



ISFED

INTERNATIONAL SOCIETY FOR
FAIR ELECTIONS AND DEMOCRACY

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The standard of electoral complaints adjudication at DEC's has markedly declined

ISFED has filed **127** complaints with district electoral commissions concerning violations detected on the Election Day, during counting of votes and in the post-election period of the October 28 presidential election of Georgia. Out of these complaints, 15 were satisfied, 13 were partially satisfied, 40 were not satisfied and 18 were left without consideration. One complaint was withdrawn by the organization itself. Several complaints that sought imposition of administrative liability on commission members are still pending.

Majority of complaints sought imposition of liability on PEC members, including administrative liability for inadequate fulfillment of duties. In several cases, revision and invalidation of voting results was requested but none of these complaints were satisfied. These demands were mostly raised in cases where data had been rewritten in summary protocols or numbers did not reconcile – in particular, when the number of votes received by subjects together with the number of invalid ballots exceeded the number of voters that had cast a ballot.

36 complaints concerned inadequate handling of summary protocols due to errors or omissions in summary protocols concerning, for instance, date and time of when a protocol was prepared, commission seal number, etc. 9 complaints concerned precincts where the sum of the number of votes received by subjects and the number of invalidated ballots exceeded the number of voters that had cast a ballot, and 14 complaints were filed over rewritten/corrected data in summary protocols.

During the complaints process, representatives of the organization had an opportunity to attend adjudication of complaints and express their position about the complaints filed. The only exception was Poti DEC where parties had not been summoned to attend consideration of complaints. Khobi DEC also adjudicated a complaint in absence of ISFED representative. They announced that the organization did not appear. After this fact became known, they scheduled another meeting but they also stated that “nothing would change”. At Tkibuli DEC where ISFED had filed a single complaint, representative of the organization was told that they were not going to satisfy the complaint because as members of the DEC alleged the observer had filed the complaint for the sake of filing at least one complaint.

Problems identified are similar to the problems detected in the 2017 self-government elections:

- Complaints were not satisfied mostly on the basis of explanatory notes of PEC members, which DEC's viewed as credible evidence irrespective of seriousness of violation and despite the fact that most of these explanatory notes had been drawn up after the Election Day;
- Similar to the practice identified in previous elections, DEC's considered that explanatory notes and correction protocols served as the basis for releasing the implicated persons from liability and viewed existence of explanatory notes or correction protocols as elimination of violation in cases like issuing excessive number of ballots, placing a signature in someone else's box or omission of signature, mishandling of summary protocol, placing a ballot in the ballot box without an envelope, etc.

- DEC's avoided revision of tabulation results irrespective of seriousness of violation (e.g. rewritten data in protocols, numbers not reconciling, etc.). It should be noted that in such cases DEC's relied on explanatory notes of PEC members or correction protocols prepared after the voting day;
- For releasing PEC members from liability, DEC members uniformly used the standard arguments that: a violation did not amount to a gross violation of the law and it did not affect expression of voters' will or election results; no substantial violation had taken place, which would have affected the election process; a mechanical error had occurred, which did not amount to the basis for imposing a disciplinary liability. DEC's used these arguments to justify their decisions not to impose liability on PEC members when summary protocols had not been stamped with a commission stamp, an observer's right to video recording was restricted, inking was not checked, spoiled and unused ballots were sealed together, unauthorized individual was let inside the polling station, etc.;
- In some cases evidences were not examined (e.g. sealed documents were not opened) and instead, commissions based their decisions on explanatory notes of PEC members;
- Complaints were left without consideration for wrong reasons, a number of different basis were indicated to justify such decisions. These decisions mostly suggest that many DEC's wrongfully interpreted and applied provisions of the Election Code.

As a general trend, ISFED found that PEC members wrote explanatory notes about any and all types of violations irrespective of their seriousness, which is viewed as sufficient grounds not only for establishing factual circumstances but also for releasing respective PEC members from liability. Correction protocols are also used for the same reason.

DEC's are trying at all costs to avoid not only revision of counting results but also imposition of liability on PEC members and they use all sorts of arguments to this end.

This practice is a continuation of the trend detected during recent elections, which grew even further in scale and strength during the presidential election. Such approach leaves impression that the electoral administration is making deliberate attempts to justify violations by any and all means. Against this background, **it is clear that the standard of adjudication of electoral disputes has worsened. Moreover, rigorous attempts of the electoral administration to not satisfy complaints and impose liability on commission members that have violated the law makes filing of complaints and the post-election of complaint adjudication pointless.**

We urge the electoral administration for adjudication of the complaints during the second round of elections to consider the identified problems; to take effective actions in response to violations provided in the Election Code of Georgia; and to not encourage electoral violations by helping PEC members escape liability.