



GEORGIAN
YOUNG
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ASSOCIATION



**GYLA LONG-TERM
OBSERVATION MISSION
2020 PARLIAMENTARY ELECTIONS
IN GEORGIA
INTERIM REPORT**

June-August

Georgian Young Lawyers' Association

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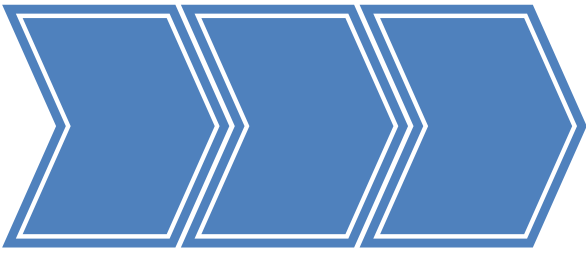
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Introduction

In March 2020, the Georgian Young Lawyers' Association (GYLA) launched the project - "Long-Term Observation Mission to the 2020 Parliamentary Elections in Georgia". The project aims to promote a fair, equal, and competitive pre-election environment through monitoring. Within the framework of the long-term observation mission, the organization monitors the pre-election environment with the assistance of its nine regional monitors in Tbilisi, Adjara, Guria, Samegrelo-Zemo Svaneti, Imereti, Shida and Kvemo Kartli, Mtskheta-Mtianeti, and Kakheti regions. In this capacity, GYLA will provide public with reliable and evidence-based information.

The present report covers violations identified from June to August 2020, as well as cases, that do not themselves constitute an offense, but are negative practices and damage the pre-election environment.

The COVID-19 pandemic has had a significant impact on the behavior of political entities, as they do not have significant prior experience in fighting for the support of voters under the restricted circumstances. That is why the state, political parties, media, observation missions, and citizens have to adapt to the new reality and overcome new challenges.

The steps taken by the state to mitigate the effects of the crisis have proved to be particularly problematic. Every government must undertake an obligation to draw a sharp line between the state and political parties at such times. Unfortunately, this was not the case in Georgia. The Government personalized the anti-crisis activities, thus promoting the perception of its affiliation with them. Consequently, the actions conducted by the Government have been, on certain occasions, observed as a part of a pre-election campaign or even manipulation of voters.

According to the law, only those political activities that take place sixty days prior to the polling day shall be considered as an election campaign. In certain cases, the ruling party exploited this provision and used public resources in their activities shortly before the restrictions came into force. The aforementioned practice undermines confidence in the electoral process.

During the reporting period, multiple cases of vote buying were recorded carried out by both government officials and opposition parties. The most large-scale vote buying is the humanitarian aid provided by the political party "Lelo" through the "Movement for the Future – Momo" across the country. Other cases are related to the parties "Georgian Dream", "Progress and Freedom" and "Alliance of Patriots of Georgia".

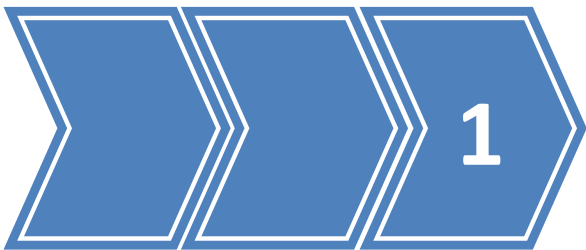
As in the previous elections, the GYLA observation mission noted several incidents of violence in the pre-election environment. The organization believes that state authorities must investigate these cases effectively and in a timely manner. This will substantially improve the pre-election situation and have a further preventive effect in conducting the campaign peacefully in the coming months.

With the election approaching, there have been single cases of interference with pre-election activities when representatives of opposition parties, including “Lelo” and the “Movement for the People,” were not allowed to conduct planned activities. These cases create additional tension in the election environment and contradict the principle of fair political competition. In this respect, an unjustified termination of the authority of an opposition member of Khelvachauri Municipality City Hall is worth noting.

Overall, GYLA’s observers have identified violations perpetrated by both the ruling party and the opposition, which are as follows:

- Five cases of ignoring the requirement to separate the state and political party (including the anti-crisis plan developed for the elimination of the consequences of COVID-19);
- Five cases of vote buying and alleged vote buying;
- Six cases of Violent Actions, Making Tense Pre-election Environment and Hampering Pre-election Agitation.

Other cases concern possibly illegal donations, registration of a political party, electoral manipulation, and freedom of political expression of the political parties. More detailed information is available below.



Ignoring the requirement to separate the state and political party

The Government's Anti-Crisis Plan and Communication with the Public

On August 6, 2020, the Government of Georgia introduced to the public the third phase of the anti-crisis plan to eliminate the consequences of COVID-19.¹ The Government plan covers several major areas of social support.² GYLA believes that the Government is obliged to develop social protection mechanisms for society order to mitigate the damage caused by the crisis. However, under the given circumstances, there is always a risk that the ruling party might use anti-crisis programs for the manipulation of voters in the run-up to the elections. To prevent this, the government shall undertake the following steps:

(1) Draw a clear line between the state's support and party initiatives when communicating with the public. It must be clear that the development of social programs is the responsibility of the state and not the goodwill of the ruling party;

(2) The state must assure the public that the steps taken by the government during the pre-election period are a part of a long-term anti-crisis plan rather than manipulation aimed at winning the hearts of the electorate.

Unfortunately, in the given case, the government failed this test, largely due to the constant emphasis on the role of the chairperson of the ruling party. An example of this is the information published on the official Facebook page of the Prime Minister, according to which the large-scale social assistance was made possible through the StopCov Fund, including the generous support of Bidzina Ivanishvili.³ In advance, the Prime Minister was explicitly making similar statements.⁴ The Minister of Finance maintained the same position when noting that the large-scale campaign was financially backed by the main donor of the fund (meaning the former Prime Minister).⁵

GYLA believes that by sending the above messages, the government personalizes the anti-crisis steps, thus facilitating the association of social support with the goodwill of the particular political party, whereas this is a minimum obligation of the state. We would like to emphasize that the problem is not the development and implementation of the anti-crisis plan, but rather the strategy

¹ "Meeting of the Government of Georgia of August 6, 2020", the official website of the Government of Georgia, 07.08.2020, available at: <https://bit.ly/2FIWVIQ>, updated: 07.08.2020.

² "The Government of Georgia has developed a post-crisis plan - Phase III", 06.08.2020, the official website of the Government of Georgia, available at: <https://bit.ly/3hbUPZy>, Updated: 07.08.2020.

³ "Another social package", the official Facebook page of the Prime Minister, 06.08.2020, available at: <https://bit.ly/2RbBj4B>, updated: 07.08.2020.

⁴ "Giorgi Gakharia - together with Bidzina Ivanishvili we were able to mobilize finances for the STOPVOC fund; this gave us the opportunity to provide social assistance to citizens until the end of the year." 06.08.2020, the website of the First Channel of the Public Broadcaster, <https://bit.ly/2DoejMK>, Updated: 07.08.2020.

⁵ "Ivane Machavariani - Do you know how the COVID fund was formed and who the main donor was?" 06.08.2020, the website of the First Channel of the Public Broadcaster, available at: <https://bit.ly/3gEW43P>, updated: 07.08.2020.

by which the public is informed thereupon. Taking everything into consideration, the Government's actions are considered as a part of the election campaign and manipulation of voters.

Increased funding for cancer treatment

Pursuant to the decision of the government of Georgia of August 20, 2020, the list of anti-cancer treatment medications within the framework of the universal healthcare program was expanded from September 01, 2020, and the annual funding limit allocated for cancer patients was increased by 8,000 GEL.⁶ This program will concern approximately 40,000 people.⁷ According to the Deputy Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs, the beneficiaries are socially vulnerable families, teachers, honored artists, IDPs, orphans, asylum beneficiaries, war veterans, patients under the age of five, retirees, children with disabilities, persons with severe disabilities and students.⁸

Taking care of a human's health is a positive obligation of the state defined by the Constitution.⁹ The state has to make the above decisions at the beginning of the year when planning the budget and social programs. **The initiative, along with the ruling party's campaign goals, few months prior to the election serves the purpose of manipulating voters and affecting the election results.**

The Ministry of Defense writes-off medical debts of citizens

According to the statement of the Ministry of Defense of Georgia made on August 31, 2020, the debts of citizens accrued for various services provided by the LEPL "Giorgi Abramishvili Military Hospital of the Ministry of Defense of Georgia" since 2009 will be written off.¹⁰ Approximately a thousand citizens will benefit from this.¹¹

The initiative of the government to alleviate the financial pressure on the citizens is a welcoming fact, yet taking the step prior to the elections is considered as a manipulation aimed at winning the hearts of the voters. The Minister could have done so after the polling day. It should be noted, that the initiative was announced the day before the official launch of the election campaign.¹² This is yet another example of manipulation. The government thus neglected the regulation that prohibits using administrative resources during the election campaign.¹³ **GYLA believes that manipulating the hard social conditions of citizens for electoral purposes is unacceptable.**

⁶ "Access to cancer treatment is increasing", 20.08.2020, the official website of the Government of Georgia, available at: <https://bit.ly/2QPJHGT>, updated: 03.09.2020.

⁷ Ibid.

⁸ "Funding for cancer treatment to increase from today", 01.09.2020, the news portal "Interpressnews", available at: <https://bit.ly/3IMW3hm>, updated: 03.09.2020

⁹ Article 5, Paragraph 4 of the Constitution of Georgia.

¹⁰ "Under the decision of the Defense Minister, those citizens who owe money to the Gori Military Hospital due to various services since 2009 will be written off," the official website of the Ministry of Defense, 31.08.2020, available at: <https://bit.ly/32N6A3p>, updated: 01.09.2020.

¹¹ Ibid.

¹² According to Article 45, paragraph 1 of the Election Code of Georgia, the pre-election campaign (agitation) shall start 60 days before the polling day. Elections shall be held on October 31.

¹³ Article 48, paragraph 1 of the Election Code of Georgia.

The Absence of Khelvachauri Sakrebulo Officials during the Ruling Party's Pre-Election Meeting

On August 31, 2020, Misha Bolkvadze, a member of the Khelvachauri Sakrebulo and a majoritarian candidate of the "United National Movement" from the Adjara Highlands, through a Facebook live streaming showed to the public the empty building and locked offices of public officials¹⁴ of the Khelvachauri Municipality City Hall.¹⁵ The Facebook live video shows, that in a meantime, "Georgian Dream" holds a meeting in which the leaders of the ruling political party are nominating a majoritarian candidate for the highlands of Adjara.¹⁶

The Facebook live video was recorded at 11:14 am-11:27 am,¹⁷ i.e. during the working hours according to the internal regulations of the Khelvachauri Sakrebulo. As per the information presented to GYLA, only Merab Gvianidze was on sick leave¹⁸ on 31 August (GYLA is unaware of business trips and other information that may justify the absence of employees from the office).

The author of the video declares that the named individuals and other public officials were participating in the above meeting, yet the footage does not allow for the identification of specific persons.

GYLA calls on the Khelvachauri Sakrebulo to investigate the reasons for the absence of the public officials, particularly the issue of them attending the nomination of the majoritarian candidate by the ruling party, and take appropriate disciplinary measures if the breach is confirmed.

The above noted fact highlighted an important problem. Regardless of the fact, that public officials and employees of budget organizations are prohibited from participating in "pre-election campaigning" and "canvassing" during the working hours,¹⁹ according to the law, "campaigning" shall mean only those political activities that take place 60 days prior to the polling day.²⁰ This provision leaves room for manipulation - parties have the possibility to involve public officials in their activities shortly before the restrictions enter into force. The practice blurs the line between the state and political parties thus threatening the fair conduct of elections. **GYLA, therefore, believes that the law should not be limited to a specific period and consequently, the public officials and persons employed in budget organizations shall be prohibited from participating in political party activities anytime.**

¹⁴ The footage shows the locked offices of Teimuraz Gatsrelia (Head of Legal Service), Taniel Nakashidze (Head of Finance and Budget Service), Merab Gvianidze (Head of Budget Department), Zeinab Kakabadze (Head of Architecture and Spatial Planning Service), Vakhtang Diasamidze (Head of Infrastructure and Recreation Service), Merab Mikeladze (Deputy Head of Administrative Service), and Liana Lortkipanidze (Senior Legal Support Specialist).

¹⁵ Misha Bolkvadze's official Facebook page, a video appeal, available at: <https://bit.ly/3IFueYe>, updated: 02.09.2020.

¹⁶ Ibid.

¹⁷ According to the internal regulations of Khelvachauri Municipality Sakrebulo, the working hours last from 09:00am to 18:00pm, and during a day, employees are entitled to a break from 13:00pm to 14:00 pm. The above times cannot be shifted unless an employee is a nursing woman and feeds a child less than one year of age.

¹⁸ Letter № 05/4895 of Khelvachauri Municipality Sakrebulo dated September 04, 2020.

¹⁹ Article 45, paragraph 4 ("h") and ("j") of the Election Code of Georgia; Article 15 of the Law on Public Service;

²⁰ Article 45, paragraph 1 of the Election Code of Georgia.



2

Vote buying

Humanitarian aid (“Lelo”)

The “Movement for the Future – Momo” is a non-governmental organization founded on February 05, 2020, mainly engaged in charity activities.²¹ In March 2020, the organization launched a charity campaign “Help Each Other” for the people affected by the pandemic.²² The target groups of the organization were the highland regions, villages in the occupied territories and socially vulnerable families living in the city, large families and lonely elderly people. Since this document covers the period of June-August, GYLA's long-term observation mission can extensively review only one case. Nevertheless, other facts²³ are also the examples of vote buying.

On June 1, 2020, in Makhinjauri, the organization donated a washing machine, books, and toys to the residents of the “Tana” Medical Home for Homeless Mothers and Children;²⁴

The organization “Momo” is publicly affiliated with the party “Lelo for Georgia” and its leader, Mamuka Khazaradze. Teona Dolenjashvili, the chairwoman of the organization, and Zaza Piralishvili and Nikoloz Cherkezishvili,²⁵ members of the board of directors are members of the political party “Lelo for Georgia.” The organization uses the relevant yellow attributes²⁶ of the party in meetings

²¹ An extract from the Registry of Entrepreneurial and Non-Entrepreneurial (Non-Commercial) Legal Entities, the “Movement for the Future,” Available at: <https://bit.ly/2CiQiFW>, updated: 09.08.2020.

²² The “Movement for the Future” launches a charity campaign: “Let's help each other!” The “Movement for the Future (Momo),” Facebook page, 22.03.2020, available at: <https://bit.ly/2BR2ldu>, updated: 09.07.2020.

²³ (1) “Handing over the humanitarian aid to the Gori Red Cross Office, distributed to the population living along the occupation line, “Assistance to the population living along the occupation line”, the “Movement for the Future” (MOMO), the Facebook page, 07.04.2020, available at: <https://bit.ly/3efHTQN>, updated: 09.08.2020; (2) Assistance to families in the Upper Svaneti region whose spring plowing process was suspended due to the epidemic: handing over the assistance, “The “Movement for the Future” Continues to Assist the Families in Svaneti whose spring plowing process was suspended due to the epidemic”, The “Movement for the Future(Momo),” the Facebook page, 19.05.2020, Available at: <https://bit.ly/2ZcjuHt>, updated: 09.08.2020; (3) “Handing over Quality and High traction tractors to the rural population in Upper Adjara,” the “Movement for the Future Continues the provision of Humanitarian Activities in Upper Adjara”, the “Movement for the Future (Momo),” the Facebook Page, 15.05.2020, Available at: <https://bit.ly/2ObheKu>, updated: 09.08.2020; (4) “Provision of food aid to the residents of the village of Ergneti,” “The humanitarian aid organized by the NGO “Movement for the Future” and with the financial support of Mamuka Khazaradze was handed over to the residents of the village of Ergneti near the occupation line”, the “Movement For the Future (Momo),” the Facebook page, 15.05.2020, available at: <https://bit.ly/2VXAZcA>, updated: 09.08.2020; (5) “Handing over food products, sweets and basic necessities to 150 families of IDPs living in settlement of Temka and Ortachala;” “Representatives of the “Movement for the Future” today helped 150 families of IDPs living in Temka and Ortachala”, “Movement for the Future (Momo),” the Facebook page, 23.05.2020, available at: <https://bit.ly/321LfEy>, updated: 09.08.2020.

²⁴ “We gifted a washing machine to the residents of Medical Association Tana” for homeless mothers and children in Makhinjauri,” the “Movement for the Future (Momo),” the Facebook page, 01.06.2020, available at: <https://bit.ly/2ZckAD5>, updated: 09.08.2020.

²⁵ An extract from the Registry of Entrepreneurial and Non-Entrepreneurial (Non-Commercial) Legal Entities, the “Movement for the Future,” Available at: <https://bit.ly/2CiQiFW>, updated: 09.08.2020.

²⁶ “We will win together”, the “Movement for the Future (Momo),” the Facebook page, 22.05.2020, available at: <https://bit.ly/3e8PsbP>, updated: 09.08.2020.

with the population and publicly thanks Mamuka Khazaradze and his family for the material assistance provided.²⁷

According to the law, a political party shall be prohibited to transfer gifts and other tangible or intangible values directly or indirectly to citizens of Georgia through any other person.²⁸ The party "Lelo for Georgia", through another person, indirectly handed over material values to citizens of Georgia.

Assistance to IDPs ("Lelo")²⁹

On July 03, 2020, the organization "Movement for the Future" awarded the scholarships to twelve students from Gali, who study at accredited universities in Georgia.³⁰ The leaders of the organization named the poverty caused by the pandemic as the reason for the initiative.³¹ The law prohibits a political party from transferring funds to a citizen of Georgia, directly or indirectly, through any other person.³²

Until the full restoration of Georgia's territorial integrity, a special regime operates in the occupied territories of the country. The diminished jurisdiction of Georgia makes it impossible to administer the electoral processes in these territories. However, there are frequent cases when Georgian citizens living in de facto occupied territories, including Gali, are registered in Georgian-controlled territories and cross the administrative border to participate in elections. From a procedural point of view, holders of a Georgian citizen's ID card or Georgian citizen's passport shall apply within the timeframes established by law to the State Services Development Agency according to their actual (temporary) residence in order to be included in the unified voter list.³³ Accordingly, all Georgian citizens residing/registered in Gali are potential voters. This has been confirmed by information about similar facts taking place in the past. For example, during the 2014 self-government elections, hundreds of Gali residents were prevented from voting in the elections.³⁴ According to the then Minister of Reconciliation and Civic Equality, Paata Zakareishvili, such development of events was not unusual and the population of both Gali and Akhagori encountered various hurdles.³⁵ Despite the obstacles created by the occupation forces, residents of Gali still managed to participate in the elections. According to local media, voters from Gali were able to cross the Enguri Bridge smoothly to take part in the voting process for the 2018 presidential elections.³⁶ In the conversation with the GYLA's Observation Mission, Miranda Meskhi, the chairwoman of the Zugdidi District Election

²⁷ "The movement, with the financial support of Mamuka Khazaradze and his family, provided assistance to more than 3,000 specific families in Tbilisi, various regions of Georgia, as well as in the occupied territories." The Facebook page, 23.05.2020, available at: <https://bit.ly/3gbfcWh>, updated: 20.08.2020.

²⁸ Article 25², Paragraph 1 of the Law on Political Associations of Citizens.

²⁹ In this case, the document reviews the fact that occurred during the reporting period. However, in addition to the above, the "Movement for the Future - Momo" handed over the medical equipment to the hospital in the village of Saberio, Gali district. "The Movement for the Future" Foundation has donated medical equipment to the hospital in the village of Saberio, Gali district", news portal Interpressnews, 26.03.2020, available at: <https://bit.ly/31G6hrH>, updated: 18.08.2020.

³⁰ "Movement for the Future has awarded scholarships to 12 Gali students", news portal "Interpressnews", 03.07.2020, available at: <https://bit.ly/31KE7fn>, updated: 18.08.2020.

³¹ Ibid.

³² Article 25², Paragraph 1 of the Law on Political Associations of Citizens.

³³ Article 184, paragraph 2 of the Election Code of Georgia.

³⁴ „Georgian's Living in Breakaway Regions forbidden to Vote", news portal "Agenda.ge", Available at: <https://bit.ly/2YdnIDc>, updated: 18.08.2020.

³⁵ Ibid.

³⁶ "Residents of Gali are actively crossing the occupational line to participate in the elections", news portal "Radio Atinati", 28.10.2018, available at: <https://bit.ly/2E23hNo>, updated: 18.08.2020.

Commission, confirmed that Gali residents really participated in the elections. According to the “Lelo,” approximately 40,000 to 55,000 Georgian citizens live in Gali.³⁷ Accordingly, any humanitarian aid or financial support even for educational purposes provided by the political party to the voters living in Gali (the question of whether the students in this particular case are Georgian citizens requires additional investigation by relevant bodies) constitutes vote buying.

The recommendations issued by the Council of Europe directly indicate that IDPs should be protected from manipulation during the elections.³⁸ There is a danger of manipulation not only by intimidating voters but also by giving or promising social benefits, as there is a high probability that a voter may express gratitude to the electoral subject at the ballot box. This problem is particularly alarming in the context of IDPs, as these individuals are in desperate need of humanitarian assistance due to their status. The fact that IDPs expect the above type of assistance from political parties or other actors increases their vulnerability and makes them a target of political exploitation for parties.³⁹ Therefore, a particularly cautious approach by electoral subjects is required to be practiced in the pre-election period. **Refugees, due to the hardship associated with their status, can be easily subjected to illegal political manipulation.** The occupied Gali is near the administrative border and the citizens living there are able to have the most intensive contact with the Georgian-controlled territory. This implies the participation in the political process of the country with the status of an IDP, which also includes the opportunity to vote.

GYLA calls on the state to protect IDPs from electoral manipulation due to their status.

Free medical examinations in Senaki (“Georgian Dream”)

On July 02, 2020, free medical examinations were provided by the Family Medicine Center “Mkurnali” organized by the “State Veterans Affairs Office” and N(N)LP “Georgian Dream - Healthy Future” in Senaki Municipality with the generous support of Giorgi Volski and Senaki City Hall.⁴⁰ The residents of the municipality, socially underprivileged families living in the municipality, citizens displaced from the occupied territories, veterans of the war and Defense Forces and their family members were offered free medical-prophylactic examinations.⁴¹

The free medical examinations held in Senaki include several problematic points:

(1) Non-profit organization “Georgian Dream - Healthy Future” was founded in 2013 by the President of the organization Ketevan Barateli, partners Tamar Barateli and Medea Azarashvili.⁴² According to official records, the organization is apolitical and has nothing to do with the ruling party. However, organization’s logo is similar to the one of the Georgian Dream’s⁴³ and the name of the organization reinforces the affiliation as well. Thus, the activities of the organization are perceived as beneficial to the ruling party.

³⁷ Ibid.

³⁸ „Voting Rights at Local Level as an Element of Successful Long-term Integration of Migrants and IDPs in Europe’s Municipalities and Regions”, Congress of Local and Regional Authorities, Council of Europe, Recommendation N419, 2018, available at: <https://bit.ly/2F87klf>, updated: 07.08.2020.

³⁹ Drnovsky A., „Electoral Participation of Internally Displaced Persons (IDPs) A Case Study of Ukraine”, University of Vienna, p. 28, Available at: <https://bit.ly/3a3AdAu>, updated 07.08.2020.

⁴⁰ “Free Medical Services”, the Facebook page of Senaki Municipality City Hall, 02.07.2020, available at: <https://bit.ly/3a5AanL>, updated: 07.08.2020.

⁴¹ Ibid.

⁴² An extract from the registry of Entrepreneurial and Non-Entrepreneurial (Non-Commercial) Legal Entities, “Georgian Dream - Healthy Future”, available at: <https://bit.ly/2Ydkbzz>, updated: 17.08.2020.

⁴³ “Georgian Dream - Healthy Future”, the Facebook page, available at: <https://bit.ly/3igyOth>, Updated: 07.08.2020.

The action of Giorgi Volski, the Georgian Dream MP aimed at generating the interest of Georgian citizens towards the ruling party by providing free medical services. Despite the fact, that non-profit organization was the provider of the service, under the given circumstances (organization's potential affiliation with the ruling party and the involvement of a representative of that political organization in the event) naturally provoked the feeling among beneficiaries that they received the services from the specific party. The law prohibits a political party from providing services, directly or indirectly, free of charge, through a party candidate or any other person.⁴⁴ **GYLA believes that the above case is an example of vote buying.**

(2) Another challenge is the support provided by the local self-government to the activity, which serves for the party goals with the name of the charity. **This contradicts the requirement of the law to separate the political party and the state.**⁴⁵

Free distribution of vegetables in Kobuleti ("Georgian Dream")

On August 05, 2020, a TV channel "Tv Pirveli" showed a TV report prepared in one of the markets in Kobuleti.⁴⁶ The footage shows that the assistance is provided in exchange for the personal data. Residents say that vegetables are distributed by the ruling party, namely the coordinators of the Georgian Dream.⁴⁷ GYLA's representative talked to the owner of the market who declared that the head of the Kobuleti Agroservice Center contacted him and asked to help in distributing greenhouse products free of charge. Apparently, the market was closed for many years and was opened specifically for the event. A political party is prohibited from supplying goods to citizens free of charge, directly or indirectly, through any other person.⁴⁸ **GYLA believes that the above act contains the signs of voter buying** and it is necessary to determine what led to the perception of citizens that the vegetable products were distributed by the ruling party.

Distribution of food to Batumi Theater ("Alliance of Patriots")

According to media reports, on August 06, 2020, actors from the Batumi Drama and Puppet Theaters, as well as individuals working in the sector, in total 77 persons, were granted food baskets on behalf of Carrefour and Irma Inashvili.⁴⁹ The director of the theater, Davit Oktiashvili, confirms that the financial support was provided by Carrefour and Irma Inashvili.⁵⁰

According to the law, a political party is prohibited from transferring material values indirectly to citizens of Georgia through a representative.⁵¹ In the above case, a member of the Georgian parliament and the leader of the Alliance of Patriots violated the requirement and bribed the voters.

⁴⁴ Article 25², Paragraph 1 of the Law on Political Associations of Citizens.

⁴⁵ DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE, 1990, (5.4).

⁴⁶ "Georgian Dream;" Cucumbers and Tomatoes", the news portal TV Pirveli, 05.08.2020, Available at: <https://bit.ly/3bGtv4f>, Updated: 20.08.2020

⁴⁷ Ibid.

⁴⁸ Article 25², Paragraph 1 of the Law on Political Associations of Citizens.

⁴⁹ "Carrefour and Irma Inashvili distributed food products to employees of the theater before the elections", news portal "Netgazeti", 06.08.2020, available at: <https://bit.ly/3bEYRbA>, updated: 20.08.2020

⁵⁰ Ibid.

⁵¹ Article 25², Paragraph 1 of the Law on Political Associations of Citizens.

Violent Actions, Making Tense Pre-election Environment and Hampering Pre-election Agitation

Mobilization of wrestlers in Adjara⁵²

On May 07, 2020, wrestlers Revaz Tsulukidze and Eldar Antadze were arrested with the charges of hooliganism during a fight that took place in April.⁵³ The families and relatives of the detainees linked the arrests to political processes and declared that the government punished them for refusing to provide assistance in the pre-election period.⁵⁴ Phiruz Tsulukidze,⁵⁵ the brother of one of the detainees, in a conversation with a GYLA monitor, noted that he does not have a hope to obtain an acquittal verdict under the current government. He and his brother are supporters of the “National Movement” and are hopeful that the UNM candidate will obtain the victory in highland regions of Adjara. He said that the police and criminals act together in the city and whenever there is pressure on his relatives and he asks for their help, criminals intervene, which is why he has often got into trouble and been beaten several times. He also claims that Tornike Rizhvadze's father has his bouncer brigade consisting of wrestlers.

On June 21, 2020, Formula TV reported that the government was mobilizing former athletes into informally organized groups.⁵⁶ According to the media report, meetings arranged by Adjara senior officials were held at the Main Police Division in March 2020, where Tornike Rizhvadze' father, Prime Minister of Adjara, and Konstantine Ananiashvili, Chief of Police, offered money and various benefits (land plots for symbolic prices, construction permits) to wrestlers in exchange for the assistance in the election.⁵⁷ According to Firuz Tsulukidze, the secret meeting on the side of the wrestlers was attended by him and his brother Revaz Tsulukidze, Eldar Antadze and another person.⁵⁸ Firuz Tsulukidze confirmed this information while talking to the GYLA's long-term monitoring mission. He said they had received a deal offer from high-ranking officials in the form of financial help in exchange for the election assistance, to which they had agreed. As it turns out, it was agreed at the same meeting that 2000-2000 GEL would be deposited as an advance payment to the wrestlers' bank accounts, respectively, for which purpose their spouses had to submit applications to the relevant agency.

⁵² It is true that the incident did not occur during the reporting period, but the events that followed it have persisted to this day. Because of this, the GYLA decided to include the case in the report.

⁵³ "You will see emotions from now on" - Tsulukidze and Antadze were left in detention", news portal "Netgazeti", 23.06.2020, available at: <https://bit.ly/3gkdL8d>, updated: 13.07.2020.

⁵⁴ Ibid.

⁵⁵ "GYLA and EMC issue a joint statement regarding the case of Tsulukidze and Bakhuntaridze", the official website of the Human Rights Training and Monitoring Center, 23.01.2013, available: <https://bit.ly/31b3VL>, updated: 13.07.2020.

⁵⁶ "Bouncers of the father and son", news portal TV "Formula", 21.06.2020, available at: <https://bit.ly/2YUkWhs>, updated: 13.07.2020.

⁵⁷ Ibid.

⁵⁸ Ibid.

The GYLA's Monitoring Mission obtained bank receipts, according to which on March 19 and 24, 2020, the spouses of the accused - Rezo Tsulukidze and Eldar Antadze - received one-time social assistance, in the amount of GEL 2,000, respectively.⁵⁹ According to Revaz Tsulukidze, this was an advance payment to motivate their interest, and the funds were transferred to the accounts of the athletes' spouses to cover up the track.⁶⁰ The government of Adjara issued a statement stating that one-time social assistance was issued based on the application of the same families.⁶¹

Prior to the court trial, Firuz Tsulukidze, the brother of the accused, told Netgazeti that the Minister of Justice indirectly offered them the same benefits that Tornike Rizhvadze's father had been previously offering them.⁶² The press center of Tea Tsulukiani's office confirms that the meeting in Kutaisi took place, yet Tea Tsulukiani denies discussing the Tsulukidze-Antadze case.⁶³

GYLA calls on the authorities to comprehensively investigate the above facts and take appropriate legal measures if they are confirmed, and to see that the case of Tsulukidze-Antadze is adjudicated impartially. Due to the high public interest, the public should be informed about the ongoing investigations.

United National Movement Office Raided in Gori

On June 26, 2020, the headquarters of the "United National Movement" (UNM) in Gori was raided.⁶⁴ With the charges of damaging another person's property,⁶⁵ the Ministry of Internal Affairs arrested D.SH, a male born in 1969.⁶⁶ The investigation established that the detainee smashed the windows of the UNM office with stones, removed the TV set, computer monitor to damage them.⁶⁷ According to UNM this is the fourth attack on their office in last four years. Nevertheless, no one has been held accountable so far.⁶⁸

GYLA's monitoring group talked to eyewitnesses about the incident. The individuals who were able to see the attacker's clothes said that he was wearing a T-shirt with the "Georgian Dream" logo on it.

GYLA believes that the Prosecutor's Office should ensure a thorough and unbiased investigation of the incident.

"Lelo" barred to enter the village of Ditsi

On July 09, 2020, members of the Gori office of the political party "Lelo for Georgia" planned to meet the population in the village of Ditsi, near the occupation line, as part of the election

⁵⁹ A statement from a Credo Bank account: Account holder: Nari Putkaradze, identification number: 61001074207, the statement period: 2020-03-20 - 2020-04-20, social assistance: 2000 GEL; A statement from the account: Recipient: Miranda Katamadze, Sender: State Treasury TRESGE22, Amount: 2000 GEL.

⁶⁰ "Bouncers of the father and son", news portal TV "Formula."

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ "The UNM office raided in Gori", news portal "Netgazeti", 26.06.2020, available at: <https://bit.ly/34Z4pN1>, updated: 02.07.2020.

⁶⁵ Article 187, paragraph 1 of the Criminal Code.

⁶⁶ "The Gori office of the "National Movement" raided, equipment and inventory are destroyed - UNM", news portal "Public", 26.06.2020, available at: <https://bit.ly/2QBNWWz>, Updated: 02.07.2020.

⁶⁷ Ibid.

⁶⁸ Ibid.

campaign.⁶⁹ They were stopped at the police checkpoint of the Ministry of Internal Affairs of Georgia dislocated at the entrance to the village and prevented from entering the village.⁷⁰ According to the official position of the press service of the State Security Service, movement through the villages near the dividing line is dangerous.⁷¹ Nevertheless, as Radio Liberty reports, the ruling party Georgian Dream and its activists are moving smoothly to villages near the breakaway region.⁷² **The unequal treatment of political parties threatens the provision of free and fair elections.** The minute Kakha Kozhoridze, a representative of “Lelo,” announced that he was going to complain thereupon to the Prosecutor’s Office, all the obstacles to the party representatives were removed,⁷³ and they were able to meet with the population on July 30, 2020.⁷⁴

The members of the party have the right to meet with voters on the territory of Georgia without any obstructions. Thus, the above incident is an illegal interference within the activities of a political party, which constitutes a crime.⁷⁵

Violent act by Enzel Mkoyan

On July 20, 2020, video footage was posted on a social media depicting Enzel Mkoyan, a majoritarian MP of the Georgian Dream, chasing and flaring a firearm allegedly at Samvel Petrosyan, a member of the “Alliance of Patriots of Georgia.”⁷⁶ The footage also shows an incident of March 26, 2020, where Enzel Mkoyan and Samvel Petrosyan and their relatives⁷⁷ confronted each other.⁷⁸ An investigation has been launched with the allegation of hooliganism committed with a firearm.⁷⁹ On March 29, law enforcement officers arrested Samvel Petrosyan and a nephew of Mkoyan.⁸⁰ The investigation established that during the verbal argument that took place on March 26, 2020, the defendants fired from a firearm.⁸¹ They were sentenced to imprisonment as a measure of restraint.⁸²

The footage released through the media shows that Enzel Mkoyan was using a weapon during the confrontation. However, no investigation has been launched into the fact. In addition, as the video shows, a police officer was present at the site, yet he was not trying to take any effective measures to prevent the unlawful and violent actions of the MP. The “Coalition for Equality” reacted to the

⁶⁹ "People in the village of Ditsi are not allowed to meet with parties – Lelo for Georgia", news portal "on.ge", 09.07.2020, available at: <https://bit.ly/31lAkn2>, updated: 07.08.2020.

⁷⁰ "Pre-election political persecution. The population in the villages near the occupation line is not allowed to meet with political parties. The official website of the political party “Lelo for Georgia,” 10.07.2020, available at: <https://bit.ly/3gD2yAa>, updated: 07.08.2020.

⁷¹ The “Lelo” representatives held a meeting in the village of Ditsi ", the news portal" Shida Kartli Information Center", 30.07.2020, available at: <https://bit.ly/2XC2YQ6>, updated: 07.08.2020.

⁷² "The “Lelo” representatives were not allowed to the village of Ditsi located near the occupation line, the news portal "Radio Liberty", 09.07.2020, available at: <https://bit.ly/3kujBH1>, updated: 07.08.2020.

⁷³ "The Lelo representatives held a meeting in the village of Ditsi ", the news portal" Shida Kartli Information Center".

⁷⁴ Ibid.

⁷⁵ Article 166 of the Criminal Code of Georgia.

⁷⁶ "MP Enzel Mkoyan targeted and shot a person ", news portal "Akhalkalaki news", Facebook page, 18.07.2020, available at: <https://bit.ly/3a7rYUm>, updated: 07.08.2020.

⁷⁷ Georgi Petrosyan, Samvel Petrosyan's son, A.M, Enzel Mkoyan's minor nephew, Karapert Mkoyan ,A.M.'s cousin and his relatives were also involved in the incidents.

⁷⁸ "Those arrested for hooliganism and shooting in Akhalkalaki were sentenced to remand detention as a preventive measure", news portal "Samkhretis Karibche", 31.03.2020, <https://bit.ly/3a26KXT>, Updated: 07.08.2020

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

incident and called on the Prosecutor General's Office of Georgia to ensure an independent and effective investigation into the case.⁸³ The statement referred also to Mkoyan's past acts of violence, which were not properly dealt with by law enforcement agencies.⁸⁴

The inappropriate response by law enforcement agencies carries the signs of political preference for Enzel Mkoyan and his legal privileges, which may encourage the representative of the ruling party in the future and suppress the opposition, ultimately leading to the distortion of the electoral environment as a whole.

Termination of the authority of a member of Khelvachauri Municipality Sakrebulo

On July 30, 2020, at a meeting of the Khelvachauri Municipality Sakrebulo, the authority of Vazha Tavdgiridze, a member of the "United National Movement," was terminated based on an Order of the City Hall on the grounds of his non-participation in the work of the Sakrebulo.⁸⁵

On July 27, 2020, the issue of the termination of the MP's authority was considered by the Legal and Procedural Issues Committee of the Khelvachauri Sakrebulo.⁸⁶ Despite the submitted certificate on the health status, the Committee deemed that Vazha Tavdgiridze's conduct lacked a sufficient excuse.⁸⁷

According to the law, the powers of a member of a municipality Sakrebulo shall be prematurely terminated if he/she has not participated in the work of the municipality Sakrebulo for six consecutive months without a valid reason.⁸⁸ In such cases, the relevant commission of the municipality Sakrebulo shall find out the reason for the misconduct in accordance with the rules provided by the municipal regulations.⁸⁹ According to the resolution of the Khelvachauri Sakrebulo, the grounds and procedure similar to the law on early termination of a member of the Sakrebulo are defined, according to which the City Hall's Legal and Procedural Issues Committee shall study the case and prepare a report, assessing the reasons for the breach.⁹⁰

The health certificate presented by the MP indicates the diagnosis of the disease, the medical procedures conducted and the patient's condition,⁹¹ which, according to GYLA, should be deemed a valid reason for not taking part in the work of the City Council.⁹² The reference date in the certificate contains a mistake (instead of 2020, it says 2030), but otherwise, the authenticity of the document does not raise any doubts. Against the background of the MP's severe diagnosis, it is unclear why the City Hall considered the circumstances as "not valid".

GYLA considers that the above decision of the Sakrebulo endangers the fair political competition.

⁸³ "Coalition for Equality Demands Investigation against MP Enzel Mkoyan", the official website of the Georgian Young Lawyers' Association, 21.07.2020, available at: <https://bit.ly/30CKXmB>, updated: 07.08.2020.

⁸⁴ Ibid.

⁸⁵ Resolution N20 of Khelvachauri Municipality City Hall dated July 30, 2020.

⁸⁶ Report of the Legal and Procedural Issues Committee of Khelvachauri Municipality Sakrebulo, dated July 27, 2020.

⁸⁷ Ibid.

⁸⁸ Article 43, paragraph 1, subparagraph "e" of the Law on Local Self-Government Code.

⁸⁹ Ibid. Article 43, paragraph 5.

⁹⁰ Article 8, Paragraph 5 of the Rules of Procedure of Khelvachauri Municipality Sakrebulo approved by the Oder №07 of the Khelvachauri Municipality Sakrebulo dated February 19, 2018.

⁹¹ Ibid.

⁹² Ibid.

Attack on the leader and other members of the party “Movement for the People”

On August 13, 2020, during an election campaign, Ana Dolidze and her supporters were attacked and verbally abused by unknown individuals near №105 Tsereteli Street.⁹³ As the candidate wrote in a written appeal, the unknown persons did not allow the party representatives to meet with the voters and at the same time demanded from them to leave the territory.⁹⁴ The party presented additional information to the GYLA's long-term observation mission. Aggressive shouts and swearing is clearly heard in the footage provided by Ana Dolidze. The investigation has been launched into the threat.⁹⁵

The investigative body must conduct the process objectively and transparently, and the state should ensure a free environment for the candidates to campaign.

⁹³ "An investigation into the incident during the election campaign of Ana Dolidze is expected to start under the article of threat", 27.08.2020, the news portal "Interpressnews," available at: <https://bit.ly/32TEmUA>, updated: 04.09.2020.

⁹⁴ Ibid.

⁹⁵ Ibid.

Resignation of Batumi Mayor

On July 16, 2020, the Mayor of Batumi Lasha Komakhidze resigned,⁹⁶ followed by the resignation of Jaba Tugushi, Vice-Mayor.⁹⁷ Lasha Komakhidze was directly elected in 2017 and his term of office was to be expired in October 2021.⁹⁸ Here, the date of the resignation is noteworthy. If Lasha Komakhidze had made the decision before July 15, 2020, the mayoral elections would be held in October this year,⁹⁹ but now the term has been extended by a year and a half. By law, if the mayoral term is terminated after July 15, early elections shall be held in May of the following year,¹⁰⁰ but if the following year is already an election year, such as 2021, then no extraordinary elections shall be held.¹⁰¹ This means that the voting will take place in October of the next year, during which time a person appointed by the city shall perform the duties of the mayor. The office was taken over by Archil Chikovani, who had been previously the head of the Office of the Adjara government.¹⁰²

Manipulation with the timeframes by the mayor and the ruling majority, according to GYLA, is disrespectful to voters. In doing so, they deprived the city residents of the opportunity to determine by themselves the identity of their mayor and to make a political choice.

Registration of the "Republican Party"

On July 17, 2020, by virtue of an order issued by the Chairperson of the Central Election Commission of Georgia, Tamar Zhvania, the Republican Party of Georgia was not registered as an electoral subject to participate in the 2020 parliamentary elections.¹⁰³ The order indicates the violation of the timeframes established by law for submitting an application as a motivation for the refusal of the registration.¹⁰⁴

According to the temporary rule for the registration in the 2020 parliamentary elections, a political party shall apply to the CEC chairperson with a signature of an authorized person in the time

⁹⁶ "Batumi Mayor Lasha Komakhidze has resigned", news portal "Netgazeti", 16.07.2020, Available at: <https://bit.ly/2OvIFzZ>, updated: 06.08.2020.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Article 169², paragraph 2 of the Election Code of Georgia.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² "Batumi Mayor was replaced by Archil Chikovani, whose godfather is Tornike Rzhivadze", News Portal "REGinfo.ge", 16.07.2020, available at: <https://bit.ly/2ZxDzby>, updated: 06.08.2020.

¹⁰³ The Order №29 / 2020 of the Chairperson of the Central Election Commission of Georgia of July 17, 2020 "On the Refusal to Register the Political Union of Citizens "Republican Party of Georgia" and its Representative for the 2020 Parliamentary Elections of Georgia," the website of the Central Election Commission, 17.07.2020, available at: <https://bit.ly/30ENbSb>, updated: 09.08.2020.

¹⁰⁴ Ibid.

interval from January 1 to July 15 of the election year.¹⁰⁵ An application submitted in violation of the deadline shall be a ground for the refusal to register.¹⁰⁶ The above rule applies even to political parties that do not have a representative in parliament.¹⁰⁷

According to members of the Republican Party of Georgia, they did not violate the requirement of the law as they submitted their application for the registration as an election subject to a post office on July 14.¹⁰⁸ The application was received by the CEC the next day - July 15.¹⁰⁹ The party representatives appealed against the order of the CEC chairperson to the Administrative Cases Panel of the Tbilisi City Court.¹¹⁰ According to the court's decision, the administrative lawsuit was granted and the "Republican Party of Georgia" will be able to participate in the 2020 parliamentary elections as an independent entity.¹¹¹

GYLA welcomes the decision and the interpretation of the law by the court.

Funding the "Alliance of Patriots"

On August 25, 2020, the "Dossier", an investigative journalistic platform founded by former political prisoner Mikhail Khodorkovsky, published documents which refer to the ties between the "Alliance of Patriots" and the Russian government.¹¹² According to the "Dossier", the political party received a four-month pre-election budget plan for the 2020 parliamentary elections (July-October) with the amount of GEL 25 million from the Russia.¹¹³ The budget, among other purposes, envisages the procurement of about half a million GEL worth items such as T-shirts, souvenirs, flags.¹¹⁴

Elene Khoshtaria, MP and a majoritarian candidate in Vake, applied to the Prosecutor's Office about the funding of the Alliance of Patriots.¹¹⁵ The Prosecutor's Office considered that there were no grounds to launch an investigation and transferred the case to the State's Audit Office.¹¹⁶ The Audit Office has launched an investigation into the legality of the funding.¹¹⁷

In accordance with the election law, a party shall be prohibited from accepting donations from individuals or legal entities in other countries.¹¹⁸ A political party shall submit the information on the acceptance of the donation, as well as payment of any membership fees, to the State Audit

¹⁰⁵ Article 195, paragraph 1, subparagraph "b" of the Election Code of Georgia.

¹⁰⁶ Ibid. paragraph 10.

¹⁰⁷ Ibid.

¹⁰⁸ "CEC did not register Republicans for the elections", news portal "Netgazeti", 19.07.2020, Available at: <https://bit.ly/2XJwNhp>, updated: 09.08.2020.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ "The court upheld the lawsuit of the Republicans against the CEC - Samnidze", news portal "Netgazeti", 20.07.2020, available at: <https://bit.ly/3ac1wso>, updated: 09.08.2020

¹¹² "How the "Alliance of Patriots" is supervised by Russia before the elections - "Dossier", news portal "Netgazeti", 25.08.2020, available at: <https://bit.ly/33axORz>, updated: 09.09.2020.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Elene Khoshtaria filed with the Prosecutor's Office Regarding the Funding of the Alliance of Patriots", news portal "Interpressnews", 25.08.2020, available at: <https://bit.ly/32by0kb>, updated: 09.09.2020.

¹¹⁶ "According to Elene Khoshtaria, the Prosecutor's Office refused to launch an investigation into the funding of the Alliance of Patriots, and referred the case to the Audit Service", news portal Interpressnews, 31.08.2020, available at: <https://bit.ly/32by0kb>, updated: 09.09.2020.

¹¹⁷ "The State Audit Office has started an investigation into the legality of the financing of the Alliance of Patriots ", the news portal "Interpressnews", 01.09.2020, available at: <https://bit.ly/32by0kb>, updated: 09.09.2020.

¹¹⁸ Article 26, paragraph 1 (a) of the Law on Political Associations of Citizens.

Service within five working days.¹¹⁹ If the party was not aware of the illegality of received funds, the obligation to return the funds shall arise upon the demand of the Audit Service.¹²⁰ The finances reflected in the reports published by “Dossier” have not been registered in the Audit Office database of donations. In case of detection of any signs of crime, the Audit Service shall appeal to the Prosecutor's Office.¹²¹

GYLA hopes that the Audit Service will thoroughly investigate the above case and inform the public about the progress of the investigation.

Banners and videos of the “Alliance of Patriots of Georgia”

The "Alliance of Patriots" installed election billboards in Adjara, which presented the Autonomous Republic of Adjara in red color, similar to the other territories occupied by Russia on the map of Georgia, with the inscription "Protect Adjara! Protect your part of Georgia!"¹²² The party also posted nine video clips on a social network, in six of which the leaders of the “Alliance of Patriots”, Davit Tarkhan-Mouravi and Irma Inashvili, along with other individuals, speak about the imminent threats from Turkey.¹²³ For example, following statements can be heard in the footage: "As of today, Turkey has occupied 33% of Georgian territories", "Turkey still openly claims Batumi, Ozurgeti and Akhaltsikhe", "Defend your part of Georgia", "Do not give up Adjara for Turkey". The footage also refers to historical examples, including the negative Turkish influence on Bulgaria, and compares it with the current events taking place in Georgia claiming that the “processes in Adjara are developing in exactly the same scenario.”

The party faced major criticism and negative feedback, as the banners were perceived by a part of the society as a call for national hatred and enmity, and the incitement to a religious and ethnic confrontation. There are three ways to respond to the above act: an administrative penalty, criminal liability or declaring the party as unconstitutional. The present document assesses the extent to which the action of the “Alliance of Patriots” constitutes any offense.

The Constitution of Georgia guarantees freedom of expression.¹²⁴ The Constitutional Court clarifies that "... the protection of this right includes not only "information" or "ideas" that are shared by society [...] but also those that are offensive, shocking and disturbing to any state or group of society."¹²⁵ "The Constitution protects [...] an opinion, including the one that may be [inadequately

¹¹⁹ Ibid. Article 27¹, paragraph 1.

¹²⁰ Ibid.

¹²¹ Ibid. Article 34¹, paragraph 2(j).

¹²² "The election banner of the Alliance of Patriots in Adjara was referred to by citizens as a shame", the news portal "Netgazeti", 29.08.2020, available at: <https://bit.ly/2ZolRqX>, Updated: 09.09.2020.

¹²³ "Protect Adjara! Protect your part of Georgia! Turkish Maps," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/3kowthh>, updated: 11.09.2020; "Protect Adjara! Protect your part of Georgia! Example of Bulgaria," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/33mS9Dp>, updated: 11.09.2020; "Protect Adjara! Protect your part of Georgia! Genocide," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/2Fmp2be>, updated: 11.09.2020; "Protect Adjara! Protect your part of Georgia! Treaty of Kars," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/32ITFX3>, updated: 11.09.2020; "Protect Adjara! Protect your part of Georgia! Complaints of the Turks," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/3hmqSpl>, updated: 11.09.2020; "Protect Adjara! Protect your part of Georgia! Tribute," the Facebook page of Media Union "Obieqtivi," 30.08.2020, available at: <https://bit.ly/32nEcFQ>, updated: 11.09.2020.

¹²⁴ Article 17 of the Constitution of Georgia.

¹²⁵ Decision N1/3/421,422 of the Constitutional Court of Georgia dated November 10, 2009 in the case of Georgian citizens Giorgi Kipiani and Avtandil Ungiadze v. Parliament of Georgia, II-7.

perceived by a part of society."¹²⁶ At the same time, the supreme law allows for the restriction of this right to protect the state and public security and the rights of other individuals,¹²⁷ and deems inadmissible the activities of a party that incites ethnic hostility.¹²⁸ According to the Constitutional Court, the reason for the above is that "the Constitution itself excludes certain violent entities from the political process and system of government,"¹²⁹ because of "the fact that by abusing democratic processes, democratic governance and fundamental constitutional principles can be threatened."¹³⁰ "The limit of freedom of expression ends where statements threaten the values and principles enshrined by the Constitution."¹³¹ Thus, there is a right protecting the freedom to expression against specific subjects on the one hand, and the state's interest to prevent the enjoyment of this right that may threaten democracy, on the other. The above dilemma can be resolved by a systematic review of normative acts and judgments delivered by courts.¹³²

The Electoral Law stipulates that the election program of any political party shall not contain "[...] calls for national hatred and enmity,¹³³ [...]" and shall envisage appropriate administrative and legal responsibilities.¹³⁴

The Law on Freedom of Speech and Expression provides a test by which an appeal shall lead to legal liability only when "a person commits an intentional action that creates an obvious, direct and substantial threat for illegal consequences."¹³⁵ The same test is considered by the Criminal Code.

The Constitutional Court applies an immediate threat test when restricting the freedom of expression. An appeal by itself may not be sufficient to bring an individual to criminal liability ... an appeal shall give rise to criminal liability established by law only when [...] it creates an obvious, direct and substantial threat for an unlawful outcome."¹³⁶ "A statement that [...] incites hatred and violence [...] may or may not contain an immediate threat for an illegal consequence,"¹³⁷ and for the restriction of the freedom of expression, the court shall examine whether the statement only incites violence or creates a danger as well.¹³⁸ While using the term of an obvious and immediate threat, in the event of an administrative offense or a criminal offense, the Constitutional Court sets a higher standard of freedom of expression than the European Court of Human Rights, which does so only when deciding to dissolve a political party.¹³⁹ GYLA believes that based on the systematic interpretation, the aim of the Georgian law is to prohibit such appeals only if they pose an obvious and immediate threat. Thus, the content of this standard ("obvious and immediate threat") remains unclear.

¹²⁶ Decision N2/482,483,487,502 of the Constitutional Court of Georgia dated April 18, 2011 into the case of the political union of citizens "Movement for the United Georgia ", Political Union of Citizens " Georgian Conservative Party ", Citizens of Georgia Zviad Dzidziguri and Kakha Kukava, Georgian Young Lawyers' Association, Citizens Dachi Tsaguria and Jaba Jishkariani, Public Defender of Georgia v. Parliament of Georgia, II-106.

¹²⁷ Article 17, paragraph 5 of the Constitution of Georgia.

¹²⁸ Ibid. Article 23, paragraph 3.

¹²⁹ Decision N3/3/600 of the Constitutional Court of Georgia dated May 17, 2017 into the case of Citizen of Georgia Kakha Kukava v. Parliament of Georgia, II-37.

¹³⁰ Ibid.

¹³¹ Decision N2 / 482,483,487,502 of the Constitutional Court of Georgia dated April 18, 2011, II-90.

¹³² Ibid. II-95.

¹³³ Article 45, paragraph 3 of the Election Code of Georgia.

¹³⁴ Ibid. Article 79.

¹³⁵ Article 4, paragraph 2 of the Law on Freedom of Speech and Expression.

¹³⁶ Ibid.

¹³⁷ Decision N2 / 482,483,487,502 of the Constitutional Court of Georgia dated April 18, 2011, II-97.

¹³⁸ Ibid. II-96, 102,104,105.

¹³⁹ CASE OF REFAH PARTİSİ (THE WELFARE PARTY) AND OTHERS v. TURKEY, 13.02.2003, §104

Regardless of the fact, that the European Court of Justice on the application of the above test differs from the approach of the Constitutional Court of Georgia, there is no doubt that there is a difference between the approaches of the two bodies on the content of the institute itself. Therefore, Strasbourg's approach is relevant here to better understand the meaning of the test. According to the European Court, there must be a "pressing social need" caused by undermining democratic principles, and a case must cumulatively meet the following points: (1) whether the threat to democracy is imminent; 2) whether the actions and speeches of the leaders of a political party represent the whole party; and (3) whether the actions and speeches ascribed entirely to the political party give a clear picture of the model of society that the party plans to establish, which is incompatible with the concept of a "democratic society."¹⁴⁰

The above banners by the "Alliance of Patriots" as well as the video clips do not give rise to the dispute that the ideology of the entire party is shown, yet they fail to meet the other points of the test as they do not at least pose an imminent threat to democracy. To conclude, GYLA believes that the performance of the "Alliance of Patriots" is against ethical principles and contradicts the good practice of the election campaigning. Nevertheless, organization opines that these actions fit into the legal framework and do not deviate from the Georgian legislation, and therefore do not constitute a violation of the law.

¹⁴⁰ Ibid.