



**TRANSPARENCY
INTERNATIONAL
GEORGIA**

Misuse of Administrative Resources for Electoral Purposes

2013 Presidential Elections

Interim Report

24 October 2013



USAID
FROM THE AMERICAN PEOPLE

Misuse of Administrative Resources for Electoral Purposes: 2013 Presidential Elections

Interim Report
24 October 2013

Researchers:

Gigi Chikhladze
Andria Nadiradze

Lead Researcher:

Levan Natroshvili

This report is made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of Transparency International Georgia and do not necessarily reflect the views of the International Foundation for Electoral Systems, USAID or the United States Government.

Contents

I. Introduction.....	3
II. Main Findings and Trends.....	4
III. Definitions of the Use of Administrative Resources for Electoral Purposes.....	6
IV. The Use of Legal Administrative Resources for Electoral Purposes.....	7
1. The Salome Zourabichvili Case.....	7
2. The Clearing of Probationary Sentences and Criminal Records by the President.....	8
3. Granting Georgian Citizenship to Ethnic Georgians Residing in Turkey.....	8
4. Secondary Admissions to Universities.....	8
V. Use of Coercive Administrative Resources for Electoral Purposes.....	9
1. Case of Ivane Merabishvili.....	9
2. Other Incidents.....	10
VI. The Use of Institutional and Media Administrative Resources for Electoral Purposes.....	13
1. Civil Servants Participating in Election Campaign.....	13
2. The Discharge of Officials in Violation of the Election Code.....	14
3. Placement of Campaign Materials.....	14
4. The Mobilization of Supporters Employed in Budget-financed Bodies.....	15
5. The Use of Media Resources.....	16
VII. The Use of Financial Administrative Resources for Electoral Purposes.....	18

I. Introduction

The Parliamentary Elections in 2012 resulted in the first transfer of power through elections in Georgia. This marked significant progress in the development of the country. The upcoming Presidential elections will be yet another test for Georgian democracy. One of main problems during the previous elections was the use of administrative resources for electoral purposes. As a rule, administrative resources have been used to benefit the ruling party. This has been seriously damaging to the electoral environment. In addition, the oppression of dissenting individuals by the state through various means has significantly violated human rights.

For this reason, the use of administrative resources for electoral purposes merits great attention. Transparency International Georgia has been studying and observing this issue for years. We now present an interim monitoring report covering the period from 1 July to 23 October 2013. The date of the Presidential elections was officially announced on 1 July, launching the pre-election period.

With respect to the methodology used to conduct the research for this report, the lawyers of our organization have been registering all incidents during the reporting period during which the possible use of administrative resources, or acts to the same effect, could have occurred. These facts have been examined and double-checked by the organization's lawyers, the three regional offices and the five regional coordinators. Moreover, the lawyers verified whether the relevant facts comply with the Georgian electoral legislation and international standards. Information on violations of the law has been sent to the responsible state agencies.

The interim report first provides an overview of the main findings and trends of the research. Later, it explains the ways that administrative resources may be used for electoral purposes. The following chapters review concrete incidents of the possible use of administrative resources.

After the elections, Transparency International Georgia will publish a final report on this matter. As well as the issues below, it will assess the work of the Inter-Agency Task Force for Fair and Free Elections, the Inter-Faction Group of the Parliament, the Central Election Commission and the State Audit Office. Additionally, the final report will offer recommendations.

II. Main Findings and Trends

The monitoring of the period from 1 July to 23 October 2013 revealed that, compared with the Parliamentary Elections in 2012, there was a considerably lower number of instances of the use of administrative resources for electoral purposes during this period. This made the pre-election period seem more calm and competitive.

Coercive Resources

First of all, there were no reported cases of the widespread use of coercive resources for electoral purposes during the reporting period. Undoubtedly, important progress has been made since the pre-election period of the previous year. The coercive use of administrative resources is defined as the illegal use of state powers against political opponents, their supporters and voters, including the politically motivated detention of individuals, or the use of threats, intimidation, assault, discharge or other forms of coercion.

In this regard, a notable event took place in Kharagauli at 6.00 AM on 20 October. Davit Kapanadze, head of Regional Police Division of Kharagauli, together with ten policemen, entered the house of Nino Pkhaladze. Pkhaladze is a member of the Kharagauli election office of the United National Movement's candidate – Davit Bakradze, the head of the UNM's election office in the village of Partskhnali in the Kharagauli region and a member of local council of Kharagauli representing the UNM. According to reports, the police had been informed that there were weapons and explosives in the house of Nino Pkhaladze. However, the police could not find them upon further inspection of the premises.

In the reporting period, several facts of possible duress were reported which might not be directly related to the Presidential elections, but their prevention is important for holding fair and free elections. High-ranking officials from several local councils and municipalities have reported force used against them. Here, we mainly refer to the incidents that occurred in the Bolnisi and Akhmeta local councils that eventually resulted in the discharge of their chairmen.

Legal Resources

During the pre-election period leading up to the Presidential elections, several possible incidents of the use of state resources were also reported. Specifically, these included the groundless refusal by the CEC to register Salome Zourabichvili as a presidential candidate, and two decisions made by Georgia's President – first, to pardon many individuals who were incarcerated, and second, to grant Georgian citizenship to thousands of individuals. The Ministry of Education's decision in September to allow secondary admissions to the universities can also be considered the possible use of such resources.

Institutional Resources

During the reporting period, state institutional resources have been used for electoral purposes more often than other resources. Particularly, this included many cases of civil servants illegally participating in campaigning. Such incidents have been reported in Zugdidi, Poti and Chokhatauri.

Compared to last year's parliamentary elections, fewer incidents occurred that involved the forced

mobilization of staff from state-sponsored agencies and their forced participation in campaigning. We observed that when such incidents did occur in several of the municipalities, these activities were more voluntary than forced.

Due to the fact that we believe the Election Code was violated, we appealed several times to the CEC, providing evidence of incidents of the use of institutional resources for electoral purposes. However, the CEC denied most of our appeals, in our opinion, for groundless reasons.

Financial Resources

During the pre-election period, no incident of the use of this type of administrative resource was noted. One case was reported in Ajara when the funding of certain programs funded by the local budget was increased after 1 July. This was a violation of the law because increasing funds for any budgetary program is forbidden during the pre-election period. Later, an amendment was made to the law so that the increase of funding for budgetary programs was restricted only during the 2-month period prior to the elections, instead of the whole pre-election period. Consequently, the court did not find the mentioned incidents to be violations of the law, because said budgetary changes were made more than two months prior to the elections.

III. Definitions of the Use of Administrative Resources for Electoral Purposes

There is no precise or commonly accepted definition for state administrative resources and their use for electoral purposes in Georgian or in international law. However, multiple international documents pertain to this issue attempting to establish somewhat common approach to it. Based on the analysis of these documents and scholarly opinions, we can identify the following types of administrative resources:

Type of Administrative Resource	Example of its Use for Electoral Purpose
Legal (Legislative, Regulatory) Resources	<i>Use of legislative, executive and judicial branch of the government for the interests of electing certain political party or candidate.</i>
Institutional Resources	<i>Use of office equipment, means of transportation, premises, subordinate civil servants as well as use of other material and human resources financed by the state for organizing-conducting election campaigns.</i>
Financial Resources	<i>Use of budgetary resources of the central or local government agencies to facilitate election campaign of certain political party or candidate</i>
Coercive Resources	<i>Illegal use of state coercive powers against political opponents, their supporters and voters, including politically motivated detention of individuals, intimidation, assault, threatening, discharge or other forms of coercion.</i>
Media Resources	<i>Media outlets financed by state or/and municipal budgets giving preferential treatment to certain political party or candidate.</i>

The Electoral Code of Georgia defines the use of administrative resources for electoral purposes very narrowly, often leaving many issues unregulated. More specifically, an administrative body might undertake a set of acts where it will not violate the law, but the manner it can provide goods to society might have a significant influence on the voters' will. In such cases, it is very difficult to draw a line between the state and a political party, which is a requirement of the document of the 1990 OSCE Copenhagen Conference.

Consequently, by the use of administrative resources we mean not only violations of Georgian law, but also acts against the spirit of the Copenhagen document.

IV. The Use of Legal Administrative Resources for Electoral Purposes

State legal resources constitute one of the strongest means to place political opponents on an unequal footing and ensure the preferential treatment of a ruling party. These types of resources include the use of the legislative, executive and judicial branches of the government for electoral purposes. These may include amending laws disadvantaging only certain political groups, uneven application of the law, making unjust court decisions etc.

Compared with the 2012 Parliamentary elections, this type of administrative resource might have been used in only several cases during the pre-election period of this Presidential election. Also, the functioning of the State Audit Office – the most “active” state agency during the previous elections – was far calmer and even passive during this pre-election period. With regard to concrete facts, four cases must be singled out.

1. The Salome Zourabichvili Case

On 3 September 2013, the Central Election Commission (CEC) refused to register Salome Zourabichvili as a presidential candidate. Zourabichvili holds both Georgian and French citizenship. The CEC cited Article 29(1¹) of the Georgian Constitution, which provides that a Georgian citizen who is also a citizen of a foreign country cannot take office as President.

Neither the Election Code nor the Constitution of Georgia requires that a presidential candidate must hold only Georgian citizenship. Article 70 of the Constitution and Article 96 of the Election Code, which provide quite detailed requirements for the registration of a presidential candidate, are silent on the issue of dual citizenship. Article 29(1¹) of the Georgian Constitution is the only regulation posing restrictions in such cases. However, the provision bans individuals with dual citizenship from taking office as President, but does not ban them from running in the elections. Therefore, if an individual with dual citizenship wins the elections, s/he can simply renounce the citizenship of the foreign country, and thereby will not infringe on the Constitutional provision.

Moreover, the principle of proportionality requires that a measure aimed at achieving the objective of the law (the Constitution) must be the least restrictive of legal rights. We believe that the intent of Article 29(1¹) of the Georgian Constitution – that only individuals with Georgian citizenship can take office as President – would have been fully satisfied if Salome Zourabichvili had been allowed to register as a presidential candidate and had renounced her French citizenship if her candidacy was successful.

In addition, Article 29(1¹) is a later amendment to the Georgian Constitution. If the legislative intent had been to apply it also to the presidential candidates, it would have been added to Article 70 (this is the provision which determines requirements for the registration of a presidential candidate), instead of Article 29. Alternatively, it would have been specified in the Election Code that individuals with dual citizenship cannot run in elections, or the Constitutional provision in question would have been drafted in a manner so that it also applied to the candidates.

Salome Zourabichvili is a rather well known politician in Georgia and would have probably been a promising candidate in the 2013 Presidential elections, increasingly the plurality of the electoral race.

Consequently, we believe that the unjustifiable restriction of her right to run in the elections likely amounts to the use of legal resources for electoral purposes.

2. The Clearing of Probationary Sentences and Criminal Records by the President

On 19 August 2013, Georgia's President Mikheil Saakashvili announced an initiative to vacate probationary sentences and clear the criminal records of "thousands of individuals" by individual pardoning acts. This initiative encompassed all crimes except for grave crimes, such as premeditated murder, murder under aggravating circumstances, the premeditated murder of a newborn by its mother, etc.

Although this did not violate the law, recalling that the President initiated the "zero tolerance" policy towards crime in 2006 and that his government had been pursuing a rather strict criminal justice policy, this massive pardoning so close to the elections can be interpreted as an attempt to win the favor of the pardoned and their families. This may be equated with the use of administrative resources for electoral purposes.

3. Granting Georgian Citizenship to Ethnic Georgians Residing in Turkey

On 14 October 2013, at a meeting with ethnic Georgians residing in Sakarya in the Adapazari region, and in Nüzhetiye in the Gölcük region of Turkey, the Georgian President said that yet another 3,000 compatriots living in Turkey would receive Georgian citizenship. He stated that he had already granted citizenship to up to a thousand compatriots living in Turkey.

According to Georgian legislation, the President may grant citizenship at his discretion. However, the "creation" en masse of new voters several weeks prior to the elections probably is not free of electoral motives. Although the CEC stated that these individuals would not be able to vote in the Presidential elections, they will be able to do so in the local municipal elections that will take place next year.

4. Secondary Admissions to Universities

The Minister of Education and Science of Georgia issued an order allowing secondary admissions to universities in September 2013. Specifically, on 11-13 September, all applicants who had passed the minimum threshold in exams in four disciplines, but had still not received a sufficient score for admission, were allowed to re-register and receive admission in universities.

Although the law permits the Ministry to make such decisions, such changes in the university admission rules have not occurred in recent years. Therefore, there is a justifiable doubt that this was an act to win the favor of several thousand voters.

V. Use of Coercive Administrative Resources for Electoral Purposes

As shown by past experiences, the use of coercive resources for electoral purposes usually includes the application of formal or informal pressure on activists by various political forces. Formal pressure implies the criminal prosecution of a politically active individual (or administrative legal process). Informal pressure encompasses duress by officials, which they exert unofficially through means of abuse of office. Such incidents occurred frequently prior to the 2012 Parliamentary elections, and have been included in our reports.

In this regard, the current pre-election period was far calmer. The widespread use of coercive resources was not reported. This implies that important improvements have been made since last year's parliamentary elections. However, there were some notable incidents:

1. Case of Ivane Merabishvili

The arrest of Ivane Merabishvili, Secretary General of the United National Movement and former PM and Minister of Internal Affairs, for several alleged crimes, caused a strong reaction from various foreign politicians and international organizations.

Our organization has been monitoring the court trials of high-profile criminal cases since February 2013. The results of the first stage of the monitoring process of these cases have been reflected in "the interim report on the judicial monitoring of high-profile criminal cases". The monitoring of high-profile criminal cases is still ongoing, and the results of the monitoring of these trials after the interim report will be included in the following report.

In the monitoring period, no substantial procedural violations were revealed in the trial of Vano Merabishvili. The United National Movement had most of the questions regarding the application of preventive measures against Merabishvili. At the trial, the prosecutor set the motion to apply preventive measures against all individuals involved in the case. However, the court approved the motion only in relation to Ivane Merabishvili.

The prosecutor argued that the detention was necessary because the accused could have crossed state borders and gone into hiding as well as influence the witnesses and avoid the investigation. Ivane Merabishvili has been one of the most influential officials in Georgia. He was the Minister of Internal Affairs from 2004 to 2012, and the Prime Minister from July 2012 to 25 October 2012. Also, in 2013, he attempted to leave the country together with the Presidential delegation holding a passport issued with a different name.

The defense disagreed with the argument of the prosecution and noted that detention, as a preventive measure, was not necessary as Merabishvili had arrived for interrogation and had not gone into hiding. The judge agreed with the prosecutor's argumentation and granted pre-trial detention. The judiciary has not announced that the judge was under any type of duress.

The defense and their supporters have been protesting that the trials were conducted in Kutaisi. However, the prosecution has such formal discretion pursuant to the criminal procedural legislation of

Georgia.

According to our observations, the substantial rights of the defendant have not been violated in the trial. The principles of equality of parties and adversarial trial have been observed. We think that it will be difficult to assess whether the detention of Merabishvili was politically motivated until the end of the trial. Also, it is difficult to evaluate the Government's decision to begin an investigation against one of the leaders of an opposition party. Certainly, using political arguments when guided by the principles of rule of law is not justifiable. Everybody is equal before the law. The court will establish the culpability.

2. Other Incidents

Apart from the Merabishvili case, several other interesting incidents took place during the reporting period. At 6.00 AM on 20 October, Davit Kapanadze, head of Regional Police Division of Kharagauli, together with ten policemen, entered the house of Nino Pkhaladze, a member of the **Kharagauli** electoral office of the United National Movement's candidate – Davit Bakradze, head of the UNM's office in the village of Partskhnali in Kharagauli region and member of local council of Kharagauli representing the UNM. According to reports, the police had been informed that weapons and explosives were being stored in the house of Nino Pkhaladze. Our representatives spoke with Nino Pkhaladze, who stated that the search went on for several hours and the police did not find any firearms. Also, she noted that she had received calls from certain individuals offering her cooperation with the Georgian Dream. She added that there was no threatening. It is a notable fact that, together with the head of Davit Bakradze's electoral office in Kharagauli Tornike Avalishvili, she was holding campaign meetings with residents of Kharagauli just a day before the search.

On 6 September, the Anticorruption Agency of the Ministry of Internal Affairs arrested Boris Mikava, deputy head of the Local Council of **Martvili**, for alleged bribery. He is charged with taking 5,000 GEL as a bribe for the sale of 2,500 sq/m of state-owned land by means of the abuse of office and protectionism. We have talked with Zaal Gorozia, head of the Local Council, and Guram Tsotsoria, head of the Administration of the Council. The head of the Council stated that members of the Council were put under direct duress. According to him, members of his staff and the Commissions of Infrastructure and Social Affairs were summoned to the Financial Police or Prosecutor's Office multiple times over the last months, where they are investigating activities from 2006 up until today.

An incident of direct political pressure being applied on activists of the United National Movement was not confirmed in **Poti**. The representatives of the party stated that the prosecutor's office was placing pressure on its members. More specifically, on 28 August 2013, Nugzar Gogua, Grigol Ghvania and Luiza Jolokhava were summoned to the prosecutor's office for witness interrogation. This issue was discussed at the Task Force where it was clarified that the District Prosecutor's Office of Western Georgia is investigating a case related to the purchases of votes in favor of the UNM. The purchases were allegedly made through the "Program on the Registration of Employment Seekers" and finances from the state budget. The implicated individuals were summoned as witnesses in this case. One of the interrogated activists confirmed with us that the interrogation was held in a calm manner and that there was no pressure applied. Although the use of pressure was not confirmed, the Task Force reminded the Prosecutor's Office of the recommendation made in the 2013 by-elections. According to

this recommendation, it is desirable to refrain from interrogating activists and members of the electoral offices of political parties in investigation procedures. The exceptions include when there is a high societal interest in a case or there is risk of missing a procedural deadline.

In the reporting period, several facts of possible pressure were reported which might not be directly related to the Presidential elections, but their prevention is important for holding fair and free elections. The situation in local councils and municipalities has indirect but critical impact on the election environment. Often, it is the local political situation that ensures the functioning of local district and precinct election commissions in an efficient and law-abiding manner.

In this regard, a notable incident took place in the **Bolnisi** municipality. On 26 August, the head of the local council of Bolnisi – Malkhaz Eradze, was dismissed. As a result, there were protest rallies in front of the building of the municipal body. Eradze and his supporters state that a seizure of power took place in the Bolnisi region. Members of the local council made the decision to dismiss Eradze at an extraordinary session. According to them, he was unable to properly perform his duties. Eradze told our representative that his dismissal, which was decided by 13 members of the council at an extraordinary session, was illegal and that the minutes of the meeting were fabricated. He also stated that the members of the local council were summoned and intimidated in the departments of the Ministry of Internal Affairs in Marneuli and Bolnisi during the month prior to his impeachment. “They have managed to intimidate three Azerbaijani members of the council. As for me, I was put under duress – they were interrogating me for 8 hours and were demanding that I hand over the seal of the council. As I refused, they manufactured another seal in some factory.”

“Also, a search of Eradze’s office and house was carried out with violations. An authorized person was not present at the search and no court’s warrant was presented,” – stated Soso Khakhutashvili, Eradze’s lawyer.

On 12 September, the Minister of Justice Tea Tsulukiani, and members of the Inter-agency Task Force, visited Bolnisi to study the matter. Tsulukiani met with members of the local council in a private meeting. According to the official report of the Task Force: “It was found that two groups of the Georgian Dream went against each other in the local council. The chairperson of the Task Force held a meeting with all council members, including the adversaries, the new chairperson of the local council and new head of the municipality. After this, the situation calmed down. There have been no other incidents in Bolnisi during the reporting period. However, the Task Force is observing events in Bolnisi so that political processes there do not prevent the Presidential elections from being held in a fair environment.”

Despite this, locals claim that the conflict is not over and the situation remains tense. Therefore, the matter should be kept on the agenda of the Inter-agency Task Force until it is finally resolved. The police should take relevant steps in regard to the alleged fact of duress.

Another incident of possible duress occurred in **Akhmeta**. On 22 August, the Information Center Kakheti reported that members of the local council of Akhmeta were put under duress. The council members were summoned to the bureau of Zurab Zviadauri, majoritarian MP, and were coerced to add the matter of the dismissal of Zakaria Kinkladze, head of the Council, to the 23 August Council session’s agenda. The Information Center Kakheti also published an interview with a member of the Council (s/he requested anonymity) where s/he confirmed that Zurab Zviadauri, majoritarian MP, Beka Baidauri, incumbent head of the municipality, and Gogita Garibashvili, deputy head of the Kakheti

Police Department, were coercing him/her to sign a petition for the dismissal of the head of the Council. Otherwise, s/he was threatened that “we will find drugs on you and arrest you.”

On the same day, members submitted a petition to the council for the dismissal of its chairman. Twelve council members signed the petition. A bureau session had to decide whether to add the matter of dismissal to the 23 August council session’s agenda. Only 7 members of the council were present at the bureau session, and only two supported initiating the impeachment of the chairman. The following day, on 23 August, members re-submitted the petition to the council for the dismissal of its chairman. This time, the groundless petition was signed by those members who had rejected it at the bureau session a day before. According to the Information Center Kakheti, the majoritarian MP of Akhmeta, Zurab Zviaduri, coerced the council members into re-submitting the petition for impeachment. The interviewee of the Information Center Kakheti who attended this meeting stated that the majoritarian MP and the incumbent head of the municipality threatened them with the police and the prosecutor’s office, declaring that “the matter of dismissing the council chairman was approved by the Prime Minister. Therefore, there is no point in resistance.” On 2 September, 16 out of 19 attending members supported the dismissal of Kinkladze at an extraordinary session of the council. At the same session, Davit Imerlishvili, former member of the United National Movement, was elected as the new chairman of the Council.

These incidents were discussed at the Inter-Agency Task Force for Free and Fair Elections (IATF). As a result, the IATF issued the following recommendation for local self-governing bodies: to refrain from the significant reshuffling of staff, including through dismissing chairpersons (head of municipality or Council) and impeachment. This is to avoid the perception of politically motivated discharges and attempts to influence election results. The said recommendation might possibly have had a preventive effect, however, we think that it was necessary that the law enforcement agencies react adequately upon the alleged fact of duress.

VI. The Use of Institutional and Media Administrative Resources for Electoral Purposes

The use of state institutional resources for political purposes also qualifies as the use of administrative resources for electoral purposes. It includes the use of office equipment, means of transportations, premises, subordinate civil servants, as well as the use of other material and human resources financed by the state for organizing or conducting election campaigns. However, as we noted already, this is not a clearly formulated definition, and the use of institutional resources might also encompass other activities. On the other hand, the use of media resources implies the use of media outlets financed by the state for or against the interests of certain political parties.

Since 1 July 2013, institutional resources have been used most often for electoral purposes. Particularly, there have been frequent cases of civil servants illegally participating in election campaigns.

1. Civil Servants Participating in Election Campaign

On 11 September, a pre-election campaign meeting of the United National Movement's candidate – David Bakradze - took place in **Zugdidi**. Members and supporters of the party attended the meeting. Simultaneously, representatives of the Defend Georgia movement held a rally against the UNM.

Our representatives observed that the 11 September campaign meeting was attended by staff from the Zugdidi local city council, including by Temur Basilaia, head of staff of the council, Bartlome Shelia, head of the Material and Technical Supply Division of the council, Levan Makatsaria, head of the Social Affairs Division of the council, and Anna Tsitlidze, chief specialist at the Legal Affairs Division of the council. The simultaneous anti-UNM rally, led by Kakha Mikaia, a member of Defend Georgia, was attended by Edem Kekutia, head of municipality of the village of Chkhori in the Zugdidi region, and Nukri Jichonaia, chief specialist at the Zugdidi city municipality. These individuals are civil servants of the local municipal bodies. Therefore, the Election Code bans them from conducting or participating in pre-election campaigns during business hours (Article 45(4)(h) of the Election Code). Due to the fact that the rally was taking place during business hours (it started at 16.00 o'clock), the civil servants violated the Electoral Code.

We submitted information about this incident to the Central Election Commission and requested that they fine the violators of this law. The CEC denied our petition on the grounds that inaction cannot be considered campaigning. Therefore, the attendance at the election campaign does not amount to participation in it. However, we think that attendance at a campaign meeting is an action. Besides, Article 45(4) of the Election Code bans civil servants from campaigning, as well as participating in election campaigns during business hours. According to the Election Code, campaigning is "any public action" facilitating the election of a candidate. Thus, conducting a campaign meeting for Margvelashvili fully falls into this definition and attending it must be considered as participation in the election campaign.

A similar incident took place on 7 October in the city of **Poti** where Otar Kharchilava, assistant to the

Mayor of Poti, was present at a meeting of the candidate Margvelashvili. Kharchilava is a civil servant in the local municipality and therefore, is banned from campaigning or participating in a campaign during business hours. According to the TSpress, the chairperson of one of the precinct election commissions was also present at the same meeting despite the fact that he is banned from participating in campaigns even outside of business hours. Subsequent to our petition, the CEC revealed that the assistant to the mayor was temporarily suspended from office for these reasons. In the case of the chairperson of the election commission, the CEC did not find that his attendance implied participation in the campaign.

The illegal participation of civil servants in pre-election campaigning was also reported in **Chokhatauri** on 13 September. According to Guria News, a campaign meeting with Giorgi Margvelashvili was attended by Gocha Persashvili, head of the Guria Military Police Department, Guram Asatiani, his deputy, Akaki Maisuradze, head of the Chokhatauri Police Department and Zaza Dolidze, his deputy. The attendance of personnel from the Ministry of Internal Affairs at the pre-election meeting is perceived as participation in pre-election campaigning. This is a violation of Article 45(4)(c) of the Election Code and entails a fine of 2,000 GEL.

We appealed to the CEC on this matter, which found that the policemen were present at the campaign meeting only to ensure order.

On this matter, the Inter-agency Task Force for Free and Fair Elections made the recommendation that the Ministry of Internal Affairs instruct the policemen to wear specific uniform when they attend campaign meetings to ensure the public order. This is to eliminate any confusion about the purpose of the police attendance such meetings. The MIA agreed with this proposition. The Ministry made amendments to the electoral instructions of the police whereby all staff of the MIA must strictly observe the principle of political neutrality, as well as to wear a specific uniform when attending campaign meetings.

2. The Discharge of Officials in Violation of the Election Code

On 18 October, the local council of **Keda** dismissed Jemal Sharadze, its deputy chairperson. By making this decision, the council violated Article 49(5) of the Electoral Code which stipulates: "From the expiration of the term of registration of electoral subjects until the end of the polling day, the reshuffle of senior officials of the body of local self-government, police and the Prosecutor's Office, except for the expiry of the term of their authorities and/or in cases when they have violated the law, shall be prohibited." Due to the fact that a deputy chairperson of a local council is an official of the local self-government, his/her discharge before the end of the polling day is illegal.

3. Placement of Campaign Materials

Apart from the civil servants' illegal participation in campaigning, other incidents of the use of other type of institutional resources for electoral purposes have been reported. Specifically:

There have been cases of placing campaign materials in violation of the set rules during the pre-election period. Namely, the electoral poster of Giorgi Margvelashvili, presidential candidate, was

displayed on Aghmashenebili Square in Kutaisi in violation of the law. The poster was placed on the facade of the building where his electoral office is situated – in the corner of Tbilisi and Queen Tamara Streets, zone one of the city.

According to Article 46(4) of the Election Code, local municipal bodies determine the list of buildings where election/campaign materials are allowed to be, or banned from being, displayed. In the case of Kutaisi, Order #784 of the chairperson of Kutaisi local council, issued on 10 July 2013, sets such a list. The display of campaign materials is forbidden on the facade of all buildings in zone one of the city. Aghmashenebili Square, as well as Queen Tamara and Tbilisi Streets, received the status of zone one by Resolution #153 of the Kutaisi local council, adopted on 4 April 2008 and entitled “On the adoption of the rules for the territorial use and development of the city of Kutaisi.” Consequently, the display of campaign posters in zone one of the city violated Order #784 as well as the Electoral Code.

Other presidential candidates also violate these same rules by displaying their campaign materials on the facades of their offices, though all the offices are situated in zone one of Kutaisi (Giorgi Margvelashvili – 3, Str. Queen Tamara; Davit Bakradze – 9, Str. Saint Nino; Koba Davitashvili – 26, Str. Queen Tamara; Nino Burjanadze’s electoral office – 7, Str. Grishashvili), which is forbidden by the local council’s mentioned Order.

4. The Mobilization of Supporters Employed in Budget-financed Bodies

The mobilization of civil servants or other staff employed in bodies financed by the state budget at political party events was a pervasive trend of the 2012 pre-election period. Such a trend was often the result of officials influencing civil servants, professionally subordinated or otherwise dependant on them. There is a particularly high risk of the illegal use of administrative resources at this type of events. Such forced events have not been apparent during the current pre-election period, however, the relatively small scale mobilization of civil servants has still been reported in several municipalities. It also needs to be added that these mobilizations appear to have been more voluntary than forced.

On 7 September, teachers of public schools met with Giorgi Margvelashvili, the Georgian Dream’s presidential candidate, in **Kaspi**. According to information provided by the Shida Kartli Information Center, the mobilization of the supporters occurred in an organized manner and was supervised by the heads of municipalities in Khandaki, Akhalkalaki, Akhaltsikhe, Khovle and other municipalities. The head of the municipality of Khandaki told the journalist that he had ensured the transportation of 120 people. Heads of local municipalities are civil servants of local self-governing bodies, thus, there is a justifiable doubt that they have used state administrative resources in favor of a specific political subject. This is a violation of Article 48(1)(c) of the Election Code and entails a fine of 2,000 GEL.

We submitted this possible violation to the Central Election Commission, which did not find it in violation of the Election Code. According to the ordinance of the CEC, they have retrieved the information from the Georgian Dream – Democratic Georgia and the municipality. Both the political party and the municipality denied their participation in transporting the teachers. As it can be seen in an explanatory note issued on 25 September by Ramaz Berianidze, chairperson of Margvelashvili’s election office in Kaspi, according to their information, only two minibuses of the transportation vehicles used belonged to a person who voluntarily transported the individuals. The note further reads that] the rest of the mini-buses were so-called “line buses” which also might be private property.

As it appears, the CEC could not precisely establish the belonging of the minibuses. In the Ordinance, the CEC is requesting information from various agencies (Georgian Dream, Kaspi Municipality), but not from the governor of the Khandaki territorial entity. He is the only person who, according to the information we provided, knows with precision about the belonging of the minibuses used for transportation.

Giorgi Margvelashvili, the candidate of the Georgian Dream, held similar campaign meetings in Velistsikhe, Gurjaani and Sagarejo. Mostly public school teachers and civil servants attended the meetings. The meeting in Velistsikhe was held in front of the house of culture. Several teachers of a public school told the Information Center Kakheti that Nino Nesuashvili, the principle of the school, announced to the gathered teachers in the morning that they had to go to the meeting with Margvelashvili at 12.00 o'clock. After Velistsikhe, a meeting with Margvelashvili was held in Gurjaani, on Guramisvhili Street. The street was closed prior to the meeting in order to install the stage. However, the municipality did not published information about closing the street in advance. After Gurjaani, Margvelashvili travelled to Sagarejo. The meeting there started at 15.00. Mostly teachers attended this meeting also. Approximately an hour before the meeting, parents of school students were asked to arrive at the school and were given school books. After receiving the books, the parents joined the meeting with Margvelashvili.

On 1 October, Margvelashvili held a campaign meeting in Telavi. According to reports from the Information Center Kakheti, teachers arrived at the meeting from Akhmeta, Gurjaani, Kvareli, Sighnaghi, Lagodekhi and other regions of Kakheti, which was organized by the regional representations of the Georgian Dream. They picked 10-15 teachers from each school to greet the Prime Minister and the presidential candidate. Later, regarding the mobilization of teachers, Giorgi Margvelashvili stated that his central election office would study this case. There was, however, no follow-up on this afterwards.

5. The Use of Media Resources

Together with the abovementioned institutional resources, one case of the possible use of media resources for electoral purposes was reported. Namely, on 10 September, the Georgian Public Broadcaster (the GPB) declined a request from the United National Movement to air six videos of a political nature, citing that the videos did not comply with the requirements set for pre-election political advertising. More specifically, it argued that the electoral subject – the United National Movement - could not be seen anywhere in the videos. We believe that the GPB should not have refused to broadcast at least two of the six videos provided by the political party.

Due to the particular nature of this issue, the GPB's decision to broadly interpret the concept of a qualified electoral subject seems correct. According to this interpretation, it considers a political party and its corresponding presidential candidate an electoral subject. However, there is still was one problem in the GPB's statement: the Election Code provides that an electoral subject or/and its ballot paper number must be visible in a pre-election ad. This does not mean that the ads should only be concerned with the electoral subject that commissioned the video. In this case, we can infer any electoral subject because the law does not specify which electoral subject or ballot paper number must be visible in an ad. Consequently, the GPB should not have refused to broadcast at least two

(video Employment 1 and Industry 3) out of the UNM's six videos, because the electoral subject Georgian Dream is visible in them – satisfying the requirements of the law. This problem was solved after several days when the UNM indicated its name in the videos. Despite this, we still believe that the GPB's previous decision was politically motivated. This doubt is further strengthened by the statement of Tamaz Tkemaladze, incumbent Director General of the GPB, who noted that he would not air the UNM's ads because they were ads against the Georgian Dream. For the record, according to Georgian legislation, pre-election political advertising can also include messages against election subjects.

VII. The Use of Financial Administrative Resources for Electoral Purposes

During the pre-presidential election period, there has been almost no instance of use of this type of administrative resource. One case has been reported in Ajara when funding of certain programs of the local budget has been increased since 1 July. This was a violation of the law because increasing funds for any budgetary program is forbidden in a pre-election period. Later, an amendment was made to the law restricting the fund increases to budgetary programs for the period of 2 months prior to elections instead of the whole pre-election period. Consequently, the court did not find the mentioned facts to be violations of the law because the amendments were made more than 2 months prior to the elections.

More specifically, on 24 July, the High Council of Ajara made amendments to the 2013 budget of Ajara Autonomous Republic and increased funding of several budgetary sub-programs. This was a violation of the provision of the Election Code in force at the time. Namely, pursuant to Article 49(3) of the Election Code, during the period of announcement of election date to the conclusion of election results, it was forbidden to increase the funding of programs planned before the elections. Although Article 49 only mentions budgetary programs and does not specify sub-programs which constitute parts of programs, the intent of the provision is to prevent the government from manipulating the will of the voters through the budget. This can be achieved by increasing funds to both budgetary programs and sub-programs. Consequently, it is clear that the changes made by the High Council to the budget on 24 July violated Article 49 of the Election Code in the wording that was in force at the time.