



GYLA and ISFED Urge Batumi City Court to examine election dispute within a reasonable timeframe, as prescribed by law

GYLA has found that Batumi City Court intends to examine an election complaint pursuant to a general procedure for disputes litigation, rather than examining it within a short timeframe as prescribed by election laws. It essentially violates the spirit of election laws and is harmful to pre-election environment as well as the interests of justice.

On July 30, 2013, GYLA and ISFED jointly filed a complaint in Batumi City Court, seeking suspension of spending of GEL 14 million in pre-election period until tabulation of October 27, 2013 presidential election [results](#) as these funds have been illegally added to the budget of Adjara A/R.

Although election laws prescribe short timeframe for litigation of election disputes, Batumi City Court has not yet started examining the complaint; rather, we have learned that it plans consider it within a two-month timeframe prescribed by the Civil Procedure Code. GYLA's lawyer has been informed by judge's assistant that judge was taking a month-long vacation and therefore, litigation would start in September. Further, if court resorts to the legal timeframe prescribed by procedure laws, length of the legal proceedings can be increased for up to five months.

Application of the timeframe prescribed by the Civil Procedure Code to election disputes is unacceptable on the following grounds:

1. The Election Code of Georgia provides for a short timeframe for litigation of election disputes, meaning that a dispute must be adjudicated in several days. Even though

the timeframe for adjudication of election complaints is not expressly stipulated by the Election Code, the principle of legal analogy implies that the most similar norm must be applied – i.e. applicable provisions of the Election Code itself, meaning that an election dispute must be adjudicated within the period of several days.

2. If court resorts to the timeframe stipulated by the Election Procedure Code for adjudication of election disputes, use of appeals mechanisms would be pointless as we are seeking termination of illegal spending of the impugned budget funds during pre-election period and clearly, if proceedings go on for as long as several months, pre-election period would be over and the impugned funds would be spent. Even if the claim is granted, it would not yield the result it was supposed to yield in the first place.

3. Establishing of such practice by court would greatly increase the chances of deterioration of pre-election environment, as there is a risk of spending funds prohibited by the election laws in other territorial units as well. If legal dispute is pointless and ineffective, it means that there is no legal remedy to address this important problem. It would encourage and promote the illegal practice of abusing state resources.

4. There have been similar court cases in the past. For instance, during pre-election period for the 2012 parliamentary elections GYLA applied to Khoni District Court seeking suspension of spending of funds by Khoni Municipality Gamgeoba and Sakrebulo. Khoni Court delivered its judgment the day after the complaint was registered.

5. In the present case Batumi City Court's failure to act is first and foremost damaging to the role of a court, diminishing its authority considering that the court is resorting to a wrongful procedure for examining a case, thus making appeals mechanism absolutely ineffective. It means that the court itself is acting against the interests of justice, making judiciary control of administrative agencies useless, which we are very alarmed and concerned about.

In this light, we urge Batumi City Court to examine and rule about the complaint immediately.

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