the amount of GEL 500.

Kaspi Election District N30

GYLA's observers filed a single complaint with the DEC.

GYLA's observer Eter Aduashvili sought imposition of responsibility on the chairperson, deputy chairperson and secretary of the DEC N32 for alleged restriction of rights of an observer. The observer was not allowed to see the log-book and make an entry. The chairperson and the secretary talked rudely to the observer. Because of alleged restriction of rights of an observer, GYLA's observer also sought drawing up of a protocol of administrative offence against the chairperson and the secretary. The DEC upheld part of the complaint.⁸⁷ In particular, it issued a written reproof against the PEC chairperson and a warning against the deputy chairperson and the secretary.⁸⁸ GYLA's claim about drawing up a protocol of administrative protocol against the PEC chairperson and secretary was rejected on the grounds that the violation did not influence whatsoever election outcomes. GYLA's observer Eter Aduashvili appealed the refusal with the CEC. The CEC rejected the claim.⁸⁹

Gori Election District N32

GYLA's observers filed one complaint with Gori DEC N32.

GYLA's observer Dali Janiashvili filed a complaint involving the PEC N11 over allowing civilian personnel of Gori Military Hospital to cast a ballot both in proportional and majoritarian elections even though they fell short of the stipulations of para.5d, Article 31 of the Election Code of Georgia which meant that they did not have the right to participate in the elections. The observer sought stopping the process of providing majoritarian ballot papers and annulling the results of majoritarian elections. The PEC chairperson rejected the claim. GYLA's observer filed a complaint with the DEC seeking annulment of majoritarian election results from the PEC N111. The DEC rejected the claim.⁹⁰

Complaints filed in court: GYLA's observer Dali Janiashvili appealed the DEC decision in Gori District Court seeking annulment of the ordinance of Gori DEC N32 and majoritarian election results from the PEC N111. Evidence was thoroughly examined during the trial and the motions filed were granted. Third parties were allowed to participate in the proceedings; however, Gori District Court rejected the complaint and did not uphold the claim that that voters on the special list of voters had participated illegally in majoritarian elections.

Khashuri Election District N35

GYLA's observers filed four complaints with the DEC. The process of polling at more than 10 election precincts in Khashuri DEC N35, including tabulation of results was carried out in major violation of law. In particular, a number of

⁸⁶ Ordinance #49/2012 of the Chairperson of Dusheti DEC N28, dated October 3

⁸⁷ Ordinance #44/2012 of Kaspi DEC N30, dated October 2

⁸⁸ Act of reproof N615 and acts of warning N616 and 617 of the DEC's

⁸⁹ October 4, 2012 Ordinance of the CEC #429/2012, dated October 4, 2012

⁹⁰ Ordinance #62/2012 of Gori DEC N32, dated October 1, 2012

pieces of evidence, explanations of the PEC members confirmed that summary protocols at these precincts had been drawn up in a way that did not reflect the voters' will expressed at the precincts or data was later rewritten. Further, Special Forces had invaded several precincts in Khashuri Election District and forcing PEC members to record election results in summary protocols according to their instructions. GYLA's observers Nona Askilashvili, Kakha Kozhoradze and Tamar Lotishvili filed complaints with the DEC, seeking annulment of polling results at the election precincts #1 #2, #10, #26, #3, 5, 8, 9, 10, 12, 13, 19, 45, 46. Khashuri DEC N35 rejected the claims.

Complaints filed in court: refusals of Khashuri DEC N35 were appealed in Khashuri District Court. Two complaints sought annulment of election results at the election precincts #1, 2, #3, 5, 8, 9, 10, 12, 13, 19, 45 and 46. Khashuri District Court upheld part of GYLA's complaints. It annulled decisions at the precincts N2, 3, 10, 13 and 46 but refused to annul results of polling at precincts N8, 12, 19 and 45. Khashuri District Court also ordered the DEC N35 of Khashuri to recount results of the precincts N1 and 9. In its refusal to grant the claim the court did not consider the evidence submitted, did not take witness testimonies into account and delivered an unlawful decision. The refusal of Khashuri District Court was appealed in Tbilisi Appellate Court. The appellate court annulled results of polling at the precincts N1, 8, 9 and 45.

Subsequently, under the CEC resolutions dated October 10 and October 12, 2012, repeat majoritarian elections of the Parliament of Georgia were scheduled on October 14, 2012, at the following election precincts: №1, № 2, №3, №8, №9, №10, №13, №45, №46.

Akhaltikhe Election District

GYLA's observers filed total of five complaints with Akhaltikhe DEC.

GYLA's observer Maia Grdzelishvili filed a complaint with Akhaltikhe DEC N37, seeking imposition of disciplinary punishment on chairpersons of the election precincts N16, 17, 25, 31 and 32. Following the polling chairpersons of the foregoing election precincts did not make the second carve on the stamp of the commission and certified summary protocols with a stamp that had a single carve. Under para.1 of Article 67 of the Election Code of Georgia, the chairpersons had to make a second special carve on the seal following the polling, which they failed to do. The chairpersons failed to duly fulfill their obligations. The DEC upheld complaints of GYLA's observer and ordered disciplinary liability in the form of deduction of half of the salary for the chairpersons of the following PECs: N16, 17, 25, 31 and 32.⁹¹

Sachkhere Election District N50

GYLA's observers filed two complaints with the DEC.

GYLA's observer Giorgi Chikaberidze filed two complaints with the DEC. The first involved election precinct N13, seeking annulment of the polling results and imposition of disciplinary liability on the PEC members, alleging that the PEC violated integrity of ballot papers before opening of the polling station. The DEC rejected the claim. Another complaint was filed by GYLA's observer Giorgi Chikaberidze seeking imposition of liability on the registrar of the PEC N37, alleging that the registrar had signed and stamped ballot papers for majoritarian and proportional elections, ten each, in advance. The observer sought invalidation of the ballot papers. The DEC rejected the claim.

Tskaltubo Election District N58

GYLA's observers filed one complaint with the DEC.

GYLA's observer Tamar Pachulia filed a complaint with the DEC over the failure to indicate in the hand over act provided to the PEC N5 of Sataplia the number of special envelopes, special ballot papers and stamps given to the commission. Further, the hand over act was missing the signature of the PEC member Giorgi Mzhavanadze. The observer sought annulment of the polling results at the precinct and imposition of disciplinary liability. The DEC upheld the complaint in part⁹² by issuing a reproof against the PEC chairperson as a disciplinary liability but it rejected the claim for annulment of the polling results.

Due to various procedural violations GYLA's observers also sought opening of the logbooks of the polling day at the precincts #58, 41, 45, 25, 64, 21, 35, 13, 59, 7, 62, 22, 4, 5, 49, 12, 68, 67, 3, 57, and 1. The DEC rejected the claim.

Kutaisi Election District N59

GYLA's observers filed seven complaints with the DEC.

GYLA's observer Eliso Pachuashvili filed a complaint with the DEC over the cover of the notebook of ballot papers provided to registrars of the PEC N87 missing some information. In particular, it was missing numbers of the first and the

⁹¹ Ordinance #26/2012 of Akhaltikhe DEC N37, dated October 3, 2012

⁹² Ordinance #21/2012 of Tskaltubo DEC N58, dated October 1, 2012

last pages. The observer sought imposition of disciplinary liability on the PEC chairperson and members. The claim was rejected and the DEC said that the complaint lacked substantiation – it did not specify type of disciplinary liability and identity of the person who had allegedly violated the law.

GYLA's observer Eliso Pachuashvili filed another complaint during the vote counting over the fact that number of proportional ballot papers at the PEC N87 was one more than number of voters who had cast a ballot. Ballot papers were recounted a number of times but the difference remained. Nevertheless, the summary protocol was drawn up anyways. GYLA's observer Zaal Gorgidze filed a complaint seeking annulment of the summary protocol of the PEC N87, recounting of ballot papers, and annulment of the precinct results and imposition of disciplinary liability on the PEC chairperson (salary deduction) if the difference remained. The complaint was upheld in part by issuing a reproof against the PEC chairperson as a disciplinary liability.⁹³ Further, under individual ordinances reproofs were also issued to all members of the PEC. The summary protocol of majoritarian polling was corrected where total number of voters should have been 567 instead of 568.

GYLA's observer Giorgi Santuriani filed a complaint over the refusal to provide a hand-over act at the PEC N41 despite his written request. The observer was able to get hold of the act after he filed a complaint with the DEC. In his complaint the observer also sought imposition of disciplinary liability on the PEC chairperson and the secretary but this part of the complaint was not examined by the DEC.

GYLA's observer Irine Oboladze filed a complaint with the DEC over a ballot box at the PEC N127 having a seal different from seals issued by the DEC. It had different numbers on it. The observer filed a complaint seeking annulment of the precinct results by the claim was rejected.

GYLA's observer Nika Liparteliani filed a complaint with the DEC seeking annulment of the polling results at the PEC N97 and imposition of disciplinary liability on the PEC members. The ballot box at the precinct was not sealed as required. The flaw was eliminated at 17:00. Further, there was a confrontation between the PEC members and voters at the precinct, to the point that they had to call the police. Polling continued only after the police arrived at the precinct. The DEC rejected the claim.

GYLA's observer Giorgi Santuriani filed a complaint with the DEC, seeking imposition of disciplinary liability on the chairperson, the secretary and the ballot box supervisor at the PEC N110. During counting of votes at the PEC, an envelope stuffed with some unidentified papers was found. GYLA's observer filed a complaint over it. The PEC members protested and the complaint was not registered. Neither was the observer allowed to make an entry in the logbook. The complaint was upheld in part by the DEC. The PEC chairperson was imposed with a disciplinary liability – a warning.⁹⁴

GYLA's observer Shorena Chelidze filed a complaint with the DEC seeking imposition of disciplinary liability on the chairperson of the PEC N105 over the following: observer of Democratic Network snatched out a ballot paper from a voter, opened it to see who he had voted for. As the PEC chairperson had warned an observer, the DEC considered that the commission had already acted upon the complaint filed by GYLA. Under the ordinance N219/2012 of Kutaisi DEC, a recommendation about the violation was issued to the monitoring organization Democratic Network.

Ozurgeti Election District N60

GYLA's observers filed four complaints with the DEC.

GYLA's observer Levan Khukhia filed a complaint with the DEC seeking imposition of disciplinary liability on members of the PEC N9. Two members of the commission refused to carry out functions determined as a result of casting lots. In particular, PEC members cited health problems for their refusal to accompany a mobile ballot box and undertake functions of a registrar. The DEC rejected the claim⁹⁵, explaining that law does not envisage a liability for violation of the provision.

GYLA's observer Manuchar Gograchadze filed a complaint with the DEC over interference of one of the observers with the work of the PEC. The DEC rejected the claim.

GYLA's observer Zaza Tsintsadze filed two complaints with the DEC over procedural violations in Zemopartskhmi election precinct N33. The first complaint was filed over the lack of registrar's stamps, seeking further actions. There were 992 voters registered at the precinct; the PEC had four registrars with only three stamps. Therefore, they took turns to stamp ballot papers. Another complaint was filed over lack of ballot papers at the precinct. Although the total number of voters at the precinct was 992, it received 950 ballot papers. The observer sought taking of actions in response. The DEC rejected both claims, number of stamps had been determined by the CEC⁹⁶ and it was impossible to change it. As to the lack of ballot papers, the DEC explained that a sealed package had been provided to the PEC by the Central Election Commission and the flaw was revealed only after counting. Remedying the flaw was beyond the PEC's control.⁹⁷

⁹³ Ordinance #244/2012 of Kutaisi DEC N59, dated October 5, 2012

⁹⁴ Ordinance #220/2012 of Kutaisi DEC N59, dated October 3, 2012

⁹⁵ Ordinance #33/2012 of Ozurgeti DEC N60, dated October 2, 2012

⁹⁶ Ordinance #85/2012 of Chokhatauri DEC N62, dated October 3, 2012

⁹⁷ Ordinance #86/2012 of Chokhatauri DEC N62, dated October 3, 2012

Lanchkhuti Election District N61

GYLA's observers did not file any complaints with the DEC.

Chokhatauri Election District N62

GYLA's observers filed two complaints with the DEC.

GYLA's observer Maia Lomadze filed a complaint with the DEC, seeking a probe into the fact that occurred at Khidistavi DEC N35 and imposition of liability on the PEC chairperson. The notebook of ballot papers at the PEC was missing a single ballot paper. The chairperson explained that they had noticed that the ballot paper had been compromised and tore it out of the notebook at the DEC, before taking the ballot papers to the PEC and providing them to the chairperson. Under the ordinance of the DEC, chairperson of Khidistavi PEC N35 was imposed with a disciplinary liability – reproof.⁹⁸

GYLA's observer Maia Lomadze filed a complaint with the DEC over correction made to the summary protocol of the PEC N4, seeking imposition of liability on the PEC chairperson and secretary. The DEC upheld part of the complaint and issued a reproof against the PEC chairperson and secretary as a disciplinary liability.⁹⁹

Zugdidi Election District N67

GYLA's observers have not submitted a complaint with the DEC.

Poti Election District N70

GYLA's observers filed a single complaint with the DEC.

GYLA's observer Tamar Poladashvili filed a complaint with the DEC, seeking annulment of the results from the PEC N18 and imposition of liability on the PEC members involved and the secretary. Voters cast ballots without verification of ink from 08:00am to 12:30pm. The PEC secretary refused to registrar the complaint. The claim was rejected by the DEC.¹⁰⁰

Batumi Election District N79

GYLA's observers filed six complaints with the DEC.

GYLA's observers reported that in almost all election precincts in Batumi DEC had been provided with ballot papers 100-150 less than number of voters registered in the unified list. GYLA's observers made corresponding entries in the logbooks. These facts were also reported by other monitoring organizations. The DEC did not examine similar complaint, arguing that it did not cause any problems to casting of ballot by voters.

GYLA's observer Tamila Abuselidze filed a complaint involving the PEC N63 over “hints” on ballot papers for majoritarian elections in Adjara A/R that encouraged voting for the election subject N5. GYLA's observer demanded suspension of polling and replacement of the ballot papers. The flaw on the ballot papers was considered to be a technical defect and the claim was rejected. Ballot papers from one package had a dark line below number 5. Complaint was filed with the DEC over the foregoing fault, seeking annulment of results of Adjara A/R majoritarian elections at PEC N63. The DEC rejected the claim and ruled that it was a technical defect.

GYLA's observers Lia Gabaiadze¹⁰¹, Maia Mikeladze¹⁰², Tamar Kalandadze¹⁰³, and Kakha Gogiberidze¹⁰⁴ filed four complaints with the PECs over the following: several voters who had arrived at the precinct found that someone else had already signed along their name. There were total of seven of such incidents. GYLA's observers sought annulment of the precincts but the complaint was not upheld.

GYLA's observer Maia Katamadze filed a complaint with the DEC, seeking recounting of all ballot papers at the PEC N49. As the PEC members did not discuss annulment of ballot papers and the chairperson made decisions independently, the very same complaint also sought imposition of disciplinary liability on the chairperson. The claim for recounting of ballot papers was rejected by the PEC arguing that the issue fell under the sole purview of the DEC. The PEC members did not express any complaints during the proceedings, whereas GYLA's claim for imposition of disciplinary liability on the chairperson was granted by issuing a reproof for failure to adequately perform official obligations.¹⁰⁵

⁹⁸ Ordinance N80 of Chokhatauri DEC N62, dated 2012

⁹⁹ Ordinance N81 of Chokhatauri DEC N62, dated 2012

¹⁰⁰ Ordinance #67/2012 of Poti DEC N70

¹⁰¹ Three cases at the precinct N8

¹⁰² One case at the precinct #23

¹⁰³ One case at the precinct #52

¹⁰⁴ One case at the precinct #58

¹⁰⁵ Protocol decision N19 of Batumi DEC N79, dated October 3

GYLA's observer Tamar Kalandadze filed a complaint with the DEC, seeking imposition of disciplinary liability on the chairperson of PEC N52. The PEC chairperson intruded in the work of GYLA's representative; in the process of considering invalidation of ballot papers she did not take into account opinions of PEC members; following the vote count she procrastinated recording of the information in summary protocol. The DEC issued a warning against the chairperson.¹⁰⁶

Kobuleti Election District N81

GYLA's observers filed total of two complaints with the DEC.

GYLA's observer Ekaterine Beridze filed a complaint with the DEC seeking annulment of polling results from the PEC N8 and imposition of disciplinary liability on the chairperson over the following: ink was untraceable and the UV light was not working. The complaint was rejected. The DEC upheld statements of the PEC members claiming that there were no problems about inking or the UV light.

GYLA's observer Khatuna Bagrationi filed a complaint with the DEC, seeking imposition of liability on the chairperson of the PEC N44 and members of the commission. The counted polling results by a general rule. In particular, registrars counted number of voter signatures before the end of polling and provided it to the chairperson. The latter considered that it was not necessary to perform procedures prescribed by law and determined total number of voters based on the information provided by the registrars, and recorded the data in the demonstration protocol. Although the factual circumstances had not been challenged, the claim was rejected.

Khelvachauri Election District N83

GYLA's observers filed a single complaint with the DEC.

GYLA's observer Mariam Nakashidze filed a complaint with the PEC N13 over a registrar's stamp missing the first carve. The PEC upheld the complaint and eliminated the violence. Further, during the vote count all ballot papers marked on its back by a stamp without carve - total of 70 - were invalidated by the PEC. Same complaint seeking imposition of disciplinary punishment on the PEC chairperson was filed with the DEC as well. The complaint was not upheld.

Khulo Election District N84.

GYLA's observers filed three complaints with the DEC.

GYLA's observer Giorgi Surmanidze filed a complaint with the DEC seeking annulment of polling results from the PEC N10 and imposition of disciplinary liability on the PEC chairperson and secretary. The stamp on the summary protocol of the PEC N10 had a single carve instead of two. The complaint was granted in part by issuing a warning against the chairperson and the secretary.

GYLA's observer Giorgi Surmanidze filed a complaint with the DEC seeking annulment of the PEC N15 polling results and imposition of disciplinary liability on the chairperson and the secretary. A sealed package received from the PEC N15 with registrar's stamps in it, had been compromised. Further, a stamp on the summary protocol had a single carve. The complaint was upheld in part and a reproof was issued to the chairperson and the secretary as a disciplinary punishment. Sealed packages were opened and votes were recounted.

GYLA's observer Giorgi Surmanidze filed a complaint with the PEC seeking annulment of the precinct results and imposition of disciplinary liability on the chairperson and the secretary. The summary protocol of the PEC N33 was missing a stamp. The complaint was upheld in full and the results were annulled; further, the chairperson and the secretary were issued a warning.

Repeat Elections

GYLA was monitoring repeat elections of the October 1, 2012, majoritarian elections of Parliament of Georgia held on October 14, 2012 in the election precinct N5 of Signagi Election District N13; election precinct N4 of Gori Election District N32; election precincts №1, № 2, №3, №8, №9, №10, №13, №45, №46 of Khashuri Election District N35. It was a peaceful process sin general. There was a particularly high turnout of voters at the precincts N13 and N5. GYLA's observers did not file a complaint with the precincts on the Election Day; however, they identified certain violations of law:

- Deputy Chairperson of PEC N2 (Khashuri District N35) Ucha Devdariani was forced to leave the polling station. He refused to put on the uniform for representatives of election administration.
- A voter whose name was on the special voter list appeared for casting a ballot at the precinct N5 (Signaghi District N13). He had cast a ballot in Rustavi on October 1. The voter was not allowed to participate in polling. A proxy of the election subject and a member of the PEC N5, Ramaz Khelashvili appeared the precinct N5 (Signaghi District N13). He had a certificate of a proxy of an election subject issued by the DEC N13 on Octo-

¹⁰⁶ Protocol decision N19 of Batumi DEC M79, dated October 3

ber 13. The election administration did not allow him into the polling station. A majoritarian candidate of the election subject New Rights, Malkhaz Khutsishvili spent some time in the polling station. Outside the polling station there were voter lists missing commission stamps. Later it turned out that these lists were lists for posting on walls for October 1, 2012 elections. Observers from the Future Choice demanded an explanation from the chairperson of the PEC N5 but he responded that the issue did not fall under his purview.

- Supporters of the election subjects the United National Movement – More Benefit to the People and Bidzina Ivanishvili – Georgian Dream spent all day outside the election precinct. There was an illegal prohibition of video shooting at the precinct N5 (Sighnaghi District N13). The PEC Chairperson told an observer from Women and Choice to shoot a ballot box only, not allowing her to shoot the whole polling station. The violation was eliminated after observers at the precinct expressed their protest and GYLA's observer recorded about the incident in the logbook. Observers from the Future Choice, the Free Choice for Civil Society and the Society for Democracy and Legal Development attempted to influence the work of the commission by raising their voice and creating conflict situations.

Post-Election Period

On October 4, 2012, Georgian Young Lawyers' Association, the International Society for Fair Elections and Democracy and Transparency International – Georgia released a statement about the developments during tabulation of the election results. Based on observer and media reports, the process of consideration of complaints at DEC's was accompanied by assemblies of activists of political parties outside DEC's, who frequently acted aggressively. Protest rallies demanding annulment of precincts and recounting of votes were held outside the DEC's of Martvili, Senaki, Terjola, Ambrolauri, Sighnaghi, Dedoplistskaro, Lagodekhi, Akhalkalaki, Akhaltsikhe, Marneuli and Tetrtskaro. Further, there were reports about planned picketing of some DEC's. Acts of pressure against ISFED's observers were reported in Zugdidi DEC, over the fact that to party activists ISFED's red logo was associated with a concrete political force. The organizations called on the stakeholders to turn to legal means for addressing disputes, in order for the elections-related disputes to be resolved solely by judicial means. They called on election administrations to count polling results and respond to violations adequately, as prescribed by law. They also called on political parties and their activists to refrain from assembling outside the election administration offices.

On October 5, 2012, released a statement in response to acts of politically motivated physical violence in the office of Marneuli Gamgeoba and called on political party leaders to prevent politically motivated acts of violence by coalition activists and supporters. Observers of the organizations reported that on October 5 supporters of the coalition Georgian Dream invaded Marneuli Gamgeoba office, verbally abusing its personnel. Regrettably, Deputy Gamgebeli and his driver were subjected to physical violence. The latter had to be taken to the hospital. According to Marneuli Gamgeoba, physical violence was also exerted against him.

Under the October 3, 2012 Resolution of the CEC Secretary N11, proxies of the election subject United National Movement – More Benefit to the People were replaced in certain DEC's. On October 6 the CEC released a statement saying that under para.6 of Article 42 of the Election Code, replacement or withdrawal of proxies was prohibited on the Election Day and the prohibition did not apply to the period following the elections. The statement also read that *"it is regrettable that Georgian Young Lawyers' Association and the International Society for Fair Elections and Democracy have made a one-sided and unqualified comment about the issue. The prohibition, as interpreted by them, makes it impossible for election subjects to replace or appoint representatives during the period before future elections."*

GYLA and ISFED deemed that the resolution of the CEC N11, dated October 3, 2012, was unlawful and demanded its annulment. Para.6 of Article 42 of the Election Code clearly stipulates that *"An election subject shall have the right to withdraw and/or replace its representative at any time on which it shall inform the appropriate election commission"*, meaning that election subjects are prohibited from withdrawing or replacing their representatives following the Election Day. Further, GYLA and ISFED disagreed with interpretation of the CEC according to which the right of an election subject to withdraw and/or replace its representative any time prior to the Election Day means that withdrawal or replacement of representatives is prohibited only on the Election Day due to the following circumstances:

- The provision clearly indicates that an election subject has the right to withdraw and/or replace its representative any time prior to the Election Day, meaning that election subjects are no longer entitled to this right on the Election Day and beyond. The provision does not indicate that it is prohibited to withdraw and/or replace a representative only on the Election Day.
- Our interpretation is further validated by use of the term *'election subject'* in the provision. Under para.1 of Article 42 of the Election Code, for purposes of the Article, an election subject is a party participating in elections independently, an election bloc or an initiative group of voters. Under para.2 of the Article, a party, election bloc or an initiative group of voters are entitled to appoint no more than 2 representatives to every election commission. Contrary to the CEC's belief, these provisions indicate that election subjects can appoint representatives during the election period, as election subjects do not exist during a non-election period and therefore, there is no point in presenting a person already selected for relations with election commissions;
- As to the right of a registered party/election subject to participate in any other type of elections before future parliamentary elections, as stipulated by the law, the law allows election subjects to discharge their power of

appointing, withdrawing or changing representatives during election period without any limitations. These subjects may acquire the status of an election subject based on their application, since the right to participate in any other type of elections before parliamentary elections is not automatic but rather, certain formalities must be observed.

GYLA and ISFED stated that appointment of acting MPs or former Ministers, Deputy Ministers and the First Deputy Chief Prosecutor as representatives to district election commissions by the election subject *UNM-More Benefit to People*, might have to do with efforts to influence DEC members in decision-making, which was unacceptable.

Further, referring to comments of GYLA and ISFED as “one-sided and unqualified” is completely unacceptable and unethical on part of the CEC. The Code of Ethics of the election administration officials, solemnly signed recently, obligates both the CEC as well as the CEC’s office “to express its opinions by relaying substantiated criticism in a tactful manner”, the stipulation which the CEC failed to observe in the present case.

8. FINDINGS/KEY TRENDS/RECOMMENDATIONS¹⁰⁷

The monitoring has revealed the following key trends:

Pre-Election Campaign¹⁰⁸:

Abuse of government resources:

- **Use of legal resources of the government for political and election purposes and legislative amendments** – although there were certain positive new regulations introduced, the government also initiated amendments that frequently served sole interests of the ruling party. In particular, there were a number of regulations introduced in the Election Code and the Law of Georgia on Political Union of Citizens. Party funding rules were tightened while in contrast, legislation supervising abuser of administrative resources remained extremely soft and disproportionate.
- **Spending of administrative resources, motivated by elections** – there were instances when resources from the state and municipal budgets were used to fund programs aimed at courting voters at large, as opposed to serving the long-term priorities of the country. These initiatives included Summer Jobs program for students, Students Festival and others. Number of contracted employees hired at the municipal level for a short period of time was considerably increased; there was a boost in funding for welfare and amenities programs.
- **Abuse of institutional resources of the government for political and election purposes** – institutional resources of the government (public servants, means of transportation, etc.) were frequently abused in favor of the ruling party. GYLA reported a number of instances of abuse of administrative information resources by local self-governments for election purposes. In particular, public servants were given inappropriate party tasks; personal information of citizens was collected for unknown purposes; diplomatic corps was politicized and public service announcements were used for political purposes. Involvement of public servants and officials in acts of violence was particularly alarming.

Selective Application of Justice

State Audit Office – frequently state agencies and the State Audit Office (SAO) in particular selectively reacted to certain actions undertaken by the ruling and opposition parties, suggesting their loyalty to the United National Movement and excessive strictness towards opposition parties. Disproportionate sanctions imposed under the law on political unions frequently paralyzed the work of opposition parties, whereas important offences committed by the ruling party were left without response.

The judiciary – due administration of justice was a particularly pressing issue. Amid many serious flaws in the work of the SAO, it was important for an impartial and fair judiciary to act as a guarantor of balance and rights. The monitoring suggests that the judiciary was lenient towards the SAO, granting its motions even though they seriously lacked substantiation and argumentation. Unfounded decisions of court delivered in criminal cases violated the right to a fair trial particularly when individuals were not allowed to effectively realize their right to defense for having no access to criminal case file.

Law enforcement authorities – the law enforcement authorities did not respond in a timely and adequate manner to interference in the work of journalists, pressure, threats and failed to investigate alleged violations effectively. Probe was not launched in any of the cases involving journalists to prosecute alleged offenders. Law enforcement authorities not only failed to carry out their positive obligation and protect participants of peaceful assembly from counter protesters but they themselves participated in unlawful actions.

¹⁰⁷ Findings/key trends in this reports covers not only the official pre-election period (August-September, 2012) but also the period before that (January 1 – July 31, 2012).

¹⁰⁸ <http://gyla.ge/geo/news?info=766> Evaluation of election environment by three NGOs – GYLA, the International Society for Fair Elections and Democracy (ISFED) and Transparency International – Georgia, 29.09.2012.

Politically motivated pressure, threats and violence

Arrests and detentions on political grounds – arrests on political grounds were rare in comparison to previous year; however, as the election campaigning entered its active phase, number of arrests increased and eventually reached unprecedented levels and alarming scales by late September. Following September 19, more than 40 activists of opposition political unions were arrested on administrative charges, without any adequate evidence and in violation of basic human rights standards.

Dismissals from work on political grounds – there were frequent cases of dismissals from work for different political affiliation both in public and private sectors.

Violence and threats on political grounds – throughout the year political party activists reported about threats and intimidation frequently committed with the involvement of officials, public servants and law enforcement authorities. As the election campaigning entered its active phase in the region, acts of violence and physical assaults increased and reached and became particularly large-scale in the second half of September.

Media environment:

Adoption of the so-called **Must Carry and Must Offer regulations** was a positive step forward, obligating cable companies to carry all Georgian channels and preventing Georgian TV companies from refusing to be carried by a certain cable TV provider. These regulations play important role in providing voters with diversified information; however, these regulations were to be suspended on the Election Day which could have had a negative influence on the course of elections, in terms of keeping voters informed.

Impounding of satellite antenna dishes – there were several cases when property of private companies was illegally impounded. In this regard, impounding of satellite antenna dishes of Global Contact Consulting and Maestro TV is particularly noteworthy. Notably, the proceedings were instituted in violation of law, which is particularly alarming as it affects the work of free media.

Interference in the work of journalists - there were a number of reports of interference in the work of journalists, threats and pressure. Effective probe was not launched in almost any of the cases to prosecute offenders.

Restrictions of audio and video shooting at polling stations – the CEC adopted a resolution restricting audio and video shooting at polling stations, which is in conflict with the Georgian legislation. The resolution placed unjustified and template prohibitions on media representatives and observers, which we believe had a negative impact on transparency of the process, significantly limiting the possibility to record violations. Notably, the resolution was adopted several days prior to the elections, which was inexpedient in general.

Voter Lists

The Voter List Verification Commission – owing to the work of the Voter List Verification Commission (VLVC) information about voters abroad, deceased persons and persons not living at registration addresses was more accurate than in previous elections. Nevertheless, a decision to return voters removed from registration and voters whose registration had been annulled back to the voter list, which further increased number of voters on the list and left room for illegal manipulation with these voters on the Election Day.

Election Administration

The Central Election Commission and its subordinate agencies expressed certain readiness for consideration of complaints filed over alleged violations during pre-election campaigning, which is confirmed by statistics of consideration of complaints filed by GYLA with administrative agencies. However, the readiness was hardly there on the Election Day and in consideration of complaints during post-election period. These complaints were frequently not upheld for being unfounded.

Media was particularly concerned by restrictions on video and photo shooting adopted by the CEC several days before the elections. These new regulations were unsubstantiated and violated the right to photo and video shooting without interference in election processes. Adoption of the act was well beyond the purview of the CEC.

The Polling Day

The monitoring revealed the following problems:

- ✓ Flaws related to inking of voters;
- ✓ Casting a ballot instead of someone else;
- ✓ Inaccuracies on voter lists and particularly, absence on voter lists of persons registered within a consular office, and registration of civilians at special precincts;
- ✓ Illegal restriction of video shooting at polling stations;

- ✓ Illegal expulsion of observers from several election precincts;
- ✓ Other Procedural violations (flawed hand-over acts; insufficient number of ballot papers and envelopes; broken seals, etc.);
- ✓ Significant lack of ballot papers;
- ✓ Restriction of rights of media and observers;
- ✓ Making improper corrections to protocols;
- ✓ Absence of necessary information in summary protocols.

Post-election procedures:

- ✓ One positive development was that process of providing summary protocols to DEC's was more organized and transparent. Providing summary protocols and election documents to the DEC and submitting protocols to the CEC occurred all in one space, under equal observation of monitoring organizations, which increased transparency of and trust in the process. Further, information in summary protocols was announced publicly and immediately recorded in the table on the wall, available for everyone.
- ✓ However, in a number of cases representatives of the election administration disregarded the election laws as well as the stipulations of the Code of Ethics of Election Administration Officers adopted by the CEC on March 9, 2012.¹⁰⁹
- ✓ With certain exceptions, decisions of the election commissions usually lacked substantiation. Ordinances only specified whether complaints were upheld fully or in part;
- ✓ Frequently election administrations resorted to inadequate measures of liability against members of subordinate commissions. Despite gravity of violations committed, higher election commissions generally imposed lightest forms of disciplinary liability on members of PECs – reproofs or warnings.
- ✓ In a number of cases, PEC members were not subjected to liability measures on grounds that the violation did not influence polling results at the precinct;
- ✓ If complaints filed by monitoring organizations sought imposition of punishment on chairperson and secretary of the PEC, election administrations preferred to fin PEC secretaries. Frequently chairpersons were imposed with disciplinary liability or not imposed with any liability at all;¹¹⁰
- ✓ Frequently claim for annulment of summary protocols and/or recounting of polling results was rejected;
- ✓ In a number of cases applicant was not informed at all about time and place of consideration of complaint s/ he had filed;¹¹¹
- ✓ In a number of cases witnesses indicated in the complaint were not summoned and questioned;
- ✓ DEC's failed to study relevant circumstances and examine/assess evidence;
- ✓ During tabulation of election results, protest assemblies were held outside various DEC's throughout the country with participants demanding annulment of precincts and recounting of votes. Political party activists frequently acted aggressively and resorted to violent actions.¹¹²

Conclusion

October 1, 2012 Parliamentary Elections were of paramount importance for Georgia due to a number of reasons. In particular, first, considering the nature of recent constitutional amendments significantly changed functions of the legislative branch of the government. Further, transparent and fair elections would have showcased quality of Georgian democracy. Election processes were greatly influenced by the pre-election period. Fair and equal pre-election environment was of vital importance for deeming the whole process fair.¹¹³

The pre-election period was marked with high political competition, tense atmosphere and multiple violations. Regrettably, there was a lack of pre-election campaigning focused on discussion of election programs and thematic debate. To the contrary, the pre-election campaign involved plentiful use of compromising information, multiple violations of law, active use of hate speech, violent and aggressive clashes.

¹⁰⁹ The CEC violated stipulations of the Code when it commented on opinions of GYLA and ISFED. CEC's criticism was unsubstantiated and tactless. Further, there was a violation of the Code of Ethics of Election Administration Officials by PECs; in particular, the stipulation of para.4c, Article 5 of the Code of Ethics (be sociable and avoid instigation or escalation of personal or any other conflicts") by chairpersons of PEC N1 of Dusheti DEC N28, PEC N32 of Kaspi DEC N30 and PEC N25 of Gardabani DEC N21, who instigated a conflict with an observer and a media representative and limited their rights guaranteed by the Election Code.

¹¹⁰ The law stipulates that a PEC secretary shall be selected from members appointed by opposition political parties. Para.15, Article 25 of the Election Code of Georgia.

¹¹¹ Election districts o Nadzaladevi N9, Saburtalo N3 and Khashuri N35

¹¹² <http://gyla.ge/geo/news?info=775>

¹¹³ <http://gyla.ge/geo/news?info=766> Evaluation of election environment by three NGOs – GYLA, the International Society for Fair Elections and Democracy (ISFED) and Transparency International – Georgia, 29.09.2012.

It seemed that there was a competition between the state and the opposition, as opposed to political parties, which was caused by absence of a boundary line between the ruling party and the government's administrative function. This amounts to an important violation of internationally recognized standards and makes it almost impossible to have a healthy political competition. It is safe to say that the pre-election environment was strikingly unequal and unfair.

Carrying out polling in a peaceful environment and in strict observance of stipulations of the law was of a decisive importance for voters to have been able to freely express their will and for the will of voters to be duly reflected in the process of tabulation of results.

Despite certain procedural violations, the process was ongoing in a peaceful environment, with the only exception of Khashuri District N35 where Special Forces interfered in counting of votes at more than 10 election precincts. Despite extremely tense pre-election campaign that featured acts of violence, voters had already formed lines by morning.

Despite certain procedural violations, including control of political party activists on free expression of voters's will, voters were able to make their choice. The role of the CEC in counting results and keeping public updated was important. 2012 Parliamentary Elections was also marked by peaceful transfer of power in Georgia, in which Georgian voters played immense role.

- **Recommendations**

GYLA remains hopeful that the present report will help interested parties reinforce their achievements and eliminate flaws featured in October 1, 2012 parliamentary elections. Below are important recommendations that need to be reflected both in legislation and in practice in the nearest future:¹¹⁴

- ✍ **Change the election system** in a way that ensures that equality of votes and votes received by a party are proportionally reflected in the legislative body. We believe that concrete model of election system must be a subject of political consensus; however, it is important to reconsider the existing election system (majoritarian and proportional). Election district must be determined in a way that voter numbers are equal. Threshold of voters for winning majoritarian elections must be increased up to 30%;
- ✍ **Restriction of abuse of administrative resources**, in order to draw a clear line between party activities and activities of the government. This can be achieved by clearly stipulating norms and procedures prohibiting use of administrative resources, broadening the definition of administrative resources; clear definition and limitation of the procedure for participation of public servants in agitation; narrowing down the circle of political officials; tightening liability measures for abuse of administrative resources;
- ✍ **Improving the legislation and practice that applies to political funding.** It is important to improve both legislation and practice of party funding in order to rule out any restrictions of political activities; abolish unreasonable restrictions and criminal liability of voters in cases of vote buying; ensure maximum transparency and openness of the SAO activities;
- ✍ Capacity building of **election administrations**; ruling out any conflict of interests in election administration and liberating the administration from political influence; public trust building in election administration and ensuring more transparency of the process of staffing election administration; establishing strict criteria for selection of election commission members; increasing necessary number of voters for making of important decisions by an election commission; determine explicitly disciplinary liability procedures and ensure their effective enforcement;
- ✍ **Improve voter lists** – verification of voter lists; limit as much as possible the possibility to manipulate illegally with voter lists;

Public trust building in voter lists; abolish the format of voter verification commission and integrating its material and technical base with the CEC; increasing the role of civil registry in improving voter lists; simplify the procedure for registration of voters living abroad (both legally and illegally); conducting a universal census;
- ✍ **Polling day procedures** – limiting the possibility of election fraud as much as possible; public trust building in elections; reducing possibilities for election fraud with the use of contemporary technologies and methods, including through casting of ballots with biometric passports; introducing guarantees for free video shooting;
- ✍ **Promotion of equal access to media** during pre-election period; abolish limitations on audio and video shooting at polling stations; determining the procedure for outdoor advertising; legal regulation of must carry and must offer principles in non-election period as well; abolishing the procedure of payment for advertising during pre-election period; determining the notion of covert political advertising;
- ✍ **Election disputes** – simplifying norms that apply to election disputes and improving their clarity in a way that rules out the possibility of appealing before various agencies; increasing the term for consideration of election disputes in election administrations, and more;

¹¹⁴ These are joint recommendations of the following three NGOs – GYLA, ISFED and TI-Georgia. The recommendations were introduced to the Parliament of Georgia on November 20, 2012.

- ✍ **Election precincts** – prevention of artificial influence on election outcomes through special election precincts; providing clear definition and narrowing down the category of military servicemen who have the right to cast a ballot at special election precincts; limiting the possibility for civilians to vote at special precincts; when a military servicemen has been registered at a different election precinct, s/he should be allowed to vote in proportional elections only;
- ✍ **Objective and impartial enforcement of law**, which can be achieved through depoliticization of public service and law enforcement authorities. Introducing corresponding legislative amendments is necessary;
- ✍ **Raising voter awareness** about election procedures and constitutional system arrangement of the country.