

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA Publicizes Monitoring Results of the Post-Election Complaints' Consideration and Results' Summarizing Procedures

Georgian Young Lawyers' Association (GYLA) conducted post-election observation of the procedures in the 38 District Election Commissions (DECs). In cases of identifying violations, GYLA addressed the DECs and the courts with the relevant complaints.

Under its complaints, GYLA requested re-counting the results on a number of
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precincts; in some cases, GYLA requested invalidation of the election results, because of the allegedly grave violations that might have seriously affected the election results. Under its complaints, GYLA has also paid especial attention to the issues of imposing the responsibility upon the election commission members that violated the regulations, as one of the necessary means for further prevention of violations.

It should be noted that the post-election the complaints mainly related to a number of inaccuracies in the summary protocols of the Precinct Election Commissions, specifically:

On a number of precincts, there was no balance in the summary protocols; specifically, the number of votes received by all of the electoral subjects plus the number of invalidated ballots have exceeded the number of the participating voters;

In a number of districts the total amount of the invalidated ballots was very large;

Also, in some cases, the summary protocols reflected that the number of invalidated ballots have significantly exceeded the number of participating voters;

It was also revealed that on some of the precincts, the number of the received ballots have significantly exceeded the number of voters registered at that precinct in the voters' list;

In a number of cases, the summary protocols were changed and the correction protocol of the relevant Precinct Election Commission was not attached to the corrected summary protocol;

In some cases, the copies of the summary protocols, obtained by the observers from the polling stations and later from the districts, differed from each other. In difference with the copies of the protocols, obtained from the polling stations, the copies of the protocols obtained from the districts have the correction protocols attached. Therefore, questions arise in relation to the correctness of the protocols; it is unclear how the DEC corrected the data in the precinct summary protocols without proper examination of the violations;

In some cases, the mandatory requisites of the summary protocols of the election day results were not filled; parts of the protocol were left empty. However, this data has turned out to be filled out in the copies of the protocols obtained from the DEC, which naturally raises questions - based on which data were the protocols filled, whether they were filled out

correctly and objectively.

GYLA observers have submitted total of 214 complaints to the District Election Commissions; among others on the following types of violations:

- Violations, relating to the summary protocols and inexistence of the balance - **93**;
- Violations of the vote counting procedures - **12**;
- Violations relating to delivery of the documentations to the DEC/ violations relating to sealing of the electoral documentation - **8**;
- Violating the rights of an observer - **6**;
- The decisions of the Precinct Election Commissions (PECs) appealed at the DEC - **94**;
- Unauthorized persons, breaking into the polling station - **1**.

In 29 cases, under the complaints, submitted to the DEC, it was requested to invalidate the election results, **in 50 cases** □ to invalidate the summary protocols of the PECs, **in 71 cases** □ to re-count the results, **in 189 cases** □ to impose disciplinary responsibility upon the PEC members, **in 16 cases** □ to impose administrative responsibility upon the PEC members.

Out of the complaints, submitted to the DEC, **70 were upheld, 61 were partially upheld** and **37 were rejected**.

The negative decisions of the DEC were appealed by GYLA at the courts. Currently, in the post-election period, total of 29 lawsuits were submitted to the court of the first instance and 9 lawsuits to the court of appeals (second instance).

GYLA addressed the court to represent the interests of electoral subjects in 3 cases.

The work of the District Election Commission of the District Saburtalo (#3) deserves positive evaluation, because the DEC has proactively examined the cases. The work of the Khoni District Court judge should also be positively evaluated; the judge has re-counted the ballots herself and confirmed the inaccuracies in the summary protocol.

In addition to the individual violations, we would like to underline a number of general tendencies:

The Precinct Election Commissions (PEC):

In a number of cases, the low level of qualification and unprofessional approach of the Precinct Election Commission members was revealed;

The members of the Precinct Election Commissions found it hardest to fill out the summary protocols and to establish the balance;

The commissions were not properly equipped, due to which it was not possible to send the summary protocols to the Central Election Commission (CEC) in a timely manner.

The District Election Commissions (DEC):

The District Election Commissions rarely demonstrated an initiative without the complaints of the interested subjects to pro-actively examine alleged violations and to respond properly;

The District Election Commissions (apart from the individual cases), were not willing to consider GYLA's complaints in detail, to examine the circumstances that were important for the case and to conduct proper examination/evaluation of the evidences;

Despite the fact that in specific cases the violations were confirmed with the relevant evidences, the District Election Commissions did not uphold the requests under the complaints;

In some cases, the District Election Commissions have refused to accept the evidences;

The District Election Commissions were correcting the serious inaccuracies in the Precinct Election Commission summary protocols and later attaching the correction protocols in the districts. For this reason, in a number of cases, the copies of the summary protocols obtained from the precincts differ from the copies of the same protocols obtained in the districts;

The District Election Commissions considered the explanation of the Precinct Election Commission members to be the undoubted, and sometimes – the only evidence;

Despite the gravity of the violations, the District Election Commissions preferred to apply the lighter disciplinary sanctions against the violators and did not apply more adequate means prescribed under the legislation (for example, applying administrative sanctions);

The process of receiving the sealed electoral documentation at the District Election Commissions (from the Precinct Election Commissions) was chaotic and unorganized;

There were cases of delivering the electoral documentation without filling out the act of delivery-receipt; in other cases the act was filled out in a belated manner.

The Central Election Commission (CEC):

The CEC was unable to immediately upload the copies of the summary protocols to its web-page, which resulted in violation of the requirements set forth under the Paragraphs 4 and 8 of the Article 76 of the Election Code;

In some cases, there were discrepancies among the data in the summary protocols, publicized by the CEC and the table of results available at the CEC web-page; those were probably technical mistakes.

Based on the identified problems and the violations we present the recommendations, which, in our opinion, will help an electoral administration in strengthening its achievements and eliminating the violations which were characteristic to the 2014 Local Self-Government Elections:

- To decrease the number of the PEC members;
- To establish mandatory certification of the PEC members;
- To select the PEC members based on the certification results;
- To re-examine (increase) the reimbursement of the PEC members;

To continue raising the qualification of the precinct election commission members and to pay special attention to the component of the election day and to the processing the electoral documentation under the training module;

To elaborate the uniform rule of filling out the summary protocol of the election results;

To equip the precinct election commissions with the proper technical means to enable timely delivery of the summary protocols to the CEC;

To ensure that the DEC examine the violations indicated in the complaints in detail, examine the evidences properly and make the well-grounded decisions;

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In case of changing the summary protocols, to apply the administrative responsibility prescribed under the Election Code;

To ensure that the act of delivery-receipt is filled out during the delivery of the electoral documentation to the District Election Commissions;

For the CEC to ensure that the summary protocols are immediately uploaded and that the results indicated in the summary protocols are correctly indicated in the results' table;

GYLA continues monitoring the processes of complaint consideration in the electoral administration and in the courts, of which we will inform the public additionally. It should also be mentioned that evaluating the elections based on the election day only would yield incorrect and non-comprehensive results. Following the final summarization of the results GYLA will present the comprehensive report, in which the elections will be evaluated in entirety – including the pre-election period, election day, complaints – consideration and the process of summarizing the election results. Based on that report GYLA will address the electoral administration and the government with the relevant recommendations.

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