



## The GYLA responds to cases of alleged interference with election campaign (campaigning) and violence

The Georgian Young Lawyers' Association (GYLA) responds to the cases of alleged interference with election campaigning and violence that took place in Borjomi, Dedoplistskaro and Zugdidi on August 11 and 12.

We, once again, call upon the involved parties:

### **Political parties, their representatives, and supporters:**

- To respect and comply with the Georgian legislation;
- To refrain from hindering one another in the election campaign (campaigning) and from any type of violent acts;
- To undertake more responsibility for conducting the elections in a quiet environment, so that developments that take place will not cause damage to the

elections and to the election campaign;

#### **Law enforcement agencies:**

- To investigate the aforementioned incidents thoroughly and transparently within as short time as possible;
- To give an accurate legal qualification to the incidents that have taken place, to ensure that all the perpetrators are identified in a timely manner, and to take lawful measures against them;

#### **The Interagency Commission for Free and Fair Elections:**

- To study the alleged violations of law by civil servant during election campaigning and to provide an appropriate legal response within the limits of its powers.

#### **The State Security Service:**

**As there is a doubt that employees of the State Security Service are engaged in surveillance and eavesdropping on representatives of political parties:**

- The Head of the State Security Service should ensure that such incidents are prevented and that the State Security Service fully distances itself from political processes.

#### **Factual information about the incidents**

***(GYLA monitors have personally verified each of the incidents on the ground.)***

#### **Information about the incident in Dedoplistskaro:**

Late at night on August 11 this year, at about 2 A.M., the windows of the Dedoplistskaro Office of the political association United National Movement and the electoral banner of the UNM's majoritarian candidate, Levan Bezhashvili, were damaged [1]. The incident was also reported by the local media. [2]. In addition, the media reported that the Dedoplistskaro District Division of the Kakheti Police

Department had launched an investigation into the incident on the basis of Article 187 of the Criminal Code which imposes sanctions for damage or destruction of another person's property [3]. Representatives of the UNM also named supposed participants in the incident.

### **Information about the incident in Zugdidi:**

In the morning of August 12 this year, at about 10 o'clock, employees of the Zugdidi Organization of the United National Movement found a door on the third floor broken, while a door on the second floor bore footprints [4]. The investigation into this incident was also launched under Article 187 of the Criminal Code [5], which imposes sanctions for damage or destruction of another person's property.

In a conversation with a GYLA monitor, representatives of the party's local organization pointed out that the intrusion into the office may have aimed at taking certain information.

### **Information about the incident in Borjomi:**

According to news reports, on August 11 this year, Giorgi Giuashvili, a member of the Labor Party of Georgia, stated that a member of the Borjomi Town Council, Besik Popkhadze, together with other persons who accompanied him, had hindered him from conducting election campaigning and abused him verbally and physically [6].

In a conversation with a GYLA monitor, Mr. Giuashvili said that he was moving around in Borjomi together with his driver, carrying campaign materials (flags) and appealing voters to support the Labor Party of Georgia. He was also urging the public not to support the candidate of the political association Georgian Dream - Democratic Georgia. At that time, he noticed three vehicles start following his car. The vehicles blocked their way, making his driver stop the car. Persons who got off the vehicles came up to Giorgi Giuashvili and abused him and his driver verbally and physically. Besik Popkhadze confirms that he verbally abused them.

In a conversation with the GYLA monitor, Giorgi Giuashvili also named the other persons, in addition to Besik Popkhadze, who took part in the confrontation, noting that the said persons were employees of the Borjomi Town Council and of non-entrepreneurial (non-commercial) legal entities of the Municipality of Borjomi. He also emphasized that employees of the State Security Service were systematically keeping

him under surveillance and eavesdropping on him.

According to Mr. Giuashvili, he applied to the police, was interrogated, and given a medical examination which established that he had sustained a less grave bodily injury.

**The Georgian legislation regulates the aforementioned cases of interference with election campaigning and violence in the following way:**

In accordance with Part 2, Article 45 of the Election Code of Georgia, during the election campaign (campaigning) period, a political party, a candidate for electoral subject, or an electoral subject may produce pre-election slogans, statements, inscriptions, papers, photo materials, etc. **It is prohibited to prevent their dissemination and seizure, as well as to seize vehicles and other means equipped with special devices used for campaigning purposes, or to prevent their application for election campaigning purposes.**

Paragraph Z<sup>8</sup>, Article 2 of the same Code defines campaigning as appeal to voters in favor of or against an electoral subject/candidate for an electoral subject, as well as any public action facilitating or impeding its election and/or containing signs of election campaign, including participation in organization/conduct of pre-election events, storage or dissemination of election materials, work on the list of supporters, and presence in the representations of political parties.

According to Part 7<sup>1</sup>, Article 46 of the same Code, **removal, tearing off, covering, or damaging campaign materials, unless they are located in a forbidden place, shall be prohibited and punishable by this law.**

According to Paragraph Z<sup>14</sup>, Article 2 of the Election Code of Georgia defines campaign material as a poster, flag, and any other material on which an electoral subject/candidate for electoral subject and/or its sequence number is depicted.

In accordance with Article 80 of the Election Code of Georgia:

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1. Under this Code, hindering dissemination of, or seizure of, election appeals, statements, signboards, papers, photos, and other materials, as well as seizure of or hindering the use of motor vehicles or other means of transportation equipped with special devices designated for election campaigning shall be subject to a penalty in the amount of GEL 1,000.

2. The same action conducted by officials shall be subject to a penalty in the amount of GEL 2,000.

In accordance with Part 4, Article 93 of the Election Code of Georgia, a relevant municipal body or a person authorized by it shall draw up protocols of administrative offences concerning illegal removal, tearing off, covering, or damaging of election posters, in terms of the administrative offences referred to in Article 80 of this Code.

On the basis of the aforementioned norms, the Georgian Young Lawyers' Association has applied to the Municipal Administrations of Dedoplistskaro and Borjomi requesting that they study the factual circumstances and provide an appropriate legal response.

In addition, regarding the aforementioned incidents, the GYLA calls upon the Interagency Commission for Free and Fair Elections to respond to the alleged violations of law by civil servants.

It is noteworthy that on June 24 this year, Article 162<sup>1</sup> with the following content was added to the Criminal Code of Georgia with the aim of preventing such incidents and providing an appropriate legal response:

1. During the period from the day of calling elections to the day of summing up the final election results, **battery or other violence** – at a polling station, at a place where an election commission is located or in its adjacent territory, or **at the time of election campaigning or a pre-election event** – which has not been followed by consequences stipulated by Article 120 of this Code shall be punishable by a fine and/or imprisonment for up to two years.

2. During the period from the day of calling elections to the day of summing up the final election results, **battery or other violence** – at a polling station, at a place where an election commission is located or in its adjacent territory, or **at the time of election campaigning or a pre-election event** – which has caused intentional less grave bodily injury shall be punishable by a fine and/or imprisonment for up to three

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years.

3. The acts stipulated by Part 2 of this article, committed by a group, shall be punishable by imprisonment from two to five years.

**The Georgian Young Lawyers' Association continues to observe the campaign for the elections of October 8, 2016, and will inform the public about the results of the monitoring on a permanent basis.**