



საქართველოში არჩევნები



Local NGOs' opinion on improving the electoral environment

2nd of May, 2011, Tbilisi

We, the four organizations – Transparency International Georgia (TI Georgia), International Society for Fair Elections and Democracy (ISFED), Georgian Young Lawyers' Association (GYLA) and New Generation New Initiative (nGnI) – are carefully observing the negotiation process undertaken by the multi-party group working on the improvement of the electoral code¹. With this process now stalled, we wish to make public our opinion on the preconditions for the creation of a fair electoral environment.

We hope that the recommendations presented here will be meticulously examined. All these areas described below are essential to a better election environment and the failure to address one of them will leave significant gaps in the framework. Solving these issues require legislative improvements, as well as better enforcement and political will to conduct free and fair elections.

The issues are:

1. Voter lists

- ✓ **Accessibility of voter lists at any time and comprehensive procedure for requesting corrections**
- ✓ **The compatibility between the databases formulating the voter list**
- ✓ **Assign the Civil Registry as the agency with ultimate responsibility for creating, maintaining and updating the voters list**

¹ With the support of the Speaker of the Georgian Parliament and the International Fund for Election Systems (IFES), a multi-party group was created in 2010 for the purpose of improving the electoral codex and resolving shortcomings in the electoral legislation.

It is imperative that the voter list is permanently available on the website of a responsible agency and that interested individuals (including political parties, NGO representatives and citizens) have the opportunity to double-check information and request necessary changes at any time. The procedure for amending the list also requires improvement (i.e. clarification). Once improved, the procedure should be presented to the public to raise awareness about how to request changes in the list on an ongoing basis.

Currently, voter registration data is compiled by the Central Election Commission (CEC) from the databases of numerous government agencies, which they provide in disparate and varying formats. This results in additional work for the CEC and the problem of inaccuracies as often information across these sources is contradictory. The data provided by different government agencies should be in precisely the same format to avoid these problems.

In addition, the government should consider locating the responsibility for maintaining the voters list within the Civil Registry. The Civil Registry provides the vast majority of the voter list data and in the recent years it has demonstrated itself as one of the most efficient government agencies in terms of data collection and management.

2. Electoral system

- ✓ **Proportionality between the number of votes received by a party and mandates obtained in the Parliament**
- ✓ **Fair allocation of mandates by the Majoritarian electoral system**
- ✓ **Possibility of directly electing local self-government representatives**

The current rules for Majoritarian election have significant shortfalls. On the one hand, the existing system unfairly distributes mandates by election district and, on the other hand, doesn't guarantee the proportionality between a specific party's received votes and seats in the Parliament.

The unfair distribution of mandate is evident in the case of Lentekhi and Kutaisi, to give an example. Under the current system, Lentekhi, with the voters of 6,000, and Kutaisi, with three voters of 158,000, have the same level of representation in the Parliament – one Majoritarian MP each. Therefore, the value of one vote in Lentekhi has 26 times the weight of the vote in Kutaisi. According to international standards, the difference between the number of voters in various territorial units should not differ from the average by more than 15-20%. In Georgia there are many voting districts that differ in the size of their population from the average by more than 100%.

Concerning the relationship between the number of votes received by a party and the seats obtained in Parliament: under the current system a party can achieve a constitutional majority

in Parliament (two thirds of all seats) if, for example, it receives just 35% of the raw vote in the proportional system and its Majoritarian candidates win in every constituency (to win Majoritarian elections in each district a party must win more votes than any other candidate and not less than 30% of total votes participated in elections). Therefore, even when a party wins only 30-35% of the raw vote, it can gain a constitutional majority in the legislature.

Finally, it is regrettable that despite the President's statement in 2009 at the UN that all Georgian cities would directly elect their mayors, only Tbilisi directly elected its mayor in 2010 – in all other cities they mayor was appointed by the City Council (so called Sakrebulo). Georgian citizens don't directly elect their local governors (Gamagebelies) and regional governors either. Meanwhile, the representatives of the local self-government bear direct responsibility for resolving problems at the local level.

3. Electoral administration

- ✓ **Ensure full transparency of the CEC appointment**
- ✓ **Increase level of trust towards the CEC by raising the threshold of decision-making on important issues to 2/3 of votes, rather than a simple majority**
- ✓ **Deny election administration membership to those individuals who committed violations in the previous elections**

In the election years, the law for staffing the electoral administration is always a topic for debate.

Currently the method for selecting CEC members is overly politicized due to the dominance of one party in Parliament. Of 13 CEC members, seven are political appointees representing different parties and six are selected by the parliament (with a simple majority) from the list of candidates nominated by the president. Generally, we express our preference to the so-called 'professional' as opposed to a party-based composition of the election administration, but additional measures should be taken to increase their independence.

The staffing of the administration should be transparent from the very beginning which, first of all, concerns the process of the President presenting candidates to the Parliament. To accomplish this, it is necessary to make the following information publicly accessible: (A) information on all candidates that present their candidature to the Presidential administration (for example: their biographies should be posted on the President's website), (B) information regarding the commission members who act on behalf of the President to select the most appropriate candidates, (C) information on the criteria that these commission members employ to choose the best candidate. The Georgian public should be informed why one candidate was better than the others.

Moreover, for the sake of ensuring a high level of trust towards the electoral administration and its decisions, it is desirable that the Parliament approves the nominated CEC members with a 2/3 majority and the CEC itself approves most important decisions with a similar 2/3 majority of votes.

Finally, we reiterate our call related to the lower level (district and precinct) election commissions and appeal to the government and the CEC to deny membership in these commissions to specific controversial individuals. In particular, during last years' elections a number of complaints were filed by NGOs regarding the fault and violations of specific commission members. We submitted the list of these individuals to the CEC and requested it not to employ them in the next elections. We are once again ready to provide these lists, with all the detailed information, to the government and the CEC to make sure that incompetent and misbehaving individuals are no longer responsible for administering elections at district and precinct levels.

4. Use of administrative resources for pre-election campaign

- ✓ **Draw a clear line between the ruling party's election campaign and the work of the government**
- ✓ **Limit the participation of public officials in the pre-election campaign**

During the last elections there was a clear problem related to the use of administrative resources during pre-election campaigning. The reports of both local and international observer organizations highlight the absence of a distinguishing line between the ruling party and government activity during the pre-election campaign. During the most recent, self-government elections of 2010, the ruling party, instead of confining participation of public officials in elections as it is required by law², made quite the opposite— more than 1,000 public officials took a holiday during the pre-election period and actively participated in the pre-election campaign in support of the ruling party. By doing so the public officials avoided violating the law, but this nevertheless caused significant problems: 1. the officials on leave were still using office (i.e. administrative) resources; 2. Dozens of public officials being on leave hampered the effective work of public agencies; 3. Despite public officials' being on leave, local population nevertheless perceived them to be public officials, and the line between the ruling party and the government was obliterated.

There are several additional problems with the use of administrative resources during pre-election campaign. Detailed information on this issue and the recommendations for addressing the main problems are available from our detailed election monitoring reports.

² The Electoral Code of Georgia prohibits public officials to participate in a campaign while on duty.

5. Inter-Agency Task Force:

✓ Increase the effectiveness of the task force

The inter-agency task force³, created for ensuring fair elections, took the responsibility to react to violations and shortcomings detected by observer organizations during the last elections. During the 2010 self-government elections the task force carried out regular meetings with observer organizations and replied to their prepared reports in writing.

Unfortunately, the inter-agency task force didn't always manage to conduct a timely investigation of electoral violations and the appropriate penalty for violators. There were frequent cases when interpreting legal prohibitions, the emphasis was being placed on the formal side rather than the aim and the essence. As a result, the line between the ruling party's election campaign and the government's activities remains blurred and other political parties have to conduct their campaigns in unequal conditions.

If the government plans to involve the inter-agency task force for ensuring fair elections in the upcoming 2012 and 2013 elections, it is important to already begin discussions on how to raise the effectiveness of the task force.

It is important for the inter-agency task force (A) to react more timely to violations (especially, since it is staffed by high-ranking officials), (B) to present information regarding its activities and work not only to NGOs and international community, but to the Georgian public, and (C) to have intensive communication with different groups involved in the elections, including electoral subjects. It is also necessary to begin discussing the mechanisms for protecting those individuals who report on election violations and other problems detected and experienced during the elections.

6. Investigation of violations

✓ Timely investigation of violations committed during the elections

✓ Informing the public about measures carried out against violators

The measures that the government and CEC undertake for investigating and suppressing violations are an important component by which the government's real commitment to running free and fair elections is assessed. It is also an effective mechanism for preventing future violations. Unfortunately, several major violations from the 2010 self-government elections are

³ The Inter-Agency Task Force for Free and Fair Elections (IATF), composed of high-ranking officials from the different ministries, originally was established before the 2008 early presidential election, continued to operate in the run-up to the 2008 early parliamentary elections and reestablished on April 2010, prior to 30 May local elections. IATF was formed in order to facilitate the conduct of the elections in as transparent and fair environment as possible by enhancing coordination between different agencies.

still left uninvestigated. Old violations should be completely investigated and the results should be provided to the public. The government, political parties, NGOs and media should continuously inform public about the measures that are being taken against different types of electoral violations and problems. These investigations and measures should be conducted with the utmost degree of impartiality and should achieve a balance between protecting the rights of the accused, carrying out a fair and timely investigation and punishing offenders.

7. Financing of political parties:

✓ Establish better monitoring and oversight mechanisms concerning party financing

Today there is no comprehensive mechanism for monitoring and overseeing the legitimacy of party financing. The system used by parties for financial reporting (i.e. financial report form) is too general and doesn't provide for an in-depth analysis of their financial sources and expenditures.

Bearing in mind that financing of the pre-election campaign can have a significant influence on the outcome of the elections, it is essential to correct shortcomings in this regard and create more efficient system for thorough study of the political parties' election campaign and annual financial records.

There are several ways to deal with this problem. They are examined in detail in our reports and we are ready to get actively involved in meetings dedicated to their discussions.

8. Changes to the electoral legislation

✓ Restrict the introduction of changes to the electoral legislation in the period before the elections

In Georgia, a change in electoral legislation often occurs in a period very near to the elections. This sometimes causes significant problems. To avoid this, it is necessary that political parties, government, NGOs and all other involved parties timely formulate an agreement on all changes required in the electoral legislation and that these changes are made no later than 6 months before the elections. This will ensure that changes are less likely to be driven by short-term political aims and rather reflect the most important principles of free and fair election environments. This will also allow election administration, election monitoring NGOs, government, and election subjects to better prepare for the upcoming elections.

We hope that the Georgian government and all political parties involved in improving the electoral environment will regard the imposed mission with high responsibility and not overlook a single important issue.

Detailed recommendations and ways for solving these and other problems are discussed in our various reports which we will provide as a single document to any interested side.

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