

# FINDINGS FROM THE MONITORING OF OCTOBER 27, 2013 PRESIDENTIAL ELECTIONS

HUMAN RIGHTS CENTER (HRIDC)



Report is financed by Open Society Georgia Foundation

Tbilisi, 2013

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Non-governmental organization the Human Rights Centre (HRIDC), formerly Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia.

The Human Rights Centre (HRIDC) is dedicated to protection and promotion of human rights, rule of law and peace in Georgia. It is free of any political and religious affiliation.

The Human Rights Centre (HRIDC) believes that everyone is entitled to exercise her/his civil, political, social, economic and cultural rights freely and without any discrimination as guaranteed by national and international law. We consider that protection and promotion of these rights and respect for rule of law are the key preconditions for building sustainable peace and democracy in Georgia.

The Human Rights Centre (HRIDC) has five priority areas of action: strengthening the rule of law, supporting freedom of expression and media, promoting equality and social inclusion, reinforcing democratic processes and supporting transitional justice.

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## Introduction

Since August 2013 Human Rights Center is implementing the Project “Monitoring of 2013 Presidential Elections” with financial support of the Open Society –Georgia Foundation.

In accordance to the Constitution of Georgia, on July 4, 2013, President of Georgia set Presidential Elections on October 27, 2013. From 2012 Parliamentary Elections on, pre-election campaign was conducted through tense cohabitation process between the ruling party – Georgian Dream [GD] and parliamentary opposition party – United National Movement [UNM] that reflected on the election campaign too.

As a result of 2012 Parliamentary Elections, government of Georgia was changed through peaceful elections first time in Georgia and it was a significant step forward to the country’s democratic development. Nongovernmental and international organizations mostly positively evaluated the pre -election period of the 2013 Presidential Elections.<sup>1</sup> In comparison to 2012, the campaign was conducted in peaceful environment with minor violations.

Unlike 2012, media environment was pluralistic during 2013 pre-election period. Society had chance to receive information from different media sources. Political unions freely conducted their pre-election campaign and presented their programs to their electorate without obstacles.

According to the assessment of the international observation organizations, “October 27, 2013 Presidential Elections was significant with large number of presidential candidates. Candidate registration was overseen by the CEC and was conducted in a transparent and inclusive manner.”<sup>2</sup> Political parties and initiative groups filed applications to the CEC after what in accordance to the election law they were requested to collect and provide estimated number of voters’ signatures. CEC received 54 applications – 42 of them were filed from initiative groups and 12 from political parties. CEC registered 23 presidential candidates: 10 candidates nominated by political parties and 13 by independent candidates.<sup>3</sup> Three women participated in the Presidential Elections. Seven candidates voluntarily quitted the race; 24 applicants were refused to be registered for not having met different criteria.<sup>4</sup> Nine applicants, among them four with dual citizenship, filed complaints to the CEC.

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<sup>1</sup> <http://www.isfed.ge/main/483/eng/>

<sup>2</sup> See: International election observation mission, Georgia, Presidential Elections, October 27, 2013. OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

<sup>3</sup> Registered Presidential Candidates for October 27, 2013 Presidential Elections of Georgia

<http://www.cec.gov.ge/en/page/registered-presidential-candidates-for-october-27-2013-presidential-elections-of-georgia-15587>

<sup>4</sup> five of 24 candidates were refused to be registered because of dual citizenship; 12 applicants were denied because they could not provide necessary amount of signatures within the set deadline; one applicant was declined because he had provided less signatures than necessary;

On September 3, 2013 CEC refused the initiative group nominating Salome Zurabishvili to register her as presidential candidate. Salome Zurabishvili appealed the CEC Decree of September 3 at the Tbilisi City Court. On September 6, the City Court upheld the CEC decision after what Zurabishvili appealed to higher instances of the judiciary. Finally, neither Appeal Court satisfied her appeal statement. According to the judgment, Salome Zurabishvili was not allowed to participate in the October 27 Presidential Elections for dual (Georgian and French) citizenship.

Refusal to citizens with dual citizenship to be registered as presidential candidates contradicts right to free elections guaranteed by the Article 3 of the first additional protocol of the European Convention on Human Rights and Article 1.1. b of the Code of Good Practice in Electoral Matters of the Venice Commission which states that “elections shall be organized by impartial election commission ensuring effective appeal mechanisms of its decisions.”<sup>5</sup>

Ms. Zurabishvili was seized from the passive right to participate in the elections that contradicted the principle of fair and equal elections.

Human Rights Center separately and together with other nongovernmental organizations protested the decision of the Central Election Commission (CEC) and the Court on refusing Salome Zurabishvili and Zurab Tsitsuashvili to be registered as presidential candidates and assessed the CEC’s refusal on registering candidates with dual citizenship as violation of the Constitution of Georgia and its incorrect interpretation.<sup>6</sup>

## **Election System**

Based on the recommendations of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) released after the 2012 Parliamentary Elections, the national election law was substantially changed in 2013.<sup>7</sup> Amendments introduced to the Election Law in August of 2013 contained additional mechanisms to prevent misuse of administrative resources and to allow election subjects to conduct election campaign in equal environment.

Despite positive amendments, some regulations in the election law still contain threat of incorrect practice. Those regulations refer to the right of public servants to participate in and conduct election campaign, or to attend the campaign events. On August 8, 2013 Interagency

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three applicants were declined due to incomplete documentation; two applicants were declined because of unfixed irregularities in the list of supporters and one for stripped of Georgian citizenship. Applicants with dual citizenship were Salome Zurabishvili, Taniel Khvedelidze, Merab Suliashvili, Giorgi Gakhokia and Zurab Tsitsuashvili.

<sup>5</sup> [http://www.venice.coe.int/webforms/documents/CDL-AD\(2002\)023rev.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2002)023rev.aspx)

<sup>6</sup> See statement. <http://www.humanrights.ge/index.php?a=main&pid=17052&lang=eng>

<sup>7</sup> See: International Election Observation Mission, Georgia, Presidential Elections, October 27, 2013. OSCE/ODIHR Election Observation Mission.

Task Force for Fair Elections (IATF) clarified that passive attendance at the events organized in the frame of pre-election campaign was not prohibited.<sup>8</sup>

## **Election Administration and Assessment of Its Activities**

In Georgia, elections are held by three-level election administration: Central Election Commission (CEC); 73 District Election Commissions (DEC) and 3 655 Precinct Election Commissions (PEC). In addition to that, 34 special precincts functioned in penitentiary establishments, medical centers and military basis. 52 precincts were opened abroad in diplomatic missions and consulates of Georgia to ensure participation of Georgian citizens living abroad.<sup>9</sup>

During 2013 Presidential Elections CEC worked transparently and impartially. It successfully implemented its duties within the estimated time-frame. Nongovernmental organizations were fully involved in the election process and they were permanently updated with the information. CEC sessions were open for observers, nongovernmental organizations and media. Observation organizations did not face any problems in getting public information from the CEC.

2013 Presidential Elections showed that independence and impartiality of the election administration is more or less achieved. Before 2013 Presidential Elections, CEC members could not independently make decisions on disputable issues; members of CEC, DEC and PEC were oppressed, intimidated and hindered; partiality and politically motivated decision was main problem of the election commissions. During 2013 Presidential Elections the election administration's work became effective and transparent, that ensured increase of public trust towards the election administrations.

As for the staffing of election commissions, it should be noted that during 2013 Presidential Elections, election commissions were made up with the representatives of only two political powers - Coalition Georgian Dream and United National Movement as well as professional commission members, that became a topic of criticism. During the election, commission members were selected according to their professional experience, who were members of the election administration from different political parties during previous elections.

In accordance to the Election Code of Georgia, election commissions of all level are made up of 13 members, seven of whom represent political parties receiving state funding.<sup>10</sup> Five members

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<sup>8</sup> See: Recommendations of the IATF released on September 13 and October 11, 2013 <http://www.justice.gov.ge/Page/index?code=3ef73d52-b38e-487d-905b-ab361b0f8ce8>

<sup>9</sup> See: information about election administration: <http://www.cec.gov.ge/en/election-districts-and-precincts-geo-237-ge>

<sup>10</sup> During presidential elections the following political parties received state funding: United National Movement, Georgian Dream-Democratic Georgia, Conservative Party of Georgia, Republic Party of Georgia, Our Georgia – Free Democrats, as well as political movements: Industry Will Save Georgia and National Forum.

of the CEC were appointed by the Parliament including additional procedures of the CEC chairman's appointment. Other six members of the DEC and PEC are selected through public competition announced by senior election administrations.

Parliament has symbolic role in formation of the CEC that undermines independence of the CEC members. If the legislative body selects the CEC members, it will increase independence of the supreme election administrative body that will ensure independence of the commission members.

Based on the conclusion of the Venice Commission, "although there is no standard model for the composition of election commissions, the electoral law should guarantee that election commissions are established and operate in an independent manner and that commission members act impartially."<sup>11</sup>

## **Assessment of the Work of Interagency Task Force for Free and Fair Elections**

Based on the August 8, 2013 Decree # 40 of the Minister of Justice of Georgia Interagency Task Force for Free and Fair Elections was set up to prevent violation of the election law by public servants and to respond to the observed election violations and to create fair election environment.<sup>12</sup>

IATF successfully implemented its duties though in some occasions controversy on political ground was observed. IATF made several significant decisions that promoted improvement of pre-election environment.

Political parties and observation organizations had chance to raise issues concerning the irregularities during election period at the IATF and to inform the IATF members about alleged election violations.

The IATF sent 16 recommendations to different election subjects, including recommendations to state and local self-governmental institutions to give additional instructions to public servants about their rights and responsibilities during pre-election period and to refrain from dismissing employees in the pre-election period.

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<sup>11</sup> See: European Commission for Democracy Through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Draft joint Opinion on the Draft Election Code of Georgia, Opinion No.617/2011 [http://www.venice.coe.int/webforms/documents/?pdf=CDL\(2011\)094-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL(2011)094-e)

<sup>12</sup> See: Information about IATF, <http://www.justice.gov.ge/Page/index?code=9e19457b-c149-435c-b82b-900d0ef866ed>

IATF discussed over 80 cases about which the information was provided either verbally or in written form.<sup>13</sup> Majority of cases referred to the prohibited agitation by public servants, damage of election posters and violence against political parties' activists.

International observation missions evaluated the effectiveness of the IATF during the October 27, 2013 Presidential Elections and stated: "Complaints were also filed with the Inter-Agency Commission for Free and Fair Elections instead of with election commissions and courts that had the authority to impose sanctions and ensure an effective adjudication of disputes in line with international commitments and good practice."<sup>14</sup>

## **Evaluation of Pre-election Environment**

2013 Pre-election period shall be evaluated positively. In comparison to 2012 Parliamentary Elections, the 2013 Presidential Elections were conducted in more peaceful and fair environment.

Political parties carried out their pre-election campaign without obstacles. As for the misuse of administrative resources, in comparison to the 2012 Parliamentary Elections, facts of misuse of administrative resources were less during 2013 Presidential Elections.<sup>15</sup> Number of alleged bribery of voters was also significantly reduced.

As for the media environment, according to the preliminary assessment of the OSCE observation mission "Interlocutors consider the media environment more open than during the 2012 elections and journalists are noted as covering major political events in a more inclusive manner."<sup>16</sup> Presidential candidates had opportunity to present their election programs to the electorate on national TV-Channels without obstacles.

During pre-election process, media mostly covered activities of the parliamentary coalitions and government. Less attention was paid to the pre-election campaigns of concrete presidential candidates.

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<sup>13</sup> In accordance to the Article 48 Part 9 of the Election Code of Georgia, In case the violation is confirmed, the commission shall be authorized to submit a recommendation to any public servant, administrative body, and the CEC requesting to carry out appropriate measures within a reasonable time.

<sup>14</sup> See: INTERNATIONAL ELECTION OBSERVATION MISSION Georgia — Presidential Election, 27 October 2013 (OSCE/ODIHR).

<sup>15</sup> Presidential Candidate Giorgi Margvelashvili attended the presentation of the printed version of the Labor Code organized by the Ministry of Justice and Tushetoba Holiday in Omalo village, which was organized by Akhmeta district administration. Participation of the presidential candidate in similar events might cause set of election irregularities. In accordance to the Election Code, agitations during state budget funded events are evaluated as misuse of administrative resources. Attendance of the presidential candidate in public events is equal to giving him platform at the expense of state budget. Participation of the public servants in the agitation in favor of the ruling or opposition presidential candidates was characteristic for the 2013 Presidential Elections. (<http://www.youtube.com/watch?v=tOFSxj8VI4>).

<sup>16</sup> INTERNATIONAL ELECTION OBSERVATION MISSION Georgia — Presidential Election, 27 October 2013, STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS, published on October 28, 2013. (OSCE/ODHR, OSCE/PA, PACE, EP, NATO PA).

In addition to that, illicit restriction and interference in the professional activities of journalists was significantly reduced during 2013 pre-election period.

As for funding of political parties, it should be noted that during 2012 Parliamentary Elections, it was one of the most problematic issues. State Audit Office selfishly and groundlessly imposed inadequate sanctions on opposition political parties. The state used the SAO as an instrument of political revenge and repression. As for the 2013 Presidential Elections, SAO was less politicized. Nongovernmental organizations did not complain about the activities of this institution.

## **Evaluation of the Election Day and Positive Trends**

Human Rights Center observed October 27 Elections in six regions of Georgia (Kakheti, Imereti, Shida Kartli, Kvemo Kartli, Mtskheta-Mtianeti and Samegrelo). The organization had 36 observers, who monitored polling process in the towns and villages of 18 municipalities. Part of observers stayed in precincts during all day long while another part made up mobile groups and moved from one to another precincts.

Online edition of the Human Rights Center [www.humanrights.ge](http://www.humanrights.ge) systematically reported about ongoing polling process and observed irregularities from different regions of Georgia. Humanrights.ge was active on the Election Day too and updated society about the observed violations throughout the day.

Information provided by the Human Rights Center's observers proved that Presidential Elections were conducted in peaceful and fair environment. The polling process was carried out without substantial violations. Some irregularities were observed during the polling process though they could not impact the election results.

Most violations observed by the observers was caused by incompetence of the commission members and lack of knowledge of election procedures rather than their attempt to fraud the elections and partiality towards any election subject. Voters were not delivered to the polling stations in an organized manner by mini-buses; coordinators of the political parties did not control voters. It was symptomatic violation during 2012 Parliamentary Elections, which had passive character and in most cases hindered election process.

In previous years, so-called coordinators of the United National Movement were very active during elections that was evaluated as a form of oppression on the voters by the Human Rights Center. During October 27 Presidential Elections voters were no longer mobilized at the precincts and current ruling party did not send controllers to precincts.

**Number of special election precincts was significantly reduced** and MIA and Defense Ministry timely informed the society about it. Military servants and big part of MIA officers were allowed to vote according to their residential places. Declaring a high alert in military units was sort of tendency during previous elections for what officers of law enforcement agencies could not vote according to their registration places. In parallel to it, in the special election precincts, where they votes, the former ruling party United National Movement used to gain 100% of votes.

Human Rights Center observed polling process in the villages of ethnic minorities in Kakheti and Kvemo Kartli. Elections were held in peaceful and fair environment in the villages, where previously voters were deprived of right to free choice. At the same time, the law activity of voters is noticeable. Except some occasions, which were observed by our observers, voters were not brought to the precincts by mini-buses, particularly oppression in favor of any candidate.<sup>17</sup>

## **Violations and Irregularities from the Election Day**

During polling process on October 27 Presidential Elections some election violations were observed which could not impact on the election results and were mostly caused by irrelevant qualification of precinct election commission members.

**Lack of ballot papers** is still a problem of the election process; this violation was observed during last year parliamentary elections. Commission members state that meager insufficiency of ballot papers will not hinder the process because they do not expect 100% activity of voters in PSs.<sup>18</sup>

In several precincts election subjects had two representatives in one precinct.<sup>19</sup> Presence of two representatives of one election subject in election precincts is wrong interpretation of the

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<sup>17</sup> See: Human Rights Center's Conclusive Information about October 27 Presidential Elections on [www.humanrights.ge](http://www.humanrights.ge); <http://humanrights.ge/index.php?a=main&pid=17250&lang=eng>

<sup>18</sup> almost every observer of Human Rights Center detected misbalance between the number of registered voters, delivered ballot papers and envelopes in the precincts. For example: 1521 voters were registered in the PEC # 2 of Kareli DEC # 33; 9 voters were registered in the special list; 1450 ballot papers and 1500 envelopes were delivered to the precinct. In PEC # 29 of the same DEC fewer ballot papers were delivered than registered voters – 1500 ballot papers, 1576 envelopes were delivered; 1334 voters were registered in PEC # 48 in Sagarejo DEC # 11 while 1200 ballot papers were delivered there; 1282 voters were registered in PEC # 1 in Terjola DEC # 49 but 1150 ballot papers and 1282 envelopes were delivered; 1090 voters were registered in the PEC # 26 in Terjola DEC # 49 but 1050 ballot papers and 1100 envelopes were delivered there; the same situation was observed in the PECs # 1, 30 and 4 of the Signagi DEC # 13, in the PEC # 87 in Marneuli district, in PEC # 21 in Tamarisi village, Marneuli, in PECs # 1, #2, #3, #4, #5, #6, #19, #22, #26, #27 in Terjola district; PEC # 2 in Kaspi DEC # 30, in PEC # 3 in Dusheti DEC # 28, in PEC # 3 in Sachkhere DEC # 50, in PEC # 3 in Marneuli DEC #22, in 22 precincts of Batumi and Khelvachauri districts and in PEC # 1 in Kareli DEC # 33.

<sup>19</sup> Human Rights Center's observer reported that presidential candidate Giorgi Margvelashvili had two representatives in the PECs # 11 and # 94 in Khelvachauri district. See relevant information on the link: <http://www.humanrights.ge/index.php?a=main&pid=17262&lang=eng>. Georgian Dream had four observers in the PEC # 85 in Marnuli. Presidential candidate Nino Burjanadze had three representatives in the PEC # 5 in Mtskheta DEC # 27. Commission members called on two representatives of Burjanadze to leave the precinct. A political party had two representatives in PEC # 5 in Marneuli and Human Rights Center's observer reacted on this fact. One of the observers from the political party was compelled to leave the precinct.

Article 42 of the Election Code. It breaches the requirement of the Article 8 Part 15 of the same code, which states that each election subject can have one representative at the precinct. Wrong interpretation of the Article 42 of the Election Code by the CEC is caused by the fact that CEC refers to the presidential elections as parliamentary elections and does not consider that political party or election block is not election subject in the presidential elections but the presidential candidate of the political party or initiative group. Thus, it is violation to allow two representatives of political parties and election blocks to be in the election commission.<sup>20</sup>

In several occasions **two representatives of one nongovernmental organization observed polling process in the precincts.**<sup>21</sup> Local registered observation organization shall have no more than one observer in one precinct.

On the Election Day, **people present in the polling stations did not wear badges.**<sup>22</sup> In accordance to the Election Code of Georgia, every person in the polling station shall wear a badge containing information about his/her personality and status.

**Already inked voters entered polling stations to vote.**<sup>23</sup> In accordance to the Election Code, if the device determines that a voter has been inked, he/she shall be restricted from participating in polling and the person's name shall be recorded in the logbook. Observers of the Human Rights Center rapidly reacted on similar facts and suggested the PEC chairpersons to eradicate them.

We observed symptomatic violations during October 27 Presidential Elections, when **voters entered the polling booths without being inked due to inattention of the person responsible**

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<sup>20</sup> See: Human Rights Center's Conclusive Information about October 27 Presidential Elections on [www.humanrights.ge](http://www.humanrights.ge); <http://humanrights.ge/index.php?a=main&pid=17250&lang=eng>

<sup>21</sup> Two representatives of one organization observed polling process in PEC # 2 in Tsalenjikha DEC # 68. It contradicts the Election Code of Georgia which states that one organization can have only one observer in one precinct. Human Rights Center's observer informed the PEC chairperson about the violation and it was eradicated. Nongovernmental organization New Generation for Democratic Georgia had two representatives in PEC # 41 in Tserovani that was timely reacted by the HRC's observer <http://www.humanrights.ge/index.php?a=main&pid=17270&lang=eng>

<sup>22</sup> Observers of the Human Rights Center observed similar facts in PEC # in Kareli DEC # 33, in PEC # 2 in Marneuli, PEC # 1 in Kaspi DEC # 30, PEC # 5 in Marneuli district.

<sup>23</sup> Voter was already inked when arriving at the Precinct # 40 in Kutaisi; he is supporter of the United National Movement and employee of Kutaisi City Hall. Similar fact was observed in Precinct # 82 in Kutaisi. However, after observers reacted, the voter could not repeatedly participate in the polls and immediately left the precinct. Human Rights Center's observer observed that already inked voter had appeared at the Precinct # 48 in Marneuli DEC # 22, who wanted to repeatedly participate in the elections. After the Center's observer reacted on the fact, the voter was not allowed into the precinct. Similar violation was observed in PEC # 9 in Zugdidi district too.

**for regulation of the voters' flow.** <sup>24</sup> Another trend observed during Presidential Election was chaotic regulation of the voters' flow and inspection of inking of voters.

On the Election Day, in several precincts **voters were inked before their names were found in the voters' list.**<sup>25</sup> It is substantial violation of the Election Code. In accordance to the law, register shall ink the voter only after he/she is found on the voters' list. Observers of the Human Rights Center recorded those violations in the logbook and informed the PEC chairpersons about them.

According to the information provided by the Human Rights Center's observers, in several precincts **registrars signed and sealed ballot papers in advance** to gain time that is significant violation of the Election Code.<sup>26</sup> In accordance to the Election Code, registrar signs and seals ballot papers when giving it to the voter. The Center's observers timely informed the PEC Chairpersons about this violation and made notes in the logbooks.

**Problems about filling in the demonstration protocol** were also observed on the Election Day. Human Rights Center's observers observed that number of received ballot papers was not written in the demonstration protocol when precincts were opened. In addition to that, PEC secretaries had not recorded number of voters by 12:00 and 17:00 pm in the demonstration protocols; in one case the demonstration protocol was put up on the wall only upon the request of Center's observer. In some occasions, demonstration protocols were filled in by pencil; in a precinct, data from 12:00 pm was introduced in the protocol before 12:00 pm. In some precincts, PEC and DEC numbers were not recorded in the demonstration protocols.<sup>27</sup>

On polling day, violations were observed related to **filling and keeping of control sheet.** There were instances when the head of the commission and the secretary had not had filled in the control sheet on time. At one polling station, one voter was waiting for 15 minutes with the ballot and envelope in his hand for the members of the commission to fill in the control sheet. Besides, the third copy of the control sheet which is kept by the head of the Precinct Election Commission (PEC) to compare it to the control sheets in ballot boxes (main and mobile ballot

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<sup>24</sup> Observers of Human Rights Center observed similar facts in the PEC # 5 in Marneuli district, in PEC # 2, # 28, # 29 and # 34 in Kareli DEC # 33, in PEC # 2 in Kaspi DEC # 30. Lawyers of the Human Rights Center timely and adequately responded to the violations filed complaints and recorded them in the logbook.

<sup>25</sup> Human Rights Center's observers observed this symptomatic violation in the PEC # 9 of Zugdidi district, in the PECs # 2, # 28, # 29 and # 34 in Kareli DEC # 33.

<sup>26</sup> Human Rights Center's observers observed these violations in PEC # 21 in Tamarisi village, Marneuli district and in PEC # 1 in Kaspi DEC # 30.

<sup>27</sup> Human Rights Center's observers observed these violations in the PEC # 5 and # 2 in Marneuli DEC # 22, in PECs # 91, # 92, # 93, # 94, # 87, # 86, # 48, # 73, # 39, # 60, # 21, # 20, # 37, # 7, # 55, # 28, # 46, # 63, # 35 in Batumi, in PECs # 31, # 1 and # 3 in Khelvachauri district.

boxes), did not have stamp. At another instance, the control sheet was put in the envelope along with the voter's ballot.

Observers of Human Rights Center submitted complaints regarding these violations that got registered by secretary of PEC after big effort. Other violations regarding control sheet were related to not putting the data about first voter in the control sheet which were noted by the observers of Human Rights Center in the record book.<sup>28</sup>

According to Election Code, before the start of voting process, the head of the commission and the secretary fill in the control sheets (except for the information regarding the first voter). All the attendees at PEC sign the control sheet. When the first voter goes through registration, he/she takes the ballot. After this procedure, secretary puts the information regarding the first voter in the control sheet and the voters sign it. The exact time when the control sheets were put in the ballot boxes is also indicated on the control sheet. The head of the commission puts one copy in the main ballot box, another one in the mobile ballot box (in case it exists) and keeps the third copy in order to compare it with other control sheets. Violating this strict procedure might endanger the transparency of voting process.

On polling day, Human Rights Center observed that **several members of the PEC were not included in the special list**. The head of the commission stated that he would add the names in the list by handwriting. Despite the protest of observers, the head of the commission added the names by hand. Observers of Human Rights Center submitted complaint regarding the violation and passed the information to CEC which promised that they would fix the problem and that the representatives of CEC would come to the polling station, will write the protocol and will cross out the added names from the list.<sup>29</sup>

At a polling station there was one instance when 11 voters voted **even though the stamp did not have special mark made yet**. Three out of five registrars forgot to make marks. According to electoral legislation, the stamp must have the mark made before the polling station is opened, after the casting lots are made. Making mark is one more additional regulation to avoid falsification of votes.<sup>30</sup>

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<sup>28</sup> Human Rights Center observed these violations in #11 polling station of Sagarejo district and #5 polling station of Marneuli #22 district.

<sup>29</sup> The violation was observed at #83 polling station of Zugdidi election district. See the detailed info: <http://www.humanrights.ge/index.php?a=main&pid=17261&lang=geo>

<sup>30</sup> Human Rights Center observed violations at #22 and #48 polling stations of Marneuli. Lawyer of Human Rights Center made a note regarding this violation in the record book. The head of PEC fixed the violation after the observer of Human Rights Center made note. Similar violation took place in #7 polling station of Lanchkhuti #61 district at 17:45. 230 votes had already voted by this time.

Human Rights Center observed one instance when **one voter had two ballots in his hands and was going to put them into the envelopes**. After immediate reaction of Human Rights Center's observer, the violation was fixed.<sup>31</sup>

At one instance, **the voters threw the ballots in the ballot box without putting them into the envelopes**.<sup>32</sup> According to procedures of Election Code, the voter goes to the separate table and according to the instruction of the supervisor, takes the special envelope and puts his ballot in the envelope. After making sure that the voter has only one envelope in his hand, the supervisor opens the outlet of the ballot box and directs the voter to put the envelope in the ballot box.

Human Rights Center observed the instances when by the decision of the **head of the PEC, the voters were given right to vote after presenting drivers license and expired ID cards**.<sup>33</sup> The head of PEC violated the requirements of the Election Code according to which the voter must present the ID card of citizen of Georgia or the passport of citizen of Georgia (the IDP from the occupied territories of Georgia presents the IDP ID along with the citizen ID). The citizen of EU member country registered in the unified voters' list must present the passport of citizenship of EU member country.

On polling day, Human Rights Center observed several facts of **electoral agitation** from the side of the member of PEC, electoral contestant and the voter. Particularly: the voter who came to Tkviavi #64 polling station asked the registrar (member of commission from Georgian Dream) who to vote for. The registrar suggested to circle #41. The observer notified the head of PEC regarding this fact. The head of the commission gave a warning to the registrar.<sup>34</sup>

Human Rights Center observed the instance when the representatives of electoral contestant were giving instructions to the voters to vote for certain candidate.<sup>35</sup> According to the information of observer of Human Rights Center, electoral agitation took place at #2 polling station of Tsalenjikha district. The observer notified regarding this fact to the head of the commission who gave warning to the voters. The electoral agitation from the side of the voter occurred in #1 polling station in Tsalenjikha #68 district. The voter circled #41 and #5 on the public display voters' list. Observers of Human Rights Center notified the head of PEC regarding

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<sup>31</sup> The violation took place in #21 polling station in the village Tamarisi of Marneuli.

<sup>32</sup> The violation was observed at #85 polling station in Marneuli. Human Rights Center's observer made the note in the record book.

<sup>33</sup> Human Rights Center observed these violations in #85 and #48 polling stations of Marneuli.

<sup>34</sup> See the information at [www.humanrights.ge](http://www.humanrights.ge)

<sup>35</sup> Human Rights Center observed this fact at #3 polling station in #50 district of Sachkhere region

this fact. The head of the Commission, by instruction of observer, made a note in the record book and tried to fix the violation. According to Election Code, the observer, electoral contestant and the representatives of the mass media do not have right to conduct agitation for the support or against the electoral contestants.

Human Rights Center observed the fact when the **member of the PEC wore the symbols and number of electoral contestant**, which strictly violates the requirements of the Election Code according to which the member of the PEC does not have right to do so in the building of polling station.<sup>36</sup>

Like previous elections, **presence of NGOs unknown for public was observed in polling stations**. Their representatives could not name the year when their organization was founded and the name of their director<sup>37</sup>. These kinds of “observers,” most likely, acted as satellite organizations of electoral contestants that violated the principle of fair electoral process.<sup>38</sup>

## **Facts of Hindrance to Professional Activities of Journalists**

Though compared to the past elections, Presidential elections of October 27<sup>th</sup> were conducted in rather calm environment, the facts of hindrance to the professional activities of journalists, pressure and insult were observed. In Kvareli, at #14 polling station of Chikaani, the head of PEC Ivane Sepiashvili and other members of the commission physically and verbally assaulted journalist officially accredited by the CEC, **editor of Kakheti Information Center, Gela Mtvlishvili**.

Gela Mtvlishvili noted to the observers of Human Rights Center that the head of the PEC demanded him to say what he was going to film at the polling station and then demanded to leave the polling station and drove him out by force. The CEC did not react adequately to the fact of hindrance to the professional activity of journalist and provided incorrect information to the public that Gela Mtvlishvili was filming electoral documentation and therefore was asked to leave the polling station.

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<sup>36</sup> The member of the PEC who was a supervisor of the special envelopes had a notebook with the symbols of UNM on the front put out in the demonstrative fashion. Observer of Human Rights Center made a note regarding this fact in the record book.

<sup>37</sup> According to observers of Human Rights Center, representatives of obscure organizations were present at #2, #3 and #52 polling stations of Dusheti #28 district, including the observers of organization Green Earth who did not know who their director or what their address was. When asked by the observer, they answered that they represented Georgian Dream and they did not know why they had badges of Green Earth either. Representatives of Green Earth were neutral and were not active. At #2 polling station in Kareli #22 district, observer of NGO Free Choice was aggressive towards other observers. Later, she stated to observers of Human Rights Center that she was an activist of Georgian Dream. Polling stations #1, #2, #3, #4, #5, #6, #19, #22, #26, #27 of Terjola election district were characterized with large amount of observers who were mainly representing political parties and presidential candidates and were registered under names of various NGOs.

<sup>38</sup> See the link: <http://www.humanrights.ge/index.php?a=main&pid=17250&lang=geo>

Observer of Human Rights Center studied video material filmed by Gela Mtivlishvili which makes it obvious that the journalist did not even try to film electoral documentation. The head of PEC met him aggressively and prohibited him to film (the journalist has right to do so by law), then drove him out by physical and verbal assault.<sup>39</sup>

“Commission does not have right to physically assault or drive the person out of the polling station by force. If the commission prohibits the journalist to take video and he does not obey, the commission must make relevant order and if the journalist continues to disobey, it must call the police. The head and the members of commission have no right to drive person out by force not to talk about physical assault. In case this fact is confirmed, the people who committed this violence must be sanctioned.”<sup>40</sup>

Human Rights Center disseminated statement regarding the fact of hindrance to professional activity of journalist Gela Mtivlishvili and called on the CEC to objectively study the incident occurred at #14 Chikaani polling station and take adequate reaction towards the illegal conduct of head and members of PEC. Besides, Human Rights Center addressed the Chief Office of Prosecutor to start investigation regarding the fact of illegal hindrance to professional activity of journalist, offence envisaged by article 154 of Criminal Code of Georgia.<sup>41</sup>

Gela Mtivlishvili addressed Gurjaani Regional Office of Prosecutor to start investigation regarding the fact of hindrance to his professional activity on October 28<sup>th</sup> of 2013.<sup>42</sup>

At #29 polling station of Kareli #33 district, the deputy head of PEC tried hinder the **journalist of Human Rights Center Lado Bichashvili to film the polling station**. He obstructed the camera to film and verbally assaulted the journalist to leave the polling station. Journalist managed to film this fact by camera. The observer of Human Rights Center and journalist Lado Bichashvili showed the video material to the head of commission who requested the deputy to write explanation regarding this fact. Observer of Human Rights Center submitted complaint regarding this fact.

Rude treatment of journalists and hindrance to their professional activity violates the freedom of speech and expression as well as principle of free, fair and democratic elections.

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<sup>39</sup> See the link: <http://www.humanrights.ge/index.php?a=main&pid=17245&lang=geo>

<sup>40</sup> See the comment by expert of electoral issues Nina Khatiskatsi: <http://www.humanrights.ge/index.php?a=main&pid=17245&lang=geo>

<sup>41</sup> See the link: <http://www.humanrights.ge/index.php?a=main&pid=17255&lang=geo>

<sup>42</sup> See the link: <http://www.humanrights.ge/index.php?a=main&pid=17290&lang=geo>

## **Facts of Hindrance to Activities of Observers**

At #1 polling station of Kareli #33 election precinct the head of PEC did not allow observer of Transparency International Georgia to write a complaint. He refused to allow registration of the complaint. The observer was going to appeal the fact that the number of ballots was fewer than number of voters at the polling station. According to information of Human Rights Center, “member of commission was yelling at the observer and was not allowing him to write complaint.” After observers made some effort, the complaint got registered.

Observer of Human Rights Center had problems to register complaint at #5 Marneuli polling station. The member of commission told him that it was not necessary to write a complaint and they could fix the problems without doing so. The secretary of PEC registered the complaint after Human Rights Center’s observer urged to do so. At the same polling station, representatives of CEC and political contestants verbally assaulted the observer when he was observing the violations.

One of the observers of Human Rights Center was forced to stand in the certain spot in the polling room by the members of PEC. This hindered him to observe the process of elections well. According to Election Code, observer has right to be inside the polling building at any time, to move in the territory of the polling station without hindrance and freely observe all stages of polling process from any spot.<sup>43</sup>

At #1 polling station of Kaspi #30 district, representative of political contestant verbally assaulted observer of Human Rights Center who requested him to wear badge.

At #2 polling station in Kareli #33 district, representative of the so-called NGO Free Choice aggressively came up to the observer of Human Rights Center and asked him to give his ID card. The observer of Human Rights Center notified head of PEC about this incident who stated that he is not obliged to defend rights of observers in the polling building. Though the representative of the so-called NGO aggressively requested ID card from the observer for several minutes and the situation was tense, the head of PEC was absolutely inactive. He was observing situation from afar. As it was found out later, the representative of the so-called NGO was activist of Georgian Dream. Observer of Human Rights Center made note regarding this fact in the record book.

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<sup>43</sup> This fact was observed at #52 polling station of Dusheti region.

## **Low Voter Turnout – Characteristic of October 27 Presidential Elections**

Almost all observers of Human Rights Center spoke about low voter turnout at polling stations.<sup>44</sup>

Low voter turnout at October 27 Presidential elections was determined by several factors. Unlike previous presidential elections, elections of October 27 had different meaning as people were voting for President whose constitutional-legal status and rights have been restricted compared to the previous President.

New Constitution is coming into force according to which the President has restricted rights. The President bears functions of arbiter, protector of Constitution, guarantor of unity and the commander-in-chief of Georgian armed forces. As for the economic and social politics of the country, it belongs to the competence of government. During pre-election campaign, some presidential candidates gave promises which were beyond the competences of new President, particularly regarding concrete social-economic problems. “With contradictory competences and pre-election promises, voters received vague picture. The danger of discrediting the institution of President as a constitutional body became imminent. The large number of candidates and some statements at the start of presidential marathon contributed to this process.”<sup>45</sup>

### **Process of Counting Votes**

The process of counting votes was transparent, objective and just. The positive characteristics of October 27 Presidential elections was that voters had full possibility to observe the voting process without any hindrance, unlike previous elections, when the observers were not given opportunity to fulfill their authority and the members of commission were verbally and physically assaulting them resulting in their expulsion from the polling station.

According to the information of observers of Human Rights Center, members of commission in most part complied with the requirements of the part I of article 67 of Election Code,

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<sup>44</sup> 467 people voted out of 1616 voters registered in Marneuli #2 polling station. For 17:30, out of 1500 registered voters at #46 polling station of #11 Sagarejo district, 185 voters had participated. Out of 1400 registered voters from #5 polling station of Marneuli, 80 voters had participated by 12:00. At #3 polling station of Dusheti #28 district, 578 voters had voted out of 1331 registered voters. At #83 polling station of Zugdidi #67 district, 325 voters had voted out of 1214 registered voters. At #48 polling station of Sagarejo region #11 district, 275 voters had voted out of 1334 registered voters by 17:00. There were 1335 voters registered at #1 polling station of Kaspı region, 515 voters had participated for 17:00. Out of 1418 registered voters at #9 polling station of Zugdidi #67 district, 486 voters participated in elections. 628 voters voted at #35 polling station of Batumi out of 1450 registered voters.

<sup>45</sup> See article: [http://primetimenews.ge/?page=3&news\\_id=20756](http://primetimenews.ge/?page=3&news_id=20756)

particularly, the head of the commission, in front of the people who had right to observe, chose no less than three counters by casting lots among the members of the commission. As for the observers, they chose no more than two observers by agreement. There were instances, when the observers could not agree and the head of the commission selected two observers by casting lots.

Minor violations during the vote count were not intentional and were caused by lack of qualification of the members of PEC. Mainly, the procedures before the opening of the ballot box, sealing spoiled and unused ballots, sealing voters' lists, opening ballot box, sorting and counting ballots, sealing ballot and drawing out the final protocol were conducted in compliance with the rules. If during the previous elections there were certain difficulties to obtain the copies of final protocols for the observers, according to the information of the observers of Human Rights Center, at 27 October elections, the Commission gave the copies of the stamped final protocol to all individuals who had right to be in the polling room.<sup>46</sup>

Human Rights Center considers that revoking ballots of those voters who crossed all presidential candidates and showed their protest against all in this way, was shortcoming of October 27 presidential elections. Such ballots, according to the existing legislation, are revoked during the vote count. This seriously damages the statistics of expressed will of voters. This is step backwards, considering that during the previous elections, the protest vote was counted and there was graph in the final protocol where the votes against all candidates were counted.<sup>47</sup>

## **Complaints on Polling Day and Remarks in Record Book**

During the Elections of October 27, fewer complaints were made than compared to previous years. Observer of Human Rights Center submitted complaints at #2 and #29 polling stations of Kareli #33 district. The complaints regarded facts of hindrance to the professional activity of

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<sup>46</sup> At #2 polling station of #30 district of Kaspi region, the observer of Human Rights Center was supervising. According to the observer, the head of the PEC revealed three counters by casting lots. The observer of Human Rights Center was granted right to supervise. The head of Commission revealed two representatives who helped the counters to count ballots. The commission secretary filled in the final protocol along with the head of the commission. The copy stamped by the head of the commission was given to the observer. The observer of Human Rights Center directly observed vote count at #83 polling station at Zugdidi #67 precinct. The vote count was conducted without difficulties in this polling station. According to the information of observer of Human Rights Center, the process of vote count was conducted without violations at #21 polling station. Each registrar counted the amount of issued and spoiled ballots and the signatures of the voters. Human Rights Center's monitor observed that vote count was conducted in transparent and fair manner at #3 polling station at #50 district. The observer was given the copy of the final protocol without hindrance. Despite minor violations, other observers also note about the fair conduct of the vote count process.

<sup>47</sup> See the link: <http://www.humanrights.ge/index.php?a=main&pid=17250&lang=geo>

observer and journalist. Human Rights Center's observer submitted complaint at #67 and #83 Zugdidi polling stations regarding adding two members to the special list of PEC by hand.

Observer of Human Rights Center observed submission of three complaints at #5 polling station of Marneuli. The complaint regarded fact of putting control sheet in the special envelope along with the ballot of the first voter as well as fact of entrance of representatives of political parties in the polling building and violation of procedures of voting.

Observer of Human Rights Center submitted complaint at Batumi #94 polling station. The complaint regarded fact of filling information in public display protocol by pencil. The complaint was made at Batumi #7 polling station. The complaint regarded presence of three representatives of one political party at the polling station. The observer of Human Rights Center submitted complaint at #5 polling station of Marneuli #22 Election District. This complaint also regarded presence of three representatives of one political party in the polling building. Observers of Human Rights Center noted about minor procedural violations in the record book of Election Day.

## **Recommendations**

In the system of democratic governance, it is utterly important to conduct elections in fair and transparent manner which is in most parts determined by the electoral system. It is essential to create electoral environment which will correspond principles of democracy and creates guarantees for political stability. To ensure that the elections are conducted in fair and transparent way, Human Rights Center considers that the government must take following measures:

- Refine electoral lists as they constantly change and need renovation and improvement.
- Continue reform of electoral system by ensuring inclusion of all interested parties including NGO sector.
- Examine legal acts regulating usage of administrative resources to ensure that they comply with the conclusions and recommendations of Venice Commission.
- Pay adequate attention to increase qualification of members of District and Precinct Election Commissions regarding electoral legislation and procedures of voting.
- Take relevant measures to ensure free and unhindered work of media outlets during pre-election period and polling day

- Clearly define the constitutional provision regarding regulating right of persons with double citizenship to participate in the elections to separate right of being a presidential candidate and right to hold high political post of President
- Take measures to ensure that the presidential candidates refrain from participating in the events financed by budgetary funds
- Take measures to ensure that Inter-Agency Commission for Free and Fair Elections does not become arena for political confrontation and it promotes free and fair electoral environment.
- Ensure prevention of political agitation from representatives of political parties by developing relevant mechanisms
- Make relevant amendment in the electoral legislation to revoke the rule of revocation of those ballots in which all candidates are crossed and the voter made protest in this way against all of them.