



8 June, 2010

Transparency International Georgia's Report on Monitoring of Voting by Persons in Preliminary Detention

- **Of the 1,193 persons held in preliminary detention, only one was able to exercise the constitutional right of voting in the local elections.**
- **Employees of penitentiary institutions voted in those institutions on the election day.**

On 30 May 2010, Transparency International Georgia monitored the participation of persons held in preliminary detention in the local elections. The monitoring was conducted in all institutions where, according to the information supplied by the Georgian Ministry of Corrections and Legal Assistance, persons entitled to vote in the local elections were held in preliminary detention. There were five such institutions in Georgia:

1. Prison #5, Tbilisi, Isani Electoral District.
2. Prison #8, Tbilisi, Gldani Electoral District.
3. Prison #2, Kutaisi.
4. Prison #4, Zugdidi.
5. Prison #3, Khelvachauri.

Polling stations were set up in four of these institutions (there were two polling stations in Prison #8), while the inmates of Zugdidi Prison voted through a mobile ballot box.

A total of 2,688 people in these institutions had the right to vote. Of these, 1,193 were persons in preliminary detention, while 1,495 were the administration employees (a majority of them)¹, precinct electoral commission members and the military servicemen assigned to Electoral Precinct #113 in Prison #8.²

Under the Georgian law, the persons in preliminary detention are to vote both in the majoritarian and the proportional elections if they are relocated within the same electoral district (the Georgian Electoral Code does not contain any relevant provisions for the Tbilisi mayoral election. Consequently, according to the general rule, the residents of Tbilisi are to vote in the city mayor's election and the proportional election without any restrictions).

¹ The figure only reflects the number of people employed in these five institutions. The employees of other penitentiary institutions also voted at their workplace.

² According to the law, military servicemen voted in the places of their deployment. In this particular case, the unit was deployed near the aforementioned polling station, in the same electoral district. For this reason, the servicemen were assigned to the polling station of Prison #8.



On the election day, employees of the penitentiary institutions voted in these institutions. Unlike the persons in preliminary detention, the employees of prisons can vote both in the majoritarian and the proportional elections without any restrictions regardless of their place of residence. In Tbilisi, they also voted in the Tbilisi mayoral election.³

Of the 1,193 persons held in preliminary detention, only one voted in the elections. As for the other 1,495 persons, 1,010 of them voted.⁴

The main obstacle to the participation of the persons held in preliminary detention in the elections was the fact that (according to the prison administrations) they did not have IDs. However, the polling station in the Khelvachauri Prison #3 closed **without the prison administration providing the observers with an explanation as to why the prisoners were unable to vote.**

According to the administrations of the penitentiary institutions, they did not know why some of the inmates did not have IDs, while the IDs of others were stored at the Prosecutor's Office along with their personal files. The administration employees also said that it was not their duty to ensure that the inmates had IDs.

Results by Institution

1. Prison #5, Isani Electoral District of Tbilisi, Precinct #81

There were **237 eligible** voters, including **50 prisoners, 176 employees of the prison administration and 11 members of the precinct electoral commission.**

None of the prisoners voted because, according to the prison administration, they did not have IDs.

A total of 169 people voted, including 11 commission members.

There was a mobile ballot box for the inmates in this precinct but it was never used.

2. Prison #8, Gldani Electoral District of Tbilisi, Precinct #113

³ However, the voting by the Ministry of Corrections and Legal Assistance employees is not regulated directly by the law. The practice described above is based on the rules for the compilation of the unified voter list (Georgian Electoral Code: Article 5, Sub-Paragraph "d") whereby the employees of the Ministry of Corrections and Legal Assistance whose official duties require them to be in a place other than their place of registration, are to be included in the unified voter list according to the relevant address and to vote in the same manner as the residents of the relevant district.

⁴ Including 105 employees of Zugdidi Prison #5 who voted in a regular electoral precinct to which they had been assigned (precinct #9 of Zugdidi Electoral District #67).



There were **996 eligible voters**, including **487 inmates, 489 employees of the prison administration and 11 members of the precinct electoral commission.**

A total of 452 people voted in the elections, including just one inmate. According to the prison administration, the inmate was the only one with an ID.

Meanwhile, some 120-130 military servicemen also voted here as they are deployed within the same electoral district.

At the outset of voting, the electoral commission did not know that the prison administration employees were entitled to vote both in the proportional and the majoritarian elections, as well as the mayoral elections in Tbilisi, regardless of their place of residence. Consequently, the commission refused to allow the employees who were not registered in Tbilisi to vote. However, following the District Electoral Commission's intervention, all employees were able to vote.

3. Prison #8, Gldani Electoral District of Tbilisi, Precinct #114

There were **540 eligible voters**, including **531 inmates and nine members of the Precinct Electoral Commission.**

According to the prison administration, the inmates did not have IDs. Consequently, the inmates were unable to participate in the elections. A total of nine people voted.

4. Prison #2, Kutaisi, Precinct #128

There were **423 eligible voters**, including **31 inmates, 380 employees of the prison administration and 11 members of the Precinct Electoral Commission.**

According to the prison administration, **only two inmates had IDs in this precinct and they opted not to vote.** Other inmates were unable to vote as they did not have IDs.

A total of 381 people voted, including 11 members of the Precinct Electoral Commission.

5. Prison #4, Zugdidi, (assigned to Precinct #9)

There were **256 eligible voters**, including **62 inmates and 194 employees of the prison administration.** No polling station was set up in the prison. The administration employees voted in a nearby polling station, while the inmates were to vote through a **mobile ballot box.**

According to the prison administration, none of the inmates had an ID and they were therefore unable to participate in the elections. Moreover, the list of persons held in preliminary detention sent by the District Electoral Commission to the Precinct Electoral Commission to which the



prison had been assigned did not contain personal numbers of these individuals. However, in this particular case, this was not the sole reason why the people were unable to vote.

As for the prison administration, 105 employees voted in Precinct #9.

6. Prison #3, Khelvachauri, Precinct #69.

There were 236 eligible voters, including 31 inmates, 198 employees of the prison administration and seven commission members.

Of these eligible voters, 196 administration employees and seven commission members participated in the election. The inmates did not vote. The polling station closed without the prison administration explaining to the observers why the inmates had not been brought to the polling station for voting.

Moreover, voting instructions were only posted in the polling station after a TI Georgia observer filed a complaint.

It is worth noting that inking was carried out in this precinct even though, under the Electoral Code, it is not to be done in the polling stations set up in the preliminary detention facilities.

General Problems

The monitoring revealed the following problems:

- The persons held in preliminary detention were effectively denied the possibility of participating in the local elections and hence of exercising their constitutional rights.
- Employees of penitentiary institutions had the right to participate in the local elections without any restrictions regardless of whether or not they were registered in the relevant electoral districts. As a result, voters registered in other districts participated in the election of local government bodies.
- It is not clear why it is necessary for all employees of penitentiary institutions to vote at their workplace rather than in their places of residence as other citizens do. The vote results in special precincts tend to be more favorable for the ruling party than the results in ordinary precincts. For example, during the 2008 presidential election, Mikheil Saakashvili got a total of 92.2% of the vote in the preliminary detention institutions. Under the present law, it will be impossible to view the vote results of these precincts separately as their ballots will be mixed with those of a predetermined electoral precinct and counted together. However, according to the information provided by an observer, the ballot papers from the Isani Prison #5 were counted separately in Precinct #23 of Isani Electoral District #5, which is against the law. It turned out that the United National Movement and its candidates had received a large majority of the votes.



- It should also be noted that voter inking does not take place in this kind of closed precincts since there is no such requirement in the law. The possibility of multiple voting by prison staff can therefore not be excluded.

Recommendations

We believe that the following legal amendments need to be adopted in order to eliminate the problems described above:

- The relevant state agencies must be required to return the IDs of persons in preliminary detention before the election day.
- The employees of prison administration who are not on duty on the election day must vote in their places of residence where they are registered.
- The prison administration employees who are on duty on the election day and vote at their workplace must participate both in the majoritarian and the proportional vote (in case of parliamentary elections: in the majoritarian vote) if they are registered to live within the electoral district where the penitentiary institution is located.
- Inking must also be carried out among the persons who vote in penitentiary institutions in order to reduce the risk of multiple voting.

The monitoring was conducted with the support of the Open Society Georgia Foundation. The views expressed in the report may not reflect the opinion of the donor.