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TRANSPARENCY INTERNATIONAL GEORGIA

AN ANALYSIS OF THE PRE-ELECTION ENVIRONMENT

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Introduction

The 2012 parliamentary election, scheduled for October 1, represents a significant milestone for Georgia. Firstly, in 2013 the country will adopt a new constitution, significantly enhancing the role of the legislative body and the Prime Minister relative to the executive. Secondly, the current political landscape suggests that this election is likely to be one of the most competitive in the nation's history. In particular, the emergence of Bidzina Ivanishvili as a force in national politics from October 2011 onwards, and the formation of the opposition Georgian Dream coalition under his leadership, has intensified the challenge to the ruling party, the United National Movement. Because of this, pre-election campaigning started earlier than usual. Consequently, in order to obtain an accurate picture of the pre-election political environment in the country, Transparency International has monitored the period between October 1, 2011 and August 1, 2012. Our findings are presented below. We will continue to keep the situation under review, and after August 1 we will release two further investigative reports.

This report consists of four chapters. The **first** chapter examines the use of state legal resources for political and electoral purposes. The **second** chapter reviews evidence uncovered of the use of coercion and pressure for political ends. The **third** chapter examines misuse of state institutional resources for party political and electoral objectives, and the **fourth** chapter analyses cases of vote buying.

I. The use of legal resources for political and electoral purposes

State legal resources are among the most powerful means of undermining fair political competition and consolidating the dominant position of the ruling party. This includes any use of state legislative, executive and judicial powers for political or electoral purposes, for example amendments to the law which are detrimental only to certain political groups, selective or inconsistent enforcement of the law, and unjust judicial decision-making.

During the period under review there were a significant number of instances where legal resources were used for political and electoral purposes. We have grouped such actions into three categories:

- 1) Amendments to the election legislation;
- 2) Amendments to the banking and financial regulations;
- 3) Inconsistent law enforcement and selective judicial procedures.

1. Amendments to the election code

In November 2010, the election legislation amendment process began.¹ At the end of 2011 a new Election Code was introduced and the law on “the Political Unions of Citizens” (The law regulating parties and party financing) was considerably reformed, bringing radical changes to the rules governing the financial accountability and transparency of political parties. When analyzing legislative changes it is necessary to outline the process by which the legislation was amended.

¹ <http://www.civil.ge/geo/article.php?id=23324>

1.1. Election Code

In June 2011, the ruling party and several opposition parties reached an agreement on amendments to the Election Code.² However, for the most part these amendments were insufficient to remove anti-competitive obstacles in the election environment.³ The Venice Commission report has highlighted a number of problems that the proposed draft law was unable to solve, particularly with regard to the misuse of administrative resources.⁴ The following regulations should be noted:

- The use of communication tools, information services and different types of equipment under the control of the state or local government bodies and organizations financed by the state budget has been banned.⁵
- The range of people who can use service vehicles and be reimbursed for petrol during campaigning has been restricted.⁶
- The Election Code provided for the creation of, and defined the functions of, a governmental
- “Inter-Agency Taskforce for Free and Fair Elections” (IATF) commission under the National Security Council of Georgia.⁷
- The definition of political officials was expanded, to include unelected and politically appointed official, such as a State Representative – Governor.⁸
- It became possible to suspend expenditures separated under unlawful amendments entered into the state/local budget in the pre-election period, through a court order.

While many international and local organizations have highlighted the insufficient regulation against the abuse of administrative resources, necessary fundamental changes have not been introduced.⁹ The range of political officials is very wide and includes a number of unelected or politically appointed positions such as unelected mayor, head of local administration, state representative – governor, and deputy minister. Permitting these to participate in the election campaign is an example of misusing administrative resources.

1.2. Organic law on the Political Unions of Citizens

The agreement reached between the ruling party and several opposition parties in June 2011 also included amendments to the organic law of Georgia on “Political Unions of Citizens” (The law regulating parties and party financing).¹⁰ In particular, the law doubled the permitted level of political donations to GEL 60 000 for individuals and GEL 200 000 for legal entities, despite protests by local NGOs.¹¹ Even the existing limit was considered relatively high, and the amendment would ensure neither a more competitive election environment nor the growth and diversification of contributions to opposition parties. The ruling party stated that the issue was not subject to change. However, after Bidzina

² <http://www.civil.ge/geo/article.php?id=24247>vernor

³ Cf. “Opinions on the Government proposals for improving the Election Environment” on the Transparency International – Georgia website <http://goo.gl/dNf2W>

⁴ [http://www.venice.coe.int/docs/2011/CDL\(2011\)094-e.pdf](http://www.venice.coe.int/docs/2011/CDL(2011)094-e.pdf)

⁵ The Organic Law of Georgia on “The Election Code of Georgia” (hereinafter referred to as “The Election Code of Georgia”). 27.12.2011. N5636-სს. Legislative Alerts. webpage 10.01.2012. article 48.1.b.

⁶ The Election Code of Georgia. article 48.2.

⁷ The Election Code of Georgia. article 48.3-9.

⁸ The Election Code of Georgia. article 2.b.

⁹ <http://goo.gl/mGxuK>; <http://goo.gl/1NYUV>; <http://goo.gl/qaH8p>

¹⁰ <http://www.civil.ge/geo/article.php?id=24247>

¹¹ Cf. “Opinions on the Government proposals for improving the Election Environment” on the Transparency International – Georgia website “. <http://goo.gl/dNf2W>

Ivanishvili entered national politics, the Georgian Ministry of Justice introduced a package of amendments to the organic law of Georgia on the “Political Unions of Citizens”¹² which directly contradicted the previously agreed amendments. These new amendments included imposing a ban on contributions by legal entities, and imposing greater restrictions on contributions made by individuals.

Furthermore, a definition of entities that would be subject to the restrictions imposed on political parties was introduced, and a new body - the Chamber of Control (now the State Audit Office) was created in order to regulate this and the financial accountability of political unions. The media linked the altered draft of the Justice Ministry with the appearance of Bidzina Ivanishvili on the political scene¹³, with the aim being to prevent Bidzina Ivanishvili from using his companies to take advantage of the increased contribution limits and finance an opposition party. In addition to imposing a ban on donations by legal entities, the proposed draft law proposed a number of amendments restricting the freedom of political activity, freedom of expression, and property rights. Again the proposed changes were adopted in spite of protests by local NGOs and the formation of the civil movement “This Affects You Too”, which aims at lobbying for these legislative changes.¹⁴

Under the latest legislative amendments, limits imposed on parties affect ordinary citizens as well as organizations that support a political party. For example, one opposition political party has had its income restricted as a result of the new legislative amendments capping permitted donations. Political parties and their donors have also become subject to the audit and investigative powers of the State Audit Office, which has deployed its powers disproportionately against opposition parties and their donors, and a donor or opposition party can have their entire assets frozen pending determination of a fine by the Audit Office (previously a fine was ten times the value of the donation, now it stands at five times the value of the donation). In addition, unjustifiably high and disproportionate sanctions have been imposed for minor or newly created legal infringements. Such indefinite and unforeseeable regulations have been used against political opponents of the ruling party, posing a serious threat to free competition in the pre-election environment.

While the activities of the “This Affects You Too” campaign and the efforts of the civil sector, international organizations, the diplomatic corps and the public at large has resulted in positive and significant changes to the law on “The Political Unions of Citizens”, a number of serious issues still need to be addressed. In particular:

1.2.1. Sanctions imposed on parties for violations of financial regulations

The existence of sanctions and their effective application, when used properly, can compel political parties and officials to reject illicit financing, which, in its turn, brings greater accountability and transparency to the political process. Such state regulations must be prompt and proportionate in instances of non-compliance, in order to be effective and trusted.¹⁵

In line with international practice and GRECO assessments, this legislation should not include disproportionate sanctions, which could in turn severely restrict political activity and competition. Disproportionate enforcement and the imposition of excessive fines by the State Audit Office would

¹² <http://www.tabula.ge/article-17210.html>

¹³ http://www.resonancedaily.com/index.php?id_rub=2&id_artc=8147

¹⁴ <http://esshengexeba.ge/?menuid=25&lang=1>

¹⁵ Financing of Political Parties and Election Campaign – guidelines – Ingrid Van Bizen, Birmingham University (the UK), Council of Europe publication (2003)

constitute an abuse of regulatory resources, and could cause serious problems for political parties and lead, in some cases, to complete paralysis of their political activities. In June 2012, a GEL 2.86 million fine was imposed on the Georgian Dream coalition member parties.¹⁶ We will present a more in-depth analysis of the sanctions imposed within the political party financing regulation in our forthcoming reports.

1.2.2. Improper dissemination of the information about parties

According to an article published by 24saati.ge in late December 2011, 9 out of 11 legal entities that had made contributions to the Conservative Party, the Republican party and the People's party during that year are owned by Bidzina Ivanishvili, and the remaining 2 are owned by Kakhi Kaladze.¹⁷ Furthermore, this information was received directly from the Prosecutor General's Office. While Georgian law clearly states the reasons for when and why certain information can be requested from a person by the prosecutor - "to implement supervision or procedural guidance"¹⁸ - allegedly illegal donations are an infringement of administrative law, not an infringement of criminal law. It is therefore unclear how and why the Prosecutor's office would have such information in their possession and what statutory responsibilities they possess for releasing this information in this way.

1.2.3. Retroactive force of the law and immediately spent funds

As an example of the misuse of regulatory resources for electoral and political purposes, at the end of 2011 the draft law on "Political Unions of Citizens" included a complete ban on donations from legal entities, and included a specific provision that any donated sums of money that had not been spent before this legal amendment took effect should be returned to the donors or transferred into the state budget.¹⁹ This clause also specified that these donations should be returned to the donor within three calendar days, failing which the donations would be transferred directly to the state. Thus the law acquired retroactive force. As a result of campaigning by local NGOs and diplomatic corps, the law was not granted retroactive force and the offending clause was removed from the enacted legislation.

Nevertheless, this action by the Georgian Government was not without consequences. An examination of the 2011 financial accounts of a number of political parties²⁰ showed a tendency to pre-purchase and make advance payments, particularly in cash²¹, for a number of expenses such as fuel, office rent and other services and goods in order to spend donations before the legislation entered into force.

It is evident that using the legislative process in such a way not only undermines the goal of transparent financial accounting, but also has a disproportionate impact on the financial status of government opposition parties. Firstly, the ruling party can prepare for the impact of any legislation as the enactors of such legislation. Secondly, because state entities are responsible for enforcing the law they are

¹⁶ <http://www.civil.ge/geo/article.php?id=25629>

¹⁷ <http://24saati.ge/index.php/category/news/2011-12-24/23624>; For more information cf. The Finances of Political Parties in 2011 on the Transparency International – Georgia website. 2012. <http://transparency.ge/post/report/politikuri-partiebis-pinansebi-2011>

¹⁸ The law of Georgia on Prosecution. 21.10.2008. N382. ბსდ, 27, 27.10.2008. article 22.1.3.

¹⁹ Cf. The third version of the hearing of the amendments to the organic law of Georgia on Political Unions of Citizens on the Transparency International – Georgia website (<http://transparency.ge/en/node/1490>).

²⁰ For more information cf. The Political Parties' finances in 2011 (<http://goo.gl/rWYhD>).

²¹ Under article 5 of the Instructions for completing the Financial Reporting Forms of the Political Unions of Citizens adopted by the Georgian Chamber of Control Chairman's order #10/37 on Approving the Financial Reporting Forms of Political Unions of Citizens and the Instruction for Their Completion issued on 23 January, 2012, cash cost is actually paid money. Subsequently, when a party pays funds in advance, the fund constitutes cash cost notwithstanding whether the fund/instrument is recognized i.e. accrued (actual) cost and whether service/goods has been received or not.

unfairly biased in prosecuting opposition parties rather than the ruling party for any violations of these laws. Evidence of this will be demonstrated later in this report.

2. Amendments to the tax and enforcement legislation

We are aware of the following serious instance of the ruling party deploying its legislative resources against a political opponent.

In common with international banking law and practice, Chapter VI of Volume II of the Georgian Civil Code allows for a debtor to use collateral for loans – whether it be a tangible or intangible asset. It further allows for a creditor to register a lien on a property at the Public Registry Office and take priority over other creditors that may come after. Therefore, in the case of non-payment of a debt or breach of contract the priority creditor can take ownership of or sell that asset in lieu of payment of the debt.

The ordinary procedure for any bank, prior to issuing a loan or mortgage would be to verify with the Public Registry that the asset has not already been the subject to a lien, and register the bank's lien on that asset. In this way it acquires priority over any subsequent creditors, whether they are commercial creditors, the tax office or a governmental body.

However on October 28, 2011 the government used its majority in Parliament to amend article 82³ of the Enforcement Administration law and article 239 of the Tax Code for certain financial institutions which changed this procedure. According to these amendments, if the grounds for lien by the Georgian Tax Authorities arose before a financial institution registered its lien, the Tax Authorities lien would take precedence as a priority creditor over the financial entity, irrespective of whether the Tax Authority had registered its lien before the financial institution.

In addition, these amendments were given retrospective force, and their application was extended to all liens registered at the Public Registry prior to Parliamentary approval. These legislative amendments seriously threatened the legal stability of the Georgian secured loan market, and exposed financial institutions to unanticipated financial risks. Transparency International Georgia and other organizations responded to these changes by producing an analysis of the damage that these amendments would cause to Georgia's efforts to attract investors.

We are aware of only one reported occasion when these amendments have been enforced - against Cartu Bank, owned by Bidzina Ivanishvili. Transparency International wrote to the six leading commercial banks, and received a reply from Cartu Bank and ProCredit Bank. ProCredit Bank has not been subject to these amendments. We have also conducted a media review, and it is our belief that aside from Cartu Bank, none of the other 18 commercial banks and numerous other financial institutions operating in Georgia have been made subject to these amendments.

From the date the amendment entered into force, October 28, 2011, until January 27, 2012, the Tax Office sought priority creditor status and enforcement action against Cartu Bank for 16 of the bank's clients. A total of 49 debtors' assets were sold by auction. According to the Property Assessment Act, the starting price of auctioned assets is 50% of the assets' market value. In the majority of cases no bidder was obtained at auction and as a result most of the assets passed to the state. Where the assets were sold at auction the buyer did not subsequently pay for the asset, and these assets were also transferred to the state. According to Cartu Bank the total value of the assets confiscated by the state amounted to 1,128,883 000 Gel, a significant financial fine.

On 30 March, 2012 these amendments were removed and the law returned to how it had been prior to 28 October 2011.

3. Law enforcement – selective prosecution

In addition to the introduction of legislative changes with the purpose of harassing political opponents, serious problems persist around law enforcement. The State Audit Office is the worst offender in this regard, and has enforced a number of controversial and illegal decisions, often with the assistance of other governmental agencies and even technically independent legal entities such as the Bank of Georgia. In the majority of these cases, the courts have upheld the actions of the Audit Office.

3.1. Selective Prosecution by the State Audit office

One of the changes enacted by the law on “Political Unions of Citizens” in December 2011 was the creation of a new regulatory body – the State Audit Office. It is noteworthy that the legislation assigned a wide array of vaguely defined functions to the Audit Office, and there have been numerous cases of the Audit Office making excessive use of the powers it has been granted, the limits of which are often ambiguous.

3.1.1 Inappropriate use publicity powers and ambiguous interpretation of the law

An example of the improper use of regulatory resources occurred on February 20, 2012. The State Audit Office circulated a document²² detailing certain illegal donations received by the Georgian Dream and scrutinizing revenues received by the United National Movement.

According to the document, Nugzar Khutsishvili donated a financial bonus he had received from Cartu Mshenebeli Company to the Georgian Dream. The Audit Office deemed this action to be in violation of the law, and published a detailed breakdown demonstrating exactly when Nugzar Khutsishvili received the bonus from his employer, as well as the size of his salary, whether he had received such a bonus before and how he transferred the money to the Georgian Dream account.

An equally detailed account of the donation made to the ruling party was not provided by the Audit office. The document did not detail who had made the donation, even though the donation was disseminated to many individuals and entities, and this information was never made public. Furthermore, the statement noted that this donation would not be the subject of a fine and that it had not been a violation of the previous law at the time the donation had been made. Transparency International believes that at the time this donation was made it was a violation of the previous law, and that further inconsistent and selective application of sanctioning tools, in addition to selective publication of such information, is unacceptable and constitutes an abuse of state powers by the ruling party.

3.1.2 Inconsistent publication of financial reports

The primary function of the State Audit Office is to monitor political financing and ensure transparency. For example, parties are responsible for submitting their financial declarations to the State Audit Office,

²² <http://control.ge/news/id/407>

who will upload the information to their website within 5 days of receiving the declaration. Within 5 days of receiving a donation a party must share the information with the Audit Office, and the Audit Office is not explicitly required to release this information (although this had been stipulated in an earlier draft of the law [which was passed on the first hearing](#)²³). This clause was removed from the final draft of the law, and it is therefore not mandatory for the Audit Office to disclose this information in the full form in which it was received from all parties. This gives the Audit Office the complete discretion to choose when, how and what information it will release.²⁴

Another instance of the State Audit Service acting inconsistently is related to parties' incomes and expenses. The Audit Office immediately released the information on the sponsors of the oppositional political unions, as well as their expenses, but it took the Audit Office much longer to make the information on the financing of the ruling party public. The United National Movement declared on May 15, 2012²⁵ that they had submitted the information to the State Audit Service; however, it was only in June that the information became public.²⁶

In addition to this, another worrying tendency emerged while surveying the 2011 financial declarations. Significant deficiencies were identified in the 2011 financial reports of political unions released by the State Audit Office on February 9, 2012:

- a) It was, in fact, impossible to obtain full information on a significant part of financial declarations due to the poor quality of the materials uploaded on the State Audit Service's website.
- b) The full names of the sponsors as well as their personal identification numbers and other data were illegible in the declarations. According to the State Audit Service said, this gap was due to the parties delivering the information in a small-size font.
- c) The addresses of the individuals making donations remain redacted even today. According to the State Audit Office, the data have been covered at the request of the parties since it was not mandatory to indicate them.

At that time, the law on Political Unions of Citizens provided for the publicity of the addresses of individual investors and all other information related to donations²⁷, while the Central Election Commission was charged with the responsibility of making the information available (now the responsibility rests with the State Audit Office). It is important to note that the State Audit Office responded to a declaration by Transparency International²⁸ and re-uploaded the reports of the political unions on its website so that they could be read. Several declarations, nevertheless, still remain partially illegible.²⁹

Transparency International also requested the parties' financial declarations from the State Audit Office. The supplied information does not have the data on investors covered, but they remain detailed on the State Audit Office's website. At the same time, based on the supplied information, the addresses

²³ Cf. The first reading version of the draft law on the amendments and supplements to the organic law of Georgia on Political Unions of Citizens on the Transparency International – Georgia website. <http://goo.gl/NPMKV>.

²⁴ Cf. Georgian Chamber of Control covering public information on the Transparency International – Georgia website <http://goo.gl/K3V5w>

²⁵ <http://goo.gl/CQjGW>

²⁶ <http://goo.gl/KbwkU>

²⁷ Organic Law of Georgia on political Unions of Citizens. 31.10.1997. N1028. Parliament bulletin, 45, 21.11.1997. paragraphs 2 and 6 of article 27.

²⁸ Cf. Georgian Chamber of Control covering public information on the Transparency International – Georgia website <http://goo.gl/K3V5w>

²⁹ For example, the information on the Christian Democratic Movement investors and membership fees is actually illegible.

of the United National Movement's investors are not indicated in the declarations.³⁰ Therefore, both the ruling party and the Audit Office are in violation of the law requiring the disclosure of this information.³¹

To ensure transparency and adherence to the law it is essential that the financial activities of all political entities be made public equally – at the same time and in the same manner. In this respect, the selective approach to publishing financial reports of the political parties is a further example of the government's improper use of regulatory resources.

3.1.3 Broad interpretation when imposing a sanction

It is the State Audit Office that declares whether an entity is to be classified as a political party. Prior to this classification, any donations received by that party cannot be classified as illegal. When imposing sanctions and interpreting the law, the State Audit Office should not exceed its statutory powers and it should act solely in accordance with its statutory objectives.

In early May 2012, the media reported on the establishment of the “Komagi” charity foundation. In connection with the creation of the fund, certain statements were made by politicians suggesting that the foundation actually had a political, not charitable, objective.³²

According to the State Audit statement, on 10 May 2012 Bidzina Giorgobiani transferred 90,000 euro to the above foundation.³³ On 18 May 2012 the State Audit Office formally classified the foundation as a political entity and announced that it would launch an investigation.³⁴

On 22 May 2012 the State Agency announced that it found Bidzina Giorgobiani to be in violation of the law on the grounds that his donation had been an illegal donation to a political party (60,000 GEL limit), and had been made from a bank that was not licensed in Georgia, also in violation of the law.³⁵

However, Bidzina Giorgobiani had made his donation before the Audit Agency formally classified the organization was a political entity, and this was not therefore a breach of the law. Rather than fine him, a more appropriate reaction would have been for the agency to ensure that the foundation returned Mr. Giorgobiani's donation to him. In this instance, the State Audit office clearly overstepped its powers and misused its regulatory resources.

3.1.4 The problem with instant response – a selective approach

A further manifestly disproportionate action by the State Audit Office has been its treatment of investigations of alleged vote buying.

As noted above, the State Audit Office reacted instantly to prevent the “Komagi” foundation

³⁰ The declaration supplied to the Transparency International – Georgia by the State Audit Office was submitted after The United National Movement transferred the donation, as illegal, to the state budget.

³¹ <http://sao.ge/res/files/pdf/17/document.pdf>

³² Cf. The Joint Appeal of the non-governmental organizations concerning the creation of the “Komagi” Foundation on the Transparency International – Georgia website <http://goo.gl/H3YKJ>

³³ <http://control.ge/news/id/491>

³⁴ <http://control.ge/news/id/479>

³⁵ <http://control.ge/news/id/491>

from committing the act of possible voter bribery. The agency has responded with similarly striking efficiency to the creation of another charity foundation called “Georgian Football Supporter”, whose financial assets it has frozen as well as alleging that different physical and legal entities had transferred funds to the accounts of that organization.³⁶ However, as seen from the documents submitted by the Foundation³⁷, there has actually been no such movement of funds through the Foundation’s accounts during this period.

In contrast, the State Audit Office has responded significantly more slowly to allegations of vote buying by the ruling party. On May 3, 2012 Transparency International detailed the case of Tamaz Gvelukashvili, a Rustavi City Council member from the United National Movement, who was found distributing “Easter presents” to the local population.³⁸ The State Audit Office took three weeks to release a statement that it would investigate the issue.³⁹ Ultimately, the Audit Office announced that it could not identify any evidence of voter bribery and it classified the act as a lower violation – that of an illicit donation in favour of a political party.

Furthermore, instead of Tamaz Gvelukashvili, a different member of the Rustavi City Council – Kakha Baratashvili was named as the offender. In this particular case, the State Audit Office overlooked an obvious instance of vote buying. The State Audit and the Prosecutor’s Offices have refused to investigate many other instances of alleged vote buying by the ruling party. In particular, the regulatory authorities have failed to react at all to cases dealing with the distribution of gifts and presents by politicians revealed by Transparency International on February 29.⁴⁰

3.1.5 Fine for unpaid donation

Alongside these instances, on 12 March 2012 the State Audit Office fined Cartu Bank for a donation that had not ultimately occurred. The fine imposed was ten times the alleged donation, GEL 822,040, with the State Audit Office arguing that the financial transaction had the intention of bypassing the law. Conspiracy to pay a donation is not a breach of the law.⁴¹

According to the State Audit Office statement, Bank Cartu transferred to its employees a large amount of bonus funds - GEL 82,204 - with the intention that those employees transferred the funds to the Georgian Dream. Cartu Bank employees, however, refused to take part in the scheme and these donations were not made.

In an interview with Rustavi 2 TV on March 5 2012, the above employees declared that they returned the transferred bonuses to the bank without donating them to the Georgian Dream.⁴² The fine imposed against Cartu Bank was therefore illegally imposed by the State Audit Office.

3.1.6 Selective approach to renting office space

³⁶ <http://control.ge/news/id/494>

³⁷ http://transparency.ge/sites/default/files/attachment/%5BUntitled%5D_04092012140934.pdf

³⁸ <http://transparency.ge/blog/> Sheep and 20 liters of wine to the Rustavi voters

³⁹ <http://control.ge/news/id/481>

⁴⁰ <http://transparency.ge/blog/> Political presents

⁴¹ <http://control.ge/news/id/426>

⁴² http://rustavi2.com/news/news_textg.php?id_news=44816&pg=1&im=main&ct=1&wth=0;
<http://www.youtube.com/watch?v=jBVBaMFPMZk;>

A serious problem identified by the Transparency International team relates to the renting of office space by political parties. On May 14 2012, the State Audit Office classified Management Service Ltd as an offender for making illegal donations in favor of political parties.⁴³

Management Service rented offices from private owners, repaired them in partnership with Burji company, equipped them with furniture and other necessary objects, and then subleased them to different parties within the Georgian Dream coalition.

According to the State Audit Office report, renting, repairing and furnishing the space cost the organization more than the income it received from renting the space out to the political parties. As a result, its activities were deemed to be not-for-profit oriented.

To calculate the costs incurred by the company the State Audit Office summarized its leased office space and multiplied the sum by GEL 150 - estimated cost for repair works per 1 sq/m based on the information provided by the Samkharauli National Bureau of forensics.

The sum received as a result of the above calculation was deemed as a donation rendered by the Management Service to political parties and the company was fined in tenfold amount – GEL 476 619,51.

Management Service did not agree with the decision and argued that it was engaged in commercial activities and its cooperation with political parties was aimed at profit. The business of the company was supposed to make a profit of 400 000 GEL over 11 months.

Management Service also disagreed with the State Audit Office's calculation and argued that the real cost incurred by it was much less than that estimated by the State Audit Office, since the state department considered the total area of the rented offices as renovated, while in reality the offices are only partially renovated.

In addition, it is unclear on what basis the value of GEL 150 per 1 sq/m area of repair work was calculated, as neither the State Audit Office nor the experts have seen and conducted an assessment of the works carried out in the offices.

On May 28, 2012, the State Audit Office's decision was challenged by Management Service in court.⁴⁴ Judge Gvritishvili completed the hearing of the case in one day and made the decision. One could derive the impression that the judge was in a hurry and had set a goal to conclude the trial in one day. It should be taken into consideration that the plaintiff's repeated solicitation to postpone the trial was not granted. Due to such speedy trials, it is hard to say how grounded the fining of Management Service was.

Unlike this case, the State Audit Office has not displayed any interest in the issues related to the offices of the United National Movement that had been discussed in the media as well. According to the information disseminated by one media outlet, the United National Movement office repair work in Gori was performed by the Gori local government.⁴⁵

In particular, according to the 2012 Gori municipal budget, a total of GEL 75,000 was spent on the reconstruction of state buildings located in Stalin Ave. #31 and Stalin Ave. #26 in Gori. The building was a Chess Palace, which today is closed down. According to the representatives of the ruling party, the United National Movement has rented the office from the local authority. Similar incidents have been

⁴³ <http://www.control.ge/news/id/522>

⁴⁴ For detailed information on this trial cf.: <http://transparency.ge/blog/ra-khdeboda-%E2%80%9Emenejment-servis%E2%80%9Dsasamartlos->

⁴⁵ <http://qartli.ge/web/5976>

reported from Kharagauli, but so far we were unable to obtain more information.

Unlike the case of Management Service, the State Audit Office has not expressed interest in these cases, which makes us once again call its impartiality into question.

3.1.7 Unequal interest in the activities of political parties

The State Audit Office has been inconsistent in monitoring the activities of political parties. In March 2012, the State Audit Office numbers and numbers of Georgian Dream coalition activists and persons having any contact with the coalition to obtain explanation. During this time, several hundreds of people were interrogated across the country. As the NGOs involved in the monitoring of this process have noted, there were many kinds of procedural violations by the State Audit Office, which have seriously undermined human rights.⁴⁶

In contrast, the State Audit Office has not taken an interest in the ruling party's actions. For months, Transparency International and other NGOs have been requesting the State Audit Office to monitor the activities of the ruling party, which was actively involved in the election campaign. We were especially interested in the closed meetings of the United National Movement leaders with different groups in society, something that was not in compliance with the principles of openness and transparency of political parties.⁴⁷ The State Audit Office has never expressed serious interest to investigate these issues.

3.1.8 Illegally seized property

One interesting case relates to the sequestrating of satellite dishes. On June 21 2012, at the request of the State Audit Office, the Chamber of Criminal Cases of Tbilisi City Court seized the Global Contact Consulting Ltd technical means of broadcasting.⁴⁸

The court ruled that "there are reasonable grounds to suppose that the technical means of broadcasting of Global Contact Consulting Ltd constitute a property which targets crime, such as bribing voters, due to which the above technical means should be seized".

On May 11 2012, technical tools of the TV company Maestro were seized. The reasoning was the same as in the case of Global Contact Consulting.

In both cases, the court grounded its decision on Article 151 of the Code of Criminal Procedure of Georgia (CCP), however, it did not indicate specifically which part it was based on. The Court of Appeal in turn concluded that, in that case, paragraph 3 of article 151 of the CCP was the legal grounds for the seizure.

Under paragraph 3 of article 151 of the CCP, the court may seize property if there is sufficient information to suggest that that it is corrupt property. In order for the seized technical equipment to be considered corrupt property it should already be being used for the commission of a corrupt offence, or have been obtained through corrupt means.

⁴⁶ <http://goo.gl/SR3WW>

⁴⁷ Venice Commission (European Commission for Democracy through Law - Venice Commission). The code of best practices in the field of political parties. Adopted by the Commission at the 77th plenary session (Venice, December 12-13, 2008). Paragraph 19. Also, the Venice Commission explanatory note (adopted at the 78th session, Venice, March 13-14, 2009) highlights that sharing ideas, views and experiences with the electorate must be important for political associations in order to better perceive and respond to voters' expectations, thus implementing a representative mandate.

⁴⁸ <http://news.ge/ge/news/story/19751-sasamartlom-global-tv-is-tegnikuri-sashualebebi-daayadagha>

While bribing voters is clearly a corrupt crime, the given norm in this case does not provide grounds for seizure. The Tbilisi City Court verdict itself states that the property of the TV Company Maestro and Global Contact Consulting has not been used for the commission of an offense yet, but that there is a reasonable suspicion that they are intended for the commission of a crime.

Only Part 2 of article 151 of the CCP allows for the possibility of seizing property at the crime preparation stage or for crime prevention. However, this can be applied only to the most severe offenses,⁴⁹ and the offenses mentioned in Articles 323, 330, and 331¹ of the Criminal Code (CC). Voter bribery (article 164¹ of the Criminal Code) is a less serious crime.⁵⁰ Accordingly, this provision would not be legal basis for the seizure either.

If the legislator wanted to allow for the possibility of imposing a ban at the crime preparation stage or to prevent future crime such as vote buying, then paragraph 2 of article 151 of the CCP, which provides grounds for imposing a ban at the crime preparation stage and for future crime prevention, should not be limited to only the most serious crimes and the crimes under articles 323, 330, and 331¹ of the Criminal Code, but would contain a reference to vote buying. Therefore, the above facts of seizure were inconsistent with the law and these facts constitute instances of using legal resources for political reasons.

3.2 Unlawful actions by other state institutions

In addition to the biased actions of the State Audit Office and the court, there were several instances when state institutions and authorities were used for causing damage to political opponents.

3.2.1 Cartu Bank collection car seizure and audit by the National Bank

On October 18, 2011, the Law Enforcement authorities arrested a Cartu Bank collection van, which was carrying money. On the same day, it was further reported on television that Cartu Bank employees were arrested, under a separate allegation of suspicion of laundering large amounts of money.⁵¹

Ultimately the Cartu Bank employees were released, and the money was returned to the bank two months later. No details of this investigation or the grounds for suspicion of money laundering have ever been made public by the Prosecutor's Office.

On the day after these arrests, the National Bank of Georgia announced they would commence an audit of Cartu Bank, citing the money laundering charges as grounds for suspicion of wider illegal activity. While originally scheduled to last for two months, the auditing investigation ultimately lasted for nine months through a variety of different decrees issued by the National Bank.

Ultimately neither the National Bank nor the Prosecutor's Office released any information suggesting a violation by Cartu Bank as a result of their audit and investigation. Cartu Bank released a separate statement complaining that instead of conducting a money laundering investigation the auditors and investigators have been monitoring the banks' daily transactions.

The arrest, seizure and the commencement of the audit and investigation all occurred shortly Bidzina Ivanishvili announced he would compete in the Georgian elections. These events strongly suggest that

⁴⁹ Most severe offence constitutes a crime category which determines a minimum term of imprisonment of more than ten years.

⁵⁰ For bribing voters, the maximum penalty is three years, which ranks the offense as less serious.

⁵¹ <http://www.youtube.com/watch?v=fLPbldeiCbk>

the ruling party is misusing the regulatory resources at its disposal for its own political purposes.

3.2.2 Illegal actions against Cartu Bank by the Interim Government-installed Executive

On June 11 2012, the court ruled that Bidzina Ivanishvili had made illegal donations in favor of the Georgian Dream - Democratic Georgia party, and he was fined a total of GEL 148 650 131. The Court of Appeal later reduced the fine to half its amount - GEL 74 325 065.⁵²

Ivanishvili initially refused to pay the fines. The National Bureau of Enforcement started enforcement proceedings in order to seize his 21.7% shareholding in Progress Bank, as well as 100% of his Cartu Bank shareholding.

The National Bank appointed an Interim Manager – Vladimir Ugulava – at Cartu Bank for a period of two weeks until 26 July 2012, when Ivanishvili paid the imposed penalty.

According to a statement released by Cartu Bank, when the bank's former manager regained his position at the bank he found that Vladimir Ugulava had made \$50 million worth of loan agreements with four development companies on July 24, two days before he left his position. According to the agreements, the bank was contractually-bound to issue the loans within five days.

According to Cartu bank, these loans had been agreed without the approval or review of the risk management and loan department, in violation of the bank's own loan issuance procedures. Nodar Javakhishvili, the president of Cartu Bank, said that the contracts were explicitly harmful for the bank because the bank lacked the available liquidity to issue the loans and yet if it failed to issue loans within the time stipulated in the agreements, it would also be penalized and again come under the management of an Interim Administration.

According to Georgian legislation the interim administrator must manage the bank's affairs honestly and diligently. This unequivocally rules out the use of an administrators authority against the legitimate interests of the business, and is punishable by article 220 of the Criminal Code of Georgia. This case further demonstrates that the State has used its power to the detriment of the ruling political party's main competitor.

II. Pressure on political grounds

Exerting pressure on citizens and voters for political reasons is among the most serious of pre-election issues, and the majority of such offences are punishable by the Criminal Code. Here we have grouped the use of pressure for political purposes into the following categories: 1) dismissal; 2) intimidation; 3) physical reprisals; 4) arrest; 5) hindering of party activities, and 6) pressure on businesses.

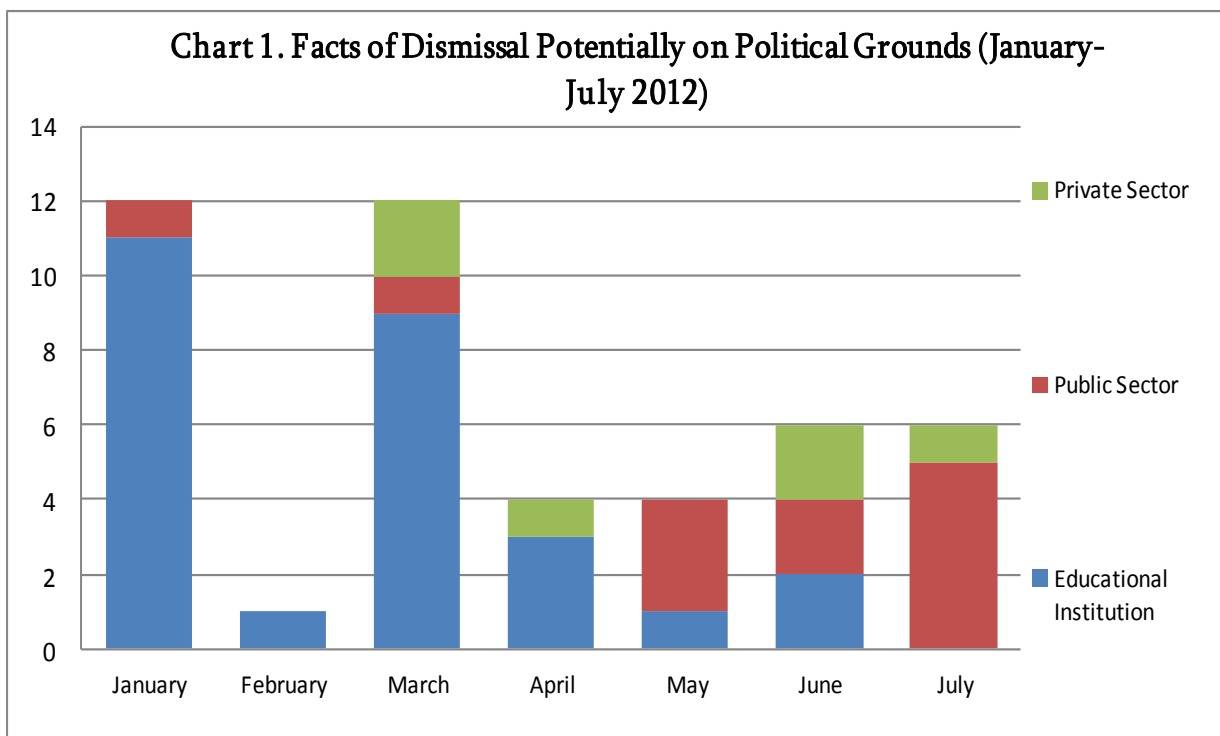
1. Dismissal

A total of 45 alleged political dismissals were identified in the period from October 2012 to August

⁵² <http://transparency.ge/blog/ris-gamo-dajarimda-bidzina-ivanishvili>

2011. The following factors suggest that in these cases the dismissals may have been politically motivated: a) often dismissals were preceded by political activity by the "victim" in support of opposition parties; b) many of the dismissed officials had not committed serious misconduct in the past, enjoyed a strong professional reputation, and had not received any kind of warning or reprimand; c) these people were frequently not provided with a reason for their dismissal.

Cases of dismissal on political grounds were especially prominent in schools and educational institutions, while several instances were also identified in other public agencies and the private sector (see **chart 1**).



1.1. Employees of educational institutions

The removal of teachers and other employees of educational institutions was the most commonly observed example of politically motivated dismissal during the reporting period.

The most notable case occurred on 11-13 February 2012, in **Sachkhere**, when over 10 teachers and school directors were dismissed in several villages in the district. This took place during a period when signatories to a petition to restore the citizenship to Bidzina Ivanishvili were increasingly being targeted, suggesting the dismissals were politically motivated. In particular:

Levan Jikuridze (a Skhvitori public school teacher). He had worked as a teacher in that school since 15 September 2011 and his contract was due to expire on 15 September, 2012. Jikuridze was dismissed on 13 January, 2012. His release from office was preceded by a verbal warning urging him to stop expressing his political views and to remove the "Georgian Dream" logo from his profile on the social network Facebook, with which he did not comply. Jikuridze was also co-author of a text requesting the restoration of the citizenship of Bidzina Ivanishvili. The school principal's order⁵³ did not state the reason for the teacher's dismissal.

⁵³ <http://transparency.ge/levan-jikuradzis-brdzaneba.pdf>

Mtvarisa Meladze - (a Sareki village public school teacher). She had been teaching at that school since 15 September, 2011 and the contract was due to expire on 1 September, 2012. On 11 January, 2012, she was informed by the school principal of her dismissal. The principal's order⁵⁴ does not mention the reason for her dismissal. Meladze said the principal explained that the decision was based on instructions from a higher authority. According to Meladze, she was fired from the job because of her political views and support for the opposition. On 12 January, Meladze's husband, **Murman Kapanadze**, who worked at the House of Culture, was also dismissed.

Nona Shukakidze - (a Tchorvila village public school teacher). She had been a teacher at that school since 15 September, 2011 and her contract was due to expire on 1 September, 2012. She was dismissed at the order of the school principal on 12 January, 2012. Again the principal's order did not specify the reason for the dismissal. In Shukakidze's words, she had been told that her dismissal was related to signing the request for the restoration of citizenship to Bidzina Ivanishvili, as well as her political activities. Reportedly, several other teachers from Tchorvila public school, namely, **Nona Tkemaladze**, **Levan Ivanashvili**, and **Temur Kapanadze**, have also been dismissed for their political views and activities.

Elguja Kavtaradze (Savane village school principal). In his words, he was fired because he accepted assistance provided by Bidzina Ivanishvili to the school staff. Political motivations may also have been the reason for the dismissal of **Giorgi Tchighladze**, another public school principal from Orghuli village.

These cases reveal a pattern of teachers being released from schools without the principals specifying the reason for the dismissal. As for the school principals, their dismissals resulted from the Inspector General's unscheduled audit report.

Another allegedly politically motivated dismissal of teachers took place at Samtredia school #3 on 7 March, 2012. Some of these teaching staff were Bidzina Ivanishvili's close relatives (**Nana Ivanishvili**, **Venera Ivanashvili**), while the others (**Lela Khurtsilava**, **Marina Nadiradze**) had a close relationship with the above. Shortly before their release, a new principal was appointed to the school, as the Inspector General's Office had identified several violations committed by the previous principal. However, the director himself said that he was released from service because he refused to fire the above-mentioned teachers. After their release, the teachers were told informally that the command "came from above".

Another high-profile case of a teacher dismissed on allegedly political grounds occurred at Gori public school #9. On 20 January, Ia Bzhalava, whose husband Tamaz Makashvili is an active member of the movement Independent Democrats, was dismissed from school. Bzhalava is a certified teacher and had worked in the education system since 1990. Her personal file does not record a single reprimand during that period. According to Bzhalava, attempts to remove her started after she joined the coalition Alliance for Georgia as an observer in the 2010 elections. Her husband was also a member of the same movement. According to her, she did not sign the falsified protocol, according to which the votes received by various political parties were recorded in favor of the ruling party. After that, the then principal of the school, Marina Makharashvili, was ordered to dismiss her. Bzhalava said that since Makharashvili did not do this the head of the school was replaced by a person who was willing to, in order to avoid any similar problems occurring during the parliamentary elections. The school principal Elene Khachidze's order⁵⁵ does not specify the reason for Bzhalava's dismissal. Ia Bzhalava appealed the order in the Court, but to no avail.

⁵⁴ http://transparency.ge/sites/default/files/attachment/Mtavarisa_Meladze-Brdzaneba.pdf

⁵⁵ http://transparency.ge/sites/default/files/attachment/Ia_Bjalava-Gaprtkhileba.pdf

Dismissals of teachers on alleged political grounds also place in **Dedoplistkaro**, on 18 April, 2012. **Tamar Tamazashvili**, who is a close relative of a Georgian Dream leader Irakli Gharibashvili, was fired from the art school. Tamazashvili said the school principal warned her not to go to a meeting held by Bidzina Ivanishvili or she would have problems at work. But Tamazashvili did attend the meeting, after which she was required to write a letter of resignation, and two weeks later she was dismissed on the grounds of school reorganization. The school reorganization happened two months before the end of the school year, which further strengthens the suspicion that the case was politically motivated.

A district coach of the Dedoplistkaro Culture and Sports Centre, **Akaki Natroshvili**, who is also the Georgian Dream local office manager, was asked to write a letter of resignation from work. Natroshvili said he was asked to resign from one of his positions. He wrote his resignation on his own initiative because he did not want to cause problems to his chief.

Cases of dismissals from educational institutions on alleged political grounds were particularly frequent during the winter and spring of 2012. From summer onwards such instances were significantly reduced for two possible reasons: a) educational institutions had already been "cleaned" of people who had openly stated their support for the opposition, which had in turn brought about a situation where other employees felt intimidated; b) the recommendation of the Security Council Interagency Commission for Free and Fair Elections, adopted on 31 May,⁵⁶ had a positive influence. This recommendation called on public institutions to refrain from releasing people from the service on the grounds of the staff reorganization.

An incomplete list of alleged political dismissals of the employees of educational institutions is given in **Table 1**.

1.2. Other public institutions employees

Aside from educational institutions, many cases of alleged politically motivated dismissals have been identified in other public institutions. In particular:

On 17 January, 2012, Dusheti Municipality local administration's Labour, Health and Social Service chief specialist **Reziko Otarashvili** was fired. The governor's order on Otarashvili's dismissal gives no reason for the dismissal. As we found out, Otarashvili had received no prior notice. He said that Dusheti governor Lasha Janashvili called him to his office on 11 January and told him that he was being released because Otarashvili's grandmother, Nanuli Natsvlshvili, rented office space to the Georgian Dream. According to Natsvlshvili, Georgian Dream members did visit him and asked to rent the space, but in the end the deal did not take place because of a disagreement over the price.

From May to June 2012, the Georgian Judo Federation employee Sopho Tsirekidze and the Deputy Chief of Tianeti Police Zurab Udzilauri lost their jobs apparently for political reasons. Both dismissals are associated with the Olympic champion Zurab Zviadauri becoming member of the Georgian Dream political coalition on 14 May. Tsirekidze was told that the reason for his dismissal was his telephone conversations with Zviadauri. Regarding Udzilauri's case, he is Zviadauri's child's godfather. According to Udzilauri, that was why he was forced to write the letter of resignation.

A list of alleged political dismissals of public servants is given in **Table 2**.

⁵⁶ <http://www.nsc.gov.ge/geo/news.php?id=6176>

1.3. Private sector employees

Similar incidents of politically motivated dismissal were identified in the private sector. As private companies are less directly affected by the influence of the state and the ruling party it is often more difficult to trace any political motivations behind a dismissal. However, a large section of Georgian business is closely linked to the authorities, and companies often make donations in favor of the ruling party.⁵⁷ There are therefore several cases of dismissals where it is possible to identify political reasons as the primary factor. The following instances merit attention in this respect:

On 1 April 2012, **Zurab Tergiashvili**, who worked as a Geohospitali Ltd ambulance driver in Gurjaani, was dismissed from work. Tergiashvili said that he had worked as a driver for seven years and never had any reprimands. A few weeks before his release, Tergiashvili started to actively cooperate with the Georgian Dream coalition and distributed a variety of their campaign materials, and had even been summoned for questioning by the State Audit Office. He stated that out of eight drivers he was the only one fired. According to the Service manager, the decision was taken by the Geohospitali head office.

Clean Line Deputy Director **Lasha Gogia** suspected that he was dismissed from the company because he attended the Georgian Dream demonstration on 27 May, 2012, and because he was so "active" on social networks. Gogia said he was not told the reason for his dismissal, but it coincided with his presence at the demonstration and his "political" activity on facebook.

A list of alleged political dismissals of private sector employees is given in **Table 3**.

2. Intimidation

Over the reporting period, many cases of alleged intimidation of people with divergent political views were identified. Instances of harassment and giving so-called "friendly" advice to certain people in order to stop their political activities have been reported. As with dismissals, these acts were also usually preceded by the "victim" expressing a different opinion from, or performing an action that was detrimental to, the ruling party.

From November 2012 until August 1, 2011 a significant number of cases of harassment for political reasons have been identified. The following cases are worthy of note:

On April 5, 2012 an Akhmeta resident **Gulchina Tsikoridze** was verbally abused and threatened because she was reading and distributing the Georgian Dream coalition newspaper. Tsikoridze said that the Akhmeta District Educational Resource Center accountant Niko Rusishvili came to her and told her that he would tear up the paper and throw it at her. He also used intimidating language while referring to Bidzina Ivanishvili and the newspaper suppliers. After Tsikoridze gave an interview to Kakheti Information Center regarding the above fact,⁵⁸ pressure was again used against her. According to her, she was walking in the street on April 8, when the Akhmeta District Service Centre manager of Kakheti Energy Distribution, Vazha Marukashvili, attempted to hit her with his car, and on 17 April, unidentified persons raided Tsikoridze's home.

⁵⁷ For more information, see "The finances of political parties in 2011" on the Transparency International – Georgia website <http://transparency.ge/post/report/politikuri-partiebis-pinansebi-2011>

⁵⁸ <http://ick.ge/ka/rubrics/society/10451-----video.html>

In April 2012, several other cases of politically motivated intimidation have occurred in Akhmeta. After a survey on the restoration of citizenship to Bidzina Ivanishvili was conducted at the Kakheti Information Center on 5 April,⁵⁹ law-enforcement officers threatened some respondents and told them to keep quiet. Several respondents, including **Givi Davitashvili**, confirmed the cases of harassment.

Over the reporting period many instances of Georgian Dream coalition activists being threatened were identified.

On the night of 19 June, 2012, three masked persons broke into Georgian Dream supporter **Besik Kuchukhidze's** house in Ordzhonikidze village of Marneuli district and demanded that he leave the coalition, threatening him with further harassment if he did not.

On 4 June 2012, unidentified people forced Georgian judo champion and Georgian Dream member **Ambako Avaliani** into a car. Avaliani said that he was taken to an office where he was threatened by the Minister of Sport and Youth Affairs **Vladimer Vardzelashvili** and the Shooting Sports Federation President **Gia Udesiani**. Avaliani was forced into leaving the coalition. Gia Udesiani is also accused of exerting pressure on another judo player and Georgian Dream supporter **Betkvil Shukvani**.

Other instances of intimidations on alleged political grounds are listed in **Table 4**.

3. Physical reprisals

People have not only been harassed for their political views and activities. They have often become victims of physical reprisals as well. 5 such cases have been identified over the reporting period.

One of the most notable cases occurred in Sachkhere on 4 January, 2012. Around 15 people were beaten up, allegedly by Kutaisi law enforcement officers, for openly supporting Bidzina Ivanishvili and chanting his name at the New Year's concert. The majority of the victims were afraid to make comments openly. However, **Avto Macharashvili** and **Zviad Bredvadze** confirmed the fact that beatings did occur.⁶⁰ According to Macharashvili and others, they were forcibly separated from the crowd and taken to a quiet area, where they were made to curse Bidzina Ivanishvili while being severely beaten.

On June 27, 2012 a Georgian Dream coalition member **Joseph Elkanashvili** was driven out of his house, taken to the river and beaten up by five individuals dressed in police uniforms. They demanded that he leave the coalition, and threatened him with arrest if he disclosed the fact. This was the period when the Georgian Dream was conducting an alternative "Door to Door" campaign.

Other instances of physical reprisal are given in **Table 5**.

4. Detention/arrest

In addition to intimidations and physical reprisals, many cases were recorded of the detention and arrest of opposition political party members, supporters and relatives during the reporting period.

On 19 April 2012, the Criminal Police arrested Lasha Gogoreliani, the brother of actor Levan Gogoreliani, for unspecified reasons. Two weeks prior to his arrest Levan, with several friends, left the TV company

⁵⁹ http://www.youtube.com/watch?v=Weejnko4Fwc&feature=player_embedded#!

⁶⁰ http://www.youtube.com/watch?feature=player_embedded&v=NNvBxKW3YI8#!

Rustavi 2 and moved to work at Bera Ivanishvili's studio. This leads us to suspect that his brother's arrest may have been politically motivated.

On 25 March 2012, **Sergo Chachibaia**, a member of the Free Democrats Zugdidi organization, was arrested. A young boy approached him in the car care centre, insulted him and made to attack him with his fists raised. At that moment a police car appeared, and Chachibaia was taken to Zugdidi Police Department. He was charged with showing resistance after getting into the police car, and damaging the car with a sharp weapon (no one was injured). According to Chachibaia's family and friends, he has a record of previous convictions, which the family links to his political activity. It should be noted that Chachibaia had for many years been a senior official in the Ministry of Interior. This fact, his family and friends argue, makes his use of an edged weapon in a police car unlikely. Of further note is the fact that prior to his arrest Chachibaia released a statement saying that his arrest was planned.⁶¹

On 27 March 2012, one of the Defend Georgia party leaders **Kakha Mikaia** was arrested in Zugdidi on the charge of petty hooliganism; he was voicing protest against the arrest of Sergo Chachibaia. Footage shows that Mikaia, together with others, was making a speech in front of the Court when he was detained by police. The footage does not show any acts of hooliganism and, consequently, the reason for Mikaia's arrest remains unclear.

Other instances of alleged political detentions and arrests are given in **Table 6**.

5. Obstructing party activities

The use of verbal and physical pressure to prevent political parties holding meetings with voters or carrying out other campaign activities was a common violation. Transparency International – Georgia had reported this tendency at an earlier date.⁶²

Problems related to the meetings of Georgian Dream coalition members with voters in the regions were the most persistent. In the majority of cases, local government officials tried to break up the coalition meetings through the use of physical force and provocations, which often resulted in physical confrontation. June and July 2012 were the worst months in this regard. The climax was reached on July 12, during a confrontation in Karaleti village in the Gori district. This resulted in more than a dozen people, including representatives of the media, being hospitalized.

Although the Election Code requires local officials to ensure the safety of the political parties during the election campaign, in many cases government officials themselves were found to be starting and escalating conflicts. Information pertaining to the June and July cases and information about local government representatives participating in them is given in **Table 7**.

6. Pressure on businesses

In March 2012, after Bidzina Ivanishvili's brother's cable company Global TV included Channel 9 in its package, five television stations: "Rustavi 2", "Imedi", "Sakartvelo", "Mze", "Akhali Arkhi" requested Global TV to remove them from the package, which could cause serious damages to the income of the

⁶¹ <http://www.iveroni.com.ge/politika/5447-sergo-chachibaia-dakavebamde-ramdenime-thvith-adre-specialuri-videomimarthva-chatsera.html?lang=ka-GE>

⁶² <http://transparency.ge/blog/rogor-ereva-adgilobrivi-khelisupleba-partiebis-kampaniashi>

company. The decision of the five TV companies was, apparently, politically motivated and aimed at rendering Global TV insolvent. Otherwise, it is hard to explain why all five channels would wish to suddenly and simultaneously reduce their broadcasting range and audience. This suspicion is also based on the fact that the owners of these channels are known to be closely related to the ruling authorities.⁶³

In February 2012, only one school in Rustavi (a private school "Millennium") failed to pass authorization. This school belongs to **Elza Lekveishvili**, the wife of the director of Bidzina Ivanishvili's Construction Company ATU. She told us that, as a result of the monitoring conducted by the National Center for Educational Quality Enhancement, 11 schools in Rustavi had problems related to authorization, but in the end only her school "Millennium" failed to pass.

In March 2012, Nadzaladevi police officers demanded **Medea Gvelesiani** in Tbilisi to discontinue a contract renting office space to Free Democrats. Gvelesiani was accosted by a local police inspector Pipia, who led her to the leadership of the district police Department. Inside the Department they demanded that Gvelesiani terminate the contract, and promised to provide her with work in return.

Other cases of political pressure on businesses are listed in **Table 8**.

III. The use of the country's institutional resources for political and electoral purposes

The use of institutional resources for political purposes in the pre-election period is another variety of the misuse of administrative resources. This includes the use of office equipment, vehicles, facilities, junior civil servants, and other state funded material or human resources belonging to governmental agencies to organize or support party events.

Over the reporting period, institutional resources have quite often been used for political purposes. We have grouped such cases into the following categories: 1) Illegal party instructions given to civil servants; 2) Actions detrimental to the secrecy of the vote in elections; 3) Social advertisements in the service of the ruling party.

1. Public servants' party assignments

Current legislation imposes a special pre-election regime on public officials. The Election Code is the key regulatory normative document in this regard. Article 48 of the Election Code prohibits the use of administrative resources in the period preceding elections, while under article 49 it is prohibited to use state funds and official positions in the pre-election period, which also includes a pre-election ban on propaganda while performing official functions and duties, as well as involvement of subordinate or

⁶³ For more information, cf. the survey "Georgian advertising sector suffers from a lack of competition and independence." 2012, on Transparency International - Georgia website <http://transparency.ge/advertising>

otherwise dependent persons in the campaign in support of any election subject. Nevertheless, there remains a problem: the above regulations of the Election Code are in effect only after the date of the calling of the election, i.e., they became effective only on 1 August.

However, there is no time limit set on the law "On Public Service", article 61, which states that: "Public servants are not allowed to use their official position for party activities". In addition, the OSCE 1990 Copenhagen Document clearly states that the ruling party should not be confused with the state, and that the authorities have a responsibility to ensure a clear separation of the state from political parties.⁶⁴

Violations of the above regulations on the part of public officials occurred with some frequency during the reporting period.

1.1. Collecting lists of the ruling party supporters

On 24 May 2012, the TV company Channel 9 reported⁶⁵ that the Acting Governor of Ozurgeti **Ilya Vashakmadze** gave his employees an assignment to draw up lists of the United National Movement supporters.⁶⁶

In a secret tape footage released by the company, Vashakmadze addresses the employees, saying: "you approach the most reliable people: family members, most trusted friends, relatives, godchildren, whoever you want to. It is not necessary to get 20 or 50 people, but get 10 people at least onto the list, or as many as you can." Vashakmadze also warns his staff that the meeting is extremely confidential and its official goal is supposedly "discussion, say, of the current projects in the city".

In this case we have both a violation of the above norms and also signs of a criminal offense. In particular, under article 332 of the Georgian Criminal Code, abuse of a government position by a public official is a punishable offence. This includes abuse of power by a public servant against the public interest or to benefit himself or anyone else. In this case, the Acting Governor of Ozurgeti was asking his subordinate staff to obtain votes for the party, and doing this using the authority of his position as governor, against the will of the subordinate staff, and exceeding the rights and duties prescribed by the law "On Public Service".

Regarding this fact, Transparency International – Georgia has addressed the Security Council Inter-agency Committee, who responded by saying that at the specified time the Acting Governor was in the United National Movement office and was not performing official functions. The wording that Mr. Vashakmadze uses (for instance when he talks about the confidentiality of the meetings, or instructs his staff to officially state that they were only discussing infrastructure related projects), however, suggests that he is engaged in party propaganda while performing his official duties.

Similar violations of the same norms have been identified based on information provided by several employees from different Ministries and public institutions (the Ministry of Finance, the Ministry of Culture and Monuments Protection, and the Rustavi Revenue Service). According to this information, the officials instructed them to draw up the lists of the ruling party supporters, and in case of non-compliance with the order, threatened them with professional difficulties. One of the employees of the Ministry of Finance told us that a meeting was held where it was demanded from him that he deliver a list of 5 supporters of the United National Movement, otherwise he would face problems. The same

⁶⁴ <http://www.osce.org/odihr/elections/14304>

⁶⁵ <http://www.youtube.com/watch?v=fnaF-a-fnts&feature=share>

⁶⁶ The full version of the secret audio recordings can be found here <http://goo.gl/p0B7o>

person stated that such incidents were taking place across the entire Ministry and in all its sub-units. This fact was further confirmed by another source. After the delivery of the list, public servants received calls from the United National Movement and were summoned to the party offices. Moreover, public servants were informed that the people in the lists would be contacted by United National Movement representatives who would verify whether they really were party supporters.

1.2. Collecting personal information

During the reporting period, several cases were identified where personal information was collected by public servants for unknown purposes. Personal information, in this case, means an individual's identification number, telephone numbers, as well as their social, official or family status. However, in some cases, the range of information collected by public officials was much wider, creating serious doubts that this information was gathered for legitimate electoral purposes alone.

Collecting personal data without the permission of the person is prohibited under Georgian legislation if it is not necessary for public security, national defense, court proceedings or other matter of significant public interest. Moreover, such acts are punishable under part 1 of article 157 of the Criminal Code, which reads: "Illegally obtaining personal or family secrets, their storage or distribution shall be punishable by fine or forced labor for a term of up to one year or imprisonment for the same period of time".

An interesting case in this regard was identified in Lanchkhuti, where Freedom of Choice coalition members stated that they gained a computer memory chip belonging to a Lanchkhuti police officer, **Shmagi Uratadze**, which shows that the police were collecting people's personal data (personal identification numbers and telephone numbers).⁶⁷ Especially alarming is the fact that the information gathered by the police has the data grouped as: people who own satellite dishes, the local leader of the opposition who "supervises the supply of antennas", and "the people employed in the company" of Bidzina Ivanishvili.

The nature of information collected (political view, satellite antenna ownership, service information, etc.), and its extent (all the village residents), suggest that the information could not have a legitimate purpose, and gives rise to serious suspicion that the officer's behavior was politically motivated, in violation of the Administrative Code,⁶⁸ and is punishable under the Criminal Code: article 157 (illegally obtaining personal secrets, their storage or disclosure) and article 332 (abuse of official power).

The same norms were violated in a case observed in Mestia, where in April 2012 the head of the Ipari village dispensary was collecting identification numbers from the rural population, while claiming that he was acting on behalf of the Minister Zurab Tchiaberashvili.

In addition to the illegality of these cases, they are also notable for their potential negative psychological impact on the population in the pre-election period. Such behavior causes legitimate public distrust in the electoral process, and represents a significant impediment to a healthy electoral environment.

1.3. Mobilizing public officials for political purpose

⁶⁷ http://cfcgeo.blogspot.com/2012/07/blog-post_30.html

⁶⁸ General Administrative Code of Georgia, the laws On Public Service and On Personal Data

Alongside other assignments, public officials were also asked to participate in public meetings held by high-ranking officials of the government and the ruling party. Up to 40 new hospitals were opened by the president himself, as part of the "100 Top Hospitals" program, between December 2011 and May 2012. The president met with people after every opening of a new hospital, and every time public service employees were actively mobilized using state funds in order to participate in the meetings. In particular:

On 27 February 2012, the President of Georgia Mikheil Saakashvili, visited the hospital in Kvareli.⁶⁹ More than a thousand people were brought from various villages of the district in mini-buses to meet with the President. Talking with journalists, people confirmed that they were public servants and their travel expenses were paid by regional administrative authorities.

The President's public meeting in Akhmeta in March 2012 was also extensive and was related to the opening of a new hospital.⁷⁰ Because of the President's visit, the district public schools canceled their last classes, and the learning process was disrupted in the city schools after 12:00 pm. It was even reported that pupils from nearby villages were brought in inside vehicle trunks.⁷¹ Extensive administrative resources were mobilized to bring as many people as possible to the territory adjacent to the newly opened medical center.

On May 22, 2012, citizens were mobilized in Poti by the youth wing of the United National Movement and the City Hall to attend the president's speech in Anaklia.⁷² Again, all City Hall resources were deployed to support this effort. Furthermore, many of the people mobilized were state institution employees.

As these examples demonstrate, a considerable amount of material and non-material administrative resources were spent on organizing public meetings for the opening of new hospitals by the President: public servants, educational and other state employees and students were all mobilized to attend meetings held during working hours. The organizations who arranged the audience for the above meetings have one thing in common - they are financed from the state budget and, therefore, are part of the governmental system. This factor raises a logical question whether those people were forced to attend the meetings and, if so, this constitutes an abuse of official power.

Moreover, such meetings encouraged certain misperceptions among ordinary citizens. For example, it is known that the above medical institutions were built through private investments and belong to insurance and pharmaceutical companies. However, the survey conducted by Transparency International – Georgia reveals that 82.6% of the 250 people surveyed believed that the hospitals were built by the state.⁷³

1.4. Politicized diplomatic service

Issuing orders on illegal party assignments was taking place even in such specialized structures of the Public Service as the diplomatic service. We have obtained information that, during 2012, the Georgian embassy in the United States of America sent e-mails laden with politicized content to interested

⁶⁹ <http://ick.ge/ka/rubrics/politics/9960-----video.html>

⁷⁰ <http://ick.ge/ka/photogalleries/10034--photo-video.html>

⁷¹ <http://ick.ge/ka/photogalleries/10036-2012-03-05-17-37-49.html>

⁷² <http://tspress.ge/ka/site/articles/11956/>

⁷³ <http://transparency.ge/post/press-release/hospitaluri-seqtoris-kvleva>

parties, including influential American experts and scholars, in an attempt to discredit Bidzina Ivanishvili and the Georgian Dream political coalition.

Two prominent American researchers informed us about the political contents of the messages being sent. One of them relayed to Transparency International - Georgia e-mails received from Khatuna Okroshidze, the second secretary of the Georgian embassy to the United States.⁷⁴ In her first email⁷⁵ Okroshidze sent a translation of an article from the newspaper "Asaval - Dasavali", in which John Bass, former US ambassador to Georgia, was mentioned in a derogatory context. She also wrote that "Asaval- Dasavali" was Bidzina Ivanishvili's favorite newspaper, while highlighting its xenophobic articles.

Okroshidze's second letter,⁷⁶ sent to an American expert, contains various Georgian newspaper clippings in which the positions of the Industry Will Save Georgia political party representatives were noted. The embassy employee also highlighted that the given opposition party has become a member of the Georgian Dream coalition, has an express anti-western position, is against Georgia entering NATO, and wants to create an autarkic economy in Georgia, similar to Belarus, whose major partner will be Russia. Another American researcher also wrote to us that he had received similar emails from the Georgian embassy.

It is obvious that such actions were instances of the use of public resources in favor of the ruling political party. Using the Foreign Service to serve the lobbying purposes of one party is impermissible; such steps totally contradict the practice of democratic countries, and are a gross violation of Georgian legislation. Under Article 15 of the Georgian Law on Diplomatic Service, "a person shall cease any kind of political activity from the time of his/her appointment to a diplomatic position. During his/her employment in the Diplomatic Service a diplomatic agent shall remain politically neutral, and shall have no right to carry out activities / propaganda in favor of or against any political party, organization, union." Such actions by the diplomatic service would cause a huge scandal in any civilized country and cast doubts on its reputation.

Responding to this fact, the Georgian Foreign Ministry [said](#): "the e-mails did not include political bias."⁷⁷The focus was on facts that reflect the positions of the various Georgian political parties on important foreign policy issues." The Foreign Ministry also said: "The e-mails were aimed at supplying experts and researchers with factual information" and "in none of the above cases have the Georgian diplomats sent their own political assessments to foreign colleagues".

It is difficult to consider Okroshidze's e-mails as "factual information". In one of her e-mails, she refers to a Georgian newspaper as "known for its xenophobic content", and "Ivanishvili's favorite newspaper". These words reveal the embassy employee's subjective opinion and political assessment. The second e-mail contains a similar judgment.

2. Actions against the secrecy of the vote in elections

The principle of the secrecy of the vote is the most important prerequisite for the realization of voting rights. It is upheld and guaranteed by the Constitution of Georgia, international agreements and the Election Code. Under Subparagraph "d" of Article 3 of the Election Code, elections, referendum and

⁷⁴ http://usa.mfa.gov.ge/index.php?lang_id=GEO&sec_id=138

⁷⁵ <http://goo.gl/MdVyF>

⁷⁶ <http://goo.gl/OXwoY>

⁷⁷ http://www.mfa.gov.ge/index.php?lang_id=GEO&sec_id=59&info_id=15425

plebiscites in Georgia shall be held by secret ballot. Any action restricting free will of the voter, or controlling the expression of the voter's free will is prohibited.⁷⁸ These regulations serve to protect the principle of vote secrecy, which is vital to ensuring voter confidence towards the electoral process.

In spite of this, ahead of every election false assumptions are spread, mostly by people employed in the public service, regarding the violation of the secrecy of the vote. Analysis of the sources of the information raise grounded suspicions that it is a deliberate campaign inspired by certain political interest groups. According to the most common assumptions the voting booths have surveillance cameras, or that people are given orders to circle the number in the Bulletin in different ways, or using different colored pen, in order to identify their choice. Transparency International - Georgia has often received information on these facts from its own sources, while various news outlets have also documented it. "...people are called to the local administration. Public servants are told that every citizen's Bulletin will be identified, that booths have hidden cameras, and they are warned that after entering the booth and circling the bulletin, they must take a photograph of the circled number "Five".

They are also told that they will be given different color pens to mark bulletins", - said majority candidate Viktor Japaridze.⁷⁹ A former coordinator of the "United National Movement", Rusudan Tsiklauri, asserted the same.⁸⁰

Sources have also informed Transparency International - Georgia about demands by ruling party activists that their supporters take photos of their marked ballot papers with the use of a particular camera, in order to avoid the transfer of a photo between them. Besides the fact that this is a violation of the constitutional principle of the secrecy of voting, the requirement of the Election Code, Article 58, paragraph 6, stipulating that "to ensure the secrecy of voting, photo and video recording inside the booths is prohibited", is also violated. This, on the one hand, is a violation of the right to the secrecy of voting by the person committing the offence, punishable under Article 164 of the Criminal code, while, on the other hand, with regard to the person requesting voters to take photos, this constitutes an attempt to commit a crime (violation of the secrecy of voting), punishable under Article 164, as well as provoking a crime (article 145 of the Criminal Code).

To avoid similar psychological pressure on voters, the Central Election Commission should take appropriate measures. Preferably, it should conduct an active media campaign to deepen confidence within the electorate that the secrecy of their vote will be guaranteed.

3. Social advertisements for the ruling party

During the reporting period, such administrative resources as social advertising were actively used for the ruling party's own electoral and political goals.

Social advertising is regulated by the law and it is the liability of all licensed media outlets to provide such advertising free of charge.⁸¹ However, the law also strictly regulates the question as to what can be considered a social advertisement. In accordance with the first paragraph of Article 12 of the law

⁷⁸ The Election Code of Georgia. Subparagraphs "d.a" and "d.b" of Article 3

⁷⁹ <http://goo.gl/a8Yay>

⁸⁰ <http://www.youtube.com/watch?v=H82oXBs405E>

⁸¹ The law of Georgia "On Broadcasting". N780. 23.12.2004. №80, 5, 18.01.2005. article 65.1.

"On Advertisement", a social advertisement is "an advertisement to promote the public good and charity related goals; it is neither commercial nor electoral, and does not include advertising of any legal entity of private law or a government institution, or their services".

Analyzing the social advertising data on the public broadcaster over the entire reporting period, we found that numerous video commercials did not meet the criteria of social advertising specified by the legislation. Moreover, content-wise, many of them were political advertisements serving the propaganda purposes of the ruling party. These cases represent the use of administrative resources for electoral purposes and constitute illegal donations on behalf of the government in favor of a particular political union.

Transparency International - Georgia studied a number of social ads on the public broadcaster during 2012 and commissioned by state authorities, many of which are clearly beyond the scope of the legal definition of social advertising. In particular:

- A pension increase campaign-related ad was very much like a political pre-election advertisement, with the president as the key character, giving promises to increase pensions by September 2012.⁸² The date coincided with the period ahead of the parliamentary elections in Georgia.
- Educational reform-related advertising was also beyond the scope of social advertising, with a video commercial detailing the past achievements of the Georgian government and the services it had provided.⁸³ Content-wise it clearly resembled political advertisements, which are usually used in the pre-election period.
- "8 years of the Rose Revolution".⁸⁴ The political nature of this advertisement is even more dramatically evident, with the video outlining the government's post-revolution achievements and reforms, quoting the head of the North Atlantic Alliance. The video prominently features the president and other government officials.

A comprehensive list of political ads bearing the status of social advertising is given in **Table 9**.

Transparency International - Georgia twice emphasized the issue of politicized social advertising, but in the first instance⁸⁵ the relevant authorities made no attempts to eliminate the illicit practice, while in the second instance⁸⁶ the inter-agency committee recommended that the government and the public broadcaster stop running these so-called social ads in the pre-election period, which highlighted projects implemented by the government and could be perceived as an election advertisement.⁸⁷ However, this response should be considered overly sluggish, since by that time such advertisements had been extensively shown on Georgian channels for many months, bringing benefit to the ruling party. In this case, too, it was evident that administrative resources were being used in favor of the ruling party.

IV. Voter bribing

In addition to the use of state administrative resources, serious attention should be paid to issues such as vote-buying while monitoring pre-election processes. Vote-buying is a criminally liable action and

⁸² <http://www.youtube.com/watch?v=5iWw8bpHdyg>

⁸³ <http://www.youtube.com/watch?v=ltN2OrS9J9s>

⁸⁴ http://www.youtube.com/watch?v=Zm5za_c2Dbk

⁸⁵ <http://goo.gl/gbD1j>

⁸⁶ <http://transparency.ge/blog/sotsialuri-reklamebi-mmartveli-partiis-samsakhurshi>

⁸⁷ <http://www.nsc.gov.ge/geo/news.php?id=6197>

its definition is provided in Article 164¹ of the Criminal Code, article 25² of the Georgian Law on Political Unions of Citizens, and Article 47 of the Election Code. Under the Criminal Code: “Direct or indirect offer, pledge, transfer or render of money, securities (including financial instruments), other property, property rights, services or any other advantage for election purposes, or acceptance of such through previous knowledge, or concluding illusory, hypocritical or other transactions for the purposes of avoiding restrictions prescribed by the law is punishable by imprisonment up to three years or a fine”.⁸⁸

Violations of these laws may have a significant impact on the will of the voters, and therefore regulatory bodies and political parties should devote special attention to this issue. During the reporting period, several cases were identified with manifest signs of vote-buying.

1. Sheep and wine for Rustavi voters

In April of 2012, a member of the Rustavi City Council from the "United National Movement", Tamaz Gvelukashvili, sent sheep and wine to several Rustavi districts as Easter presents. Transparency International – Georgia interviewed Rustavi residents who confirmed this fact.⁸⁹ They noted that, a few days before Easter, information about the number of residents in various building was collected in different districts. On Easter day, presents (specifically, sheep and 20 liters of wine) were delivered by car to the same districts. In some districts, presents were even distributed by Rustavi City Council and Kvemo Kartli Regional Administration employees. It was openly stated that the parcels had been sent by Gvelukashvili. "Yes, they brought sheep and wine to our district; Gvelukashvili did not appear in person, but those who brought the presents said that they were sent by Gvelukashvili", said a resident of the settlement adjacent to the Youth Park. Residents of Lomouri street stated that "this is an election present, they have brought us sheep and wine during previous elections, and now it is Gvelukashvili's Easter present", and that "The City Council staff brought them, but they said that Gvelukashvili had sent them."

The State Audit Office conducted an administrative investigation into the above case and found that it was not Gvelukashvili who had distributed the goods but the City Council Vice Chairperson Kakha Baratashvili, a member of the United National Movement,⁹⁰ at his own expense. The Audit Services found Baratashvili guilty of making an illegal party donation. However, Baratashvili holds an official political position and, naturally, has electoral and political aspirations. Consequently, this case should have been considered vote buying. A criminal offense was obvious, because there had been not only a promise, but also an actual transfer of gifts. The fact that the person committing the act was not an ordinary activist but a high-ranking official strongly suggests electoral motivations.

2. Festive feast for Tetrtskaro voters.

⁸⁸ Article 164¹ of the Criminal code of Georgia

⁸⁹ <http://transparency.ge/blog/Sheep> Sheep and 20 liters of wine for Rustavi voters

⁹⁰ <http://sao.ge/?action=news&npid=232&lang=geo>

On 4 June 2012, the news agency "info 9" released a report⁹¹ which shows Tetrtskaro district majoritarian MP David Bezhuashvili organizing a festive feast for residents of the Asureti village. One person interviewed for the report recalled that on the eve of the Asureti village holiday "Asuretoba" inviters went around informing the villagers that David Bezhuashvili was inviting them to the feast. The report pictured the preparations for the feast and the MP himself. Moreover, based on comments from various residents, the news agency reported that Mr. Bezhashvili widely organized "similar feasts in other villages as well". Transparency International requested that the State Audit Office and the Prosecutor's Office launch an investigation into the case.⁹² On July 17, the State Audit Office replied that: "No facts suggesting the organizing of an event or the provision of material gifts for political purposes have been confirmed. The obtained information does not provide reasonable grounds to believe that a violation of the requirements of the Law on "Political Unions of Citizens" has occurred".⁹³

3. Pre-election feast for Kakhetian voters

Kakheti Information Center reported⁹⁴ that on 31 July 2012 the political party "Christian - Democratic Movement" invited voters to a feast at one of their events. According to the reports, the party leaders claimed they had only organized the event, and that the costs of the feast (wine, meat, cucumbers, tomatoes, and bread) were covered by the voters. However, many people insisted that they had not paid anything. The video recording also revealed that the event was perceived by those who attended it as a "Christian – Democrats" funded event. The State Audit Office has started an inquiry into the case.

See other facts about the alleged vote buying in **Table 10**. The state authorities have not taken any action on the facts listed in the table

⁹¹ <http://www.info9.ge/?l=G&m=1000&id=99>

⁹² <http://goo.gl/8iKHL>

⁹³ <http://sao.ge/?action=news&npid=254&lang=geo>

⁹⁴ <http://ick.ge/ka/articles/11778-2012-07-31-19-49-23.html>