



ANNUAL HUMAN RIGHTS REPORT FOR 2012

**HUMAN
RIGHTS
CENTRE**



TBILISI, 2013

Human Rights Center (HRIDC)



ANNUAL HUMAN RIGHTS REPORT FOR 2012

Tbilisi, Georgia

2013

Authors:

Tamar Avaliani

Nino Tsagareishvili

Non-governmental organization the Human Rights Centre (HRIDC), formerly Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia.

The Human Rights Centre (HRIDC) is dedicated to protection and promotion of human rights, rule of law and peace in Georgia. It is free of any political and religious affiliation.

The Human Rights Centre (HRIDC) believes that everyone is entitled to exercise her/his civil, political, social, economic and cultural rights freely and without any discrimination as guaranteed by national and international law. We consider that protection and promotion of these rights and respect for rule of law are the key preconditions for building sustainable peace and democracy in Georgia.

The Human Rights Centre (HRIDC) has five priority areas of action: strengthening the rule of law, supporting freedom of expression and media, promoting equality and social inclusion, reinforcing democratic processes and supporting transitional justice

The HRIDC wants to express its special gratitude to the Norwegian Helsinki Committee and the National Endowment for Democracy (NED) for their support to the Human Rights Monitoring Program.

The contents of this publication are the sole responsibility of the Human Rights Center (HRIDC) and can in no way be taken to reflect the views of donors.

Contents

Introduction	6
Penitentiary.....	7
2012 Parliamentary Elections	9
Pre-election Period	9
Day of Balloting.....	13
Freedom of Media	19
Gela Mtvlishvili’s Case.....	20
Case of Saba Tsitsikashvili (Karaleti Incident).....	21
Other Facts of Violating Journalists’ Rights	22
Seizure of Maestro Dish Antennas.....	23
Legislative Amendments.....	24
Amnesty Law	24
Criminal Code of Georgia.....	27
Amendment to Criminal Procedural Code of Georgia.....	27
Must Carry and Must Offer	28
Constitutional Amendments (End of December, 2012).....	29
Draft Amendments to the Organic Law of Georgia on General Courts.....	31
Draft Labor Code of Georgia	33
Political Freedom	37
Teachers Dismissed on Alleged Political Grounds	37
Case of a History teacher in Sagarejo Municipality	38
Case of Apeni Public School Teacher	38
Case of a School Coach in Dedoplistskaro District.....	39
Case of Gori Public School #9 Teacher.....	39
Dismissals of Ten Teachers in Sachkhere.....	39
Dismissal of Odzisi Public School Teacher	40
Alleged Politically Motivated Dismissals of Other Employees.....	40
Alleged Politically Motivated Dismissals after the Parliamentary Elections 2012.....	42
Judicial System	43
Problems in Criminal Justice	43
High-Profile administrative cases	44

<i>Chamber of Control vs. Bidzina Ivanishvili</i>	44
<i>State Audit Service vs. Individuals</i>	45
<i>Administrative Imprisonment of Elita Burji’s Lawyer Imeda Nikuradze</i>	45
Constitutional Lawsuits prepared by Human Rights Center	46
Freedom of Religion	48
Law-enforcement and Human Right	49
Presumption of Innocence	50
<i>Case of Tamaz Tamazashvili</i>	50
Lopota Special Operation	51
Freedom of Assemblies and Manifestations	52
Administrative Detentions	54
IDPs	57

Introduction

The year of 2012 in Georgia was marked with the first peaceful transfer of power through the means of elections. The pre-election environment was characterized with intimidation and oppression of opposition activists including arrests and threats of physical assaults. State Audit Service of Georgia imposed inadequately high sanctions against political opposition. New amendments made in 2011 to Organic Law on Political Unions of Citizens and Election Code set new restrictions for political parties.¹

On the day of balloting, Human Right Center monitors revealed numerous violations related to exercising pressure on voters, calling for voting for certain electoral contestant and violations of secrecy of voting. If we consider all violations observed during the day, it would be hard to call the elections just.

Like previous years, suppression of media freedom continued during 2012 as well. Unlawful seizure of Maestro TV satellite dishes was described as “an obstacle for development of an independent TV company” by a collation of number of local civil society and media organizations This Affects You Too.²

The revelation of widespread abuse of prisoners in Georgian penitentiary was the most alarming human rights concern triggering mass protests across the country. On September 18th of 2012 different media outlets disseminated videos showing torture, inhuman and degrading treatment of inmates in different Georgian prisons. Disturbing videos disseminated in September showed horrifying scenes of rapes, beatings, inhuman and degrading treatment of prisoners.

In January of 2013 newly elected Parliament of Georgia adopted Amnesty Law according to which 190 political prisoners left prisons. The cases of political prisoners were analyzed by the working group created with Parliamentary Committee for Human Rights.

Release of political prisoners should be welcome as a significant step to advance human rights and restore justice for the victims of human rights violations.

In regards with freedom of assemblies and manifestations, instances where police failed to dully fulfill their responsibilities and ensure protection of protestors from counter-protestors were observed during the year of 2012.

¹ p. 9; http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

² <http://www.civil.ge/eng/article.php?id=24994>

Alarming tendency observed after the change of government was dismissal of public servants due to the alleged political reasons. 679 public servants were dismissed from local self-governmental bodies in Kakheti region after elections.

Penitentiary

During the monitoring of penitentiary conducted by the National Prevention Mechanism of the office of Ombudsman in the summer of 2012 numerous problems were highlighted.³ Like in previous parliamentary and special reports, this monitoring also revealed systemic and widespread nature of ill-treatment in Georgian penitentiary. However, Georgian government neglected these accusations for years and impunity went unpunished.

Reports of Ombudsmen continuously noted on the problem of overcrowding in Georgian prisons. For the beginning of 2012 Georgia was the first among the European countries with the number of prisoners per 100.000 people.⁴ By March of 2012 number of prisoners in Georgia reached 24 009.

The problem of inadequate medical service was also permanently raised by the Office of Ombudsman.⁵

On September 18th of 2012 different media outlets disseminated videos showing torture, inhuman and degrading treatment of inmates in different Georgian prisons.⁶

Disturbing videos disseminated in September show horrifying scenes of rapes, beatings, inhuman and degrading treatment of juvenile inmate and inmate with disabilities.

Shocking images of prison abuse triggered mass protest actions all over the country.

Minister of Corrections and Legal Assistance of Georgia resigned from job as a result. The Minister of Internal Affairs Bacho Akhalaia who had been Minister of Corrections and Legal Assistance formerly also resigned due to the fact that the officials accused of torture had been appointed by him.⁷

³ p. 11 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

⁴ p. 5 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

⁵ ibid

⁶ <http://www.youtube.com/watch?v=p3ISjdrclj5>; <http://www.youtube.com/watch?v=p3ISjdrclj5>;
<http://www.youtube.com/watch?v=cUzZBuOCUDU>

⁷ <http://www.tabula.ge/ge/story/61712-bacho-axalaia-tanamdebobidan-gadadga>

In several days after the events of September 18th all directors of penitentiary departments were dismissed from jobs and new heads were appointed. Also, all employees who were accused of ill-treatment by the prisoners according to their complaints were dismissed.

Initially 18 employees of penitentiary were imprisoned under the charges of torture and ill-treatment.

In September of 2012 former Ombudsman Giorgi Tughushi was appointed to the post of Minister of Corrections and Legal Assistance. According to the latest report of Ombudsman, number of positive changes was made after his appointment⁸ particularly, in the closed types of departments (Kutaisi #2, Gldani #8, #18, Rustavi #6) prisoners were given right to buy TVs. Press became available. Bed equipments were changed in several departments. In Kutaisi #2, Gldani #8 and #18 departments prisoners were no longer reluctant to use their right to take walks.⁹

After meeting and consulting with the representatives of civil society Ministry of Penitentiary established the public monitoring council which comprised 50 representatives of media, NGOs and civil society in general.¹⁰ The members of public monitoring council were given right to enter any penitentiary department at any time during the day and monitor the existing situation.¹¹

After the elections of October 1st and subsequent change of government, Sozar Subari, who held the post of Ombudsman previously to Giorgi Tughushi, was appointed to the post of Minister of penitentiary. The heads of various penitentiary departments were also changed.

According to the Parliamentary Report 2012 of Ombudsman, prisoners showed discontent to the appointment of new director to Rustavi #16 department.¹² On October 31st representatives of National Prevention Mechanism of Office of Ombudsman met with the prisoners of #16 department. The prisoners passed collective statements to the representatives signed by hundreds of inmates.¹³

According to prisoners, after the appointment of new head, old restrictions were brought back in the prison particularly, they were no longer given right to go to church, to hang up laundry in the cell though there were special places allocated for this purpose. Prisoners also complained that new director threatened them, imposed unreasonable punishments and groundlessly put

⁸ p 60 <http://www.tabula.ge/ge/story/61712-bacho-axalaia-tanamdebobidan-gadadga>

⁹ ibid

¹⁰ <http://netgazeti.ge/GE/105/News/13727/>

¹¹ ibid

¹² p. 62 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

¹³ ibid

them in isolation cells.¹⁴ The inmates also noted that after he came to job, old employees who were accused of torture were also brought back to jobs.¹⁵

National Prevention Mechanism of Office of Ombudsman addressed the Minister of Corrections and Legal Assistance to thoroughly examine above-mentioned facts. The statements of prisoners were also sent to the office of Prosecutor.

On November 2nd of 2012, director of Rustavi #16 prison Levan Aburjania was dismissed from job.¹⁶

2012 Parliamentary Elections

Pre-election Period

In 2012 electoral subject Georgian Dream was created by Georgian philanthropist and businessman Bidzina Ivanishvili. Right after he announced his wish to participate in 2012 parliamentary elections, he became target of political persecution. Two days after this announcement, Ivanishvili was stripped of his Georgian citizenship.¹⁷ Less than two weeks after the billionaire announced his plans to form a political party armored van belonging to Bidzina Ivanishvili's Tbilisi-based Cartu Bank was raided and two million USD and one million EUR in cash was seized.¹⁸ Ivanishvili's supporters and their relatives faced arrests and dismissals from jobs.¹⁹

In early 2012, Bidzina Ivanishvili's public movement Georgian Dream suffered further setbacks when the Chamber of Control accused it of trying to evade new restrictions on funding of political parties. In February, according to the state audit agency, Cartu Group subsidiary Cartu Mshenebeli had given a 40,000 GEL bonus to one of its employees who proceeded to donate half of that amount to the Georgian Dream movement. While not a registered political party, the audit agency considered Georgian Dream's "declared political goals" enough to put it under the jurisdiction of the new party financing law and imposed fines of 200,000 GEL against each of the three parties involved in the transaction.²⁰

¹⁴ ibid

¹⁵ ibid

¹⁶ ibid

¹⁷ See more on the issue, p. 38, http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

¹⁸ p. 40 http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

¹⁹ p. 41 http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

²⁰ p. 43 http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

March saw further crackdowns with employee bonuses within Ivanishvili's Cartu Group being seized by authorities on similar grounds. Cartu Bank was fined 822,040 GEL when two employees purportedly admitted to having received bonuses (44,400 GEL and 37,804 GEL respectively) intended for redistribution to the Georgian Dream movement. The case of Cartu Group affiliated construction firm Elita Burji, brought an additional 1.5 million USD fine against Ivanishvili's campaign for donating 150,000 USD worth of promotional t-shirts to the Georgian Dream. By mid March, the fines levied against Ivanishvili and his associates amounted to an estimated 3.9 million GEL. In addition to this, On March 20th, Bidzina Ivanishvili was fined with another GEL 2.72 million for the transfer of GEL 272,597 to his public movement.²¹

Under the Law on Political Unions of Citizens, the Chamber of Control of Georgia is authorized to "request information about the origin of transferred and received property" from "persons with declared political and electoral goals and objectives", or persons related to them. Following the mandate from these new party financing regulations, the Financial Monitoring Service of the Chamber of Control staged what amounted to mass interrogations on March 12, 13, and 14, 2012. Throughout Georgia, in Lanchkhuti, Chokhatauri, Ozurgeti, Batumi, Khelvachauri, Kobuleti, Poti, Zugdidi, Kutaisi, Zestaponi, Gori, Kareli, Kaspi, Gurjaani, Sagarejo, and Signaghi, over 150 individuals were interrogated.²⁰⁵ The Chamber of Control stated that the proceedings were part of an ongoing investigation into the financial report submitted by Bidzina Ivanishvili's Georgian Dream coalition for the period of January through February of 2012.²²

Human rights organizations expressed concern about the nature of interrogations as well as the manner in which they were carried out. Instances of aggressive and intimidating behavior from interrogators, including denial of the right to legal representation raised alarm among human rights groups.²³

In Poti City Hall, Tamar Zhvania was searched before being questioned for 90 minutes. The questions related to Zhvania's political activities, distributing newspapers and collecting signatures for a petition to restore Ivanishvili's citizenship. According to Zhvania, the interrogators asked how many signatures she had collected, how much she had been paid for her work, and if she had forced anyone to sign the petition. She said the interrogation lasted 90 minutes and she was strictly searched before it started.²⁴

In Lanchkhuti, Lili Ebralidze, a member of the Republican Party, was summoned on the morning

²¹ ibid

²² p. 44 http://humanrights.ge/admin/editor/uploads/pdf/Final_Report.pdf%202011

²³ ibid

²⁴ ibid

of March 12. Her interrogation lasted for five hours and questions again revolved around monetary compensation for collecting signatures and distributing newspapers with Georgian Dream's messages. After denying having been paid and instead presenting her party membership and support of the coalition's plans for Georgia as incentive enough, Ebralidze recalled the interrogator's reaction: "he told me he had already arrested two persons and I could share their fate too."²⁵

Mubariz Mamedov, a member of the Republican Party and Georgian citizen with ethnic Azeri origin, was questioned for three hours on March 12 at the Sagarejo Municipality building. In the presence of several police officers, Mamedov was made to take off his clothes during a search prior to his questioning. In the interrogation, Mamedov denied having received any form of payment for his political work. To Kakheti Information Center, Mamedov described what happened next: "[The interrogator] asked me to sign some paper. I said no. He threatened me that I would go to prison ... Then a young boy came in [another official of the Chamber of Control] and said that if new President came I would be kicked out of the country because I am Tatar. I told him not to say nonsense, that I am not Tatar and that I am citizen of Georgia ... Then I was given another protocol. They made it themselves. They asked me to sign it and that I was going to be transferred to Office of Prosecutor."²⁶

Amnesty International also reported on the Georgian Chamber of Control's procedures, saying that their nature "suggests that the operation is politically motivated and aimed at intimidating current and potential opposition party sympathizers." The organization called on Georgian authorities to ensure practices in accordance with Georgian law and the respect of human rights.²⁷

Meetings of political parties with the local population during the pre-election period often resulted in verbal and physical abuse. Often representatives of public sector and local government initiated fights.²⁸

Often police did not fulfill responsibilities to prevent fights and control the situation.²⁹ These kinds of incidents took place in the villages Mereti, Karaleti, Beshumi and Didgori.³⁰

On May 26th of 2012 leaders of Georgian Dream Bidzina Ivanishvili and Irakli Alasania were holding pre-election meeting with the local population in the village Mereti of Gori

²⁵ p. 45 <http://www.csogeorgia.org/uploads/Annual/42.pdf>

²⁶ ibid

²⁷ ibid

²⁸ p. 360

²⁹ ibid

³⁰ ibid

municipality. Some people who came to the meeting protested against their presence in the village. Verbal abuse resulted in the physical fight and several people got injured.³¹

According to the inquiry which the office of Ombudsman held with the sufferers of the incident, one of the people who initiated the fight was the representative of local government Vasil Tevdorashvili.³²

It should be noted that MIA conducted investigation into the case and arrested intruders under the charges of administrative violations. However, Vasil Tevdorashvili was not among those charged.³³

Similar fact took place in the village of Karaleti in Gori municipality on July 12th of 2012 where one of the leaders of Georgian Dream Kakhi Kaladze was holding a meeting with locals. Some locals attempted to derail the meeting and confronted the politicians. The confrontation grew in physical fight and the representatives of Georgian Dream were forced to leave the territory.³⁴

Journalists Saba Tsitsikashvili, Giorgi Kevkhashvili, Nino Bolashvili, Levan Aleksidze and Revaz Nadiradze got injured during the fights.³⁵

Four people were arrested in relation with Karaleti incident under the charge of minor hooliganism. Among them was Giorgi Gochashvili who was the employee of Karaleti local government.³⁶

On August 4th of 2012 public holiday Shuamtoba was held in the resort Beshumi in Khulo municipality. President of Georgia and representatives of UNM attended the holiday. During President's speech leader of Georgian Dream Bidzina Ivanishvili and supporters of Coalition tried to attend the celebration. The car road going to the village was blocked and they had to take a walk to the place.³⁷

Georgian Dream supporters were met by UNM supporters on the way who blocked them to continue walking. Video materials disseminated by various media outlets show that there was no law-enforcement present during the incident and they came later. As a result, they were unable to ensure free movement of Georgian Dream supporters who wanted to attend the celebration of a holiday.³⁸

³¹ ibid

³² ibid

³³ ibid

³⁴ p. 361 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

³⁵ ibid

³⁶ ibid

³⁷ p. 362 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

³⁸ Ibid

On August 12th of 2012 on the public holiday of Didgoroba Georgian Dream supporters had planned to go to the village of Didgori. They were hampered to do so by the patrol police who had blocked the way to the village.

The video shows that the policeman does not allow activists of Georgian Dream to enter the territory under the motive that UNM is holding an event there. Besides, policeman states that he has a list of people who he can allow to enter the territory.³⁹ In this case the police restricted freedom of movement of Georgian Dream activists under the political motivations thus violated Constitution of Georgia.

Day of Balloting

On the day of balloting Human Rights Center mobilized 100 monitors who observed the processes of voting and counting results. Human Right Center monitors revealed numerous violations related to exercising pressure on voters, calling for voting for certain electoral contestant and violations of secrecy of voting.

In the villages of Gardabani and Sagarejo which are inhabited by ethnic Azaris, unidentified persons entered the electoral districts and actively pursued political campaigning. These people several times threatened monitor of Human Rights Center Nino Gvedashvili and did not let her submit a complaint. During the whole day Human Rights Center called Central Election Commission (CEC) five times and informed them that the monitor was threatened. Only after the fifth call, CEC contacted the head of district commission and asked him to receive the complaint.⁴⁰

Majority deputy candidate Paata Zakareishvili informed Human Rights Center about facts of psychological pressure against the electoral district coordinators of Georgian Dream in Tskaltubo #58 district. According to him, on September 30th 13 coordinators and deputy coordinators of Georgian Dream electoral districts received telephone calls of threatening and were summoned to police. Document presented by Paata Zakareishvili listed the telephone numbers of people who made calls.⁴¹

Expert of electoral issues Nina Khatiskatsi who was one of the monitors of Human Rights Center on the day of balloting observed three electoral precincts on Vake # electoral district. According to her report, UNM representatives took unidentified papers from the voters after they left the

³⁹ <http://www.youtube.com/watch?v=vb3jqwul7Ng>

⁴⁰ p. 145 Report on Research of 2012 Parliamentary Elections

⁴¹ p. 146 Report on Research of 2012 Parliamentary Elections

precinct; they also asked their names and some number. Voters left the territory only after this.⁴²

Nina Khatiskatsi also noted that monitors had difficulty to conduct monitoring as the tables of all registers were standing in front of the walls and there was no space between the tables which made it difficult for the monitors to access the tables standing between.⁴³ The monitors asked to separate the tables, but their request was not satisfied.⁴⁴

According to Nina Khatiskatsi, there was an instance when a person with status of monitor interfered in the work of members of CEC and answered her complaints instead. Nina Khatiskatsi stated:

“This person actively interfered in the electoral process and represented a clear party in favor of UNM. He took an ID and electoral card from one of the voters. I told him he did not have right to do so. When I made remarks to the members of CEC, he answered instead. I indicated to him to refrain to answer the questions that were not his competence. When I told him that, he told me to shut up and grabbed me with his hand. I wrote a complaint regarding this incident and had two witnesses sign it” – Nina Khatiskatsi states.

Nina Khatiskatsi states she also saw Irakli Kvaratskhelia outside standing with the supporters of UNM. On her question, why they were questioning voters, he responded to find out that in the office of UNM.

It should be noted that Irakli Kvaratskhelia represented NGO Choice for Future. Not much is known about this NGO like some other NGOs representatives of which worked as monitors in several other electoral precincts. Human Rights Center expressed doubt that these organizations were created especially for the day of voting to support falsification of elections in favor of UNM.⁴⁵

In # 58 electoral precinct of Karajala in Gardabani electoral district, the person who was in charge of check-in of voters was not standing at the entrance of the building. He stated to the monitor of Human Rights Center that he did not know where to stand. Monitor of Human Rights Center noted that it created chaos and some people entered the building without going through marking procedure.

⁴² ibid

⁴³ p. 139 Report on Research of 2012 Parliamentary Elections

⁴⁴ ibid

⁴⁵ p. 147 Report on Research of 2012 Parliamentary Elections

Nestan Londaridze monitor of Human Rights Center found a place in the hall where the packs of documentations were laying. She checked the documentation and found that they were Identification database of citizens. There was no answer given who needed these documents and why.⁴⁶

The same kinds of documents were discovered in Pankisi Valley by monitor of Human Rights Center Gela Mtvlishvili. Gela Mtvlishvili reported that one of the members of CEC and representative of UNM Shalva Tsatiashvili were holding these documents.

“I managed to bring 22 such documents and brought them to CEC. These are lists printed out from the electoral database of MIA. Supposedly, they include names of citizens living in Pankisi valley. It is not clear why UNM representatives had these lists. But I know for sure that this is not public information and only investigators have access to such information,” – Gela Mtvlishvili stated.⁴⁷

In electoral precinct #28 in Marneuli #22 electoral district monitor of Human Rights Center found different kinds of violations. Particularly, there were 1123 voters registered in this precinct and the number of the bulletins was 900. When the monitor requested relevant documentation, the head of commission Nana Gvazava strictly refused to answer her questions.⁴⁸

Nana Gvazava restricted monitor of Human Rights Center to take the photos saying: “You already took enough photos.”⁴⁹

Monitor notes that there was a person who assisted people in the cabins and told them to circle number 5 (which is UNM electoral number). When one of the members of commission Natela Chankseliani protested against this fact she received warning from the head of the commission. When she protested again, CEC representative from district commission threatened her that she would be dismissed from job.⁵⁰

On October 4th, the head of electoral commission of precinct of the village Vakiri of Signaghi electoral district, Bichiko Jebirashvili and the members of the commission confirmed at the meeting of electoral commission that the final protocol of majority deputy elections according

⁴⁶ Ibid

⁴⁷ p. 141, Report on Research of 2012 Parliamentary Elections

⁴⁸ p. 144, Report on Research of 2012 Parliamentary Elections

⁴⁹ Ibid

⁵⁰ Ibid

to which the representative of UNM Levan Bezhashvili was winning in the precinct, was falsified.⁵¹

According to the official site of CEC where the final protocol of Vakiri was uploaded, Levan Bezhashvili received 436 votes and Gela Gelashvili – 146 votes. However, the protocol does not have 5 signatures of members of the commission.

The monitors of Human Rights Center saw the real protocol according to which Levan Bezhashvili received 207 votes and Gela Gelashvili received 377 votes.⁵²

CEC annulled the results of Signaghi electoral district. After holding the second elections, representative of Georgian Dream Gela Gelashvili won the district.⁵³

The gravest violation was observed in the district of Khashuri. According to the monitors of TI in the precinct # 46, Georgian Dream received the highest vote. However, after a while special unit of armed forces showed up and kicked out all monitors from the precinct.⁵⁴ As a result, they wrote a new protocol according to which UNM became the winner in the precinct.⁵⁵ CEC annulled the results of Khashuri electoral districts later. After conducting elections for the second time, Georgian Dream gained victory in the district.⁵⁶

Violations in the polling stations were reflected in the preliminary reports of the OSCE/ODHIR, OSCE Parliamentary assembly, PACE, the European Parliament and NATO Parliamentary Assembly.

In particular, according to their preliminary conclusions international observers managed to identify procedural problems.

⁵¹ p. 160, Report on Research of 2012 Parliamentary Elections

⁵² ibid

⁵³ <http://tspress.ge/ka/site/articles/13135/>

⁵⁴ The video shows how the unit of special forces raids the precinct

<http://www.youtube.com/watch?v=8twU8emoeh4>

⁵⁵ <http://netgazeti.ge/GE/105/News/13557/>

⁵⁶ <http://intermedia.ge/%E1%83%A1%E1%83%A2%E1%83%90%E1%83%A2%E1%83%98%E1%83%90/16841-%E1%83%A5%E1%83%90%E1%83%A0%E1%83%97%E1%83%A3%E1%83%9A%E1%83%9B%E1%83%90-%E1%83%9D%E1%83%AA%E1%83%9C%E1%83%94%E1%83%91%E1%83%90%E1%83%9B-%E1%83%A1%E1%83%98%E1%83%A6%E1%83%9C%E1%83%90%E1%83%A6%E1%83%98%E1%83%A1-%E1%83%92%E1%83%9D%E1%83%A0%E1%83%98%E1%83%A1%E1%83%90-%E1%83%93%E1%83%90-%E1%83%AE%E1%83%90%E1%83%A8%E1%83%A3%E1%83%A0%E1%83%98%E1%83%A1-%E1%83%92%E1%83%90%E1%83%9C%E1%83%9B%E1%83%94%E1%83%9D%E1%83%A0%E1%83%94%E1%83%91%E1%83%98%E1%83%97-%E1%83%90%E1%83%A0%E1%83%A9%E1%83%94%E1%83%95%E1%83%9C%E1%83%94%E1%83%91%E1%83%A8%E1%83%98-%E1%83%92%E1%83%90%E1%83%98/21/>

“International observers noted that voters did not always mark their ballots in secret and observed group voting in 5 per cent of polling stations observed. Some inconsistency was also reported in the use and checking of ink, which is envisaged as a safeguard against multiple voting (7 per cent of polling stations observed). Voter identification procedures were generally followed. In 7.5 per cent of polling stations observed individuals were turned away as their names were not on the voter lists. While counting procedures were generally followed, international observers evaluated the counting process less positively than voting, with a negative assessment given in almost one sixth of polling stations observed. In one third of the 135 counts observed, the PECs had difficulties completing the results protocols, which led to procedural errors or omissions, including cases of pre-signing of protocols in one tenth polling stations observed. Results protocols were not always put on display, as required by law detracting from transparency. There were indications that ballot box stuffing had occurred earlier in some 7 instances around the country, including in the polling station in Khashuri, where the counting process was later disrupted. The CEC stated that the annulling of results, in a small number of polling stations due to reported violations, is under consideration. The tabulation process was mostly transparent, with some overcrowding noted in DEC. International observers reported that PEC material was not properly sealed in eight cases and PEC protocol figures did not reconcile correctly in nine cases of 87 tabulations observed. In Tetrtskaro, at least two PECs had their ballots and protocols escorted directly to the CEC as large crowds prevented their access to the DEC,” the conclusion reads.⁵⁷

Report on Research of 2012 Parliamentary Elections of Human Rights Center sums up the monitoring of 2012 elections: “By the long-term observers of Human Rights Center, during almost one-year monitoring of pre-election period 143 cases of usage of the so-called governmental resources was discovered. 21 cases of interference in the journalistic activities were revealed in which the representatives of government participated directly or indirectly. 123 cases of usage of law-enforcement, administrative and financial resources were revealed particularly in facts of political persecution, pressure against business and private owners, arrests under political persecution and facts of direct or indirect bribing of voters.”⁵⁸

Report also sums up the results of monitoring of day of balloting: “Besides above-mentioned, on the day of balloting, monitors of Human Rights Center revealed facts of exercising pressure against voters by using governmental administrative resources, violation of secrecy of voting,

⁵⁷ <http://www.humanrights.ge/index.php?a=main&pid=15670&lang=eng>

⁵⁸ p. 177 Report on Research of 2012 Parliamentary Elections;
http://www.humanrights.ge/admin/editor/uploads/pdf/HRIDC_2012-election.pdf

campaigning in favor of concrete electoral contestant (mainly governing party and its candidate) and more than 20 facts of violence of various kinds.”⁵⁹

Human Rights Center’s report concludes that if we consider all violations reviewed in the report, it would be hard to call the elections just and attributes the peaceful change of parliamentary majority to “political disobedience” and courage of voters.⁶⁰

According to the report of Council of Europe, Observation of the Parliamentary Elections in Georgia, this election was seen by the Assembly and others as a marker of Georgia’s adherence to democratic principles or lack thereof. Following the changes in the Georgian constitution regarding the balance of power between the president and parliament—the latter assuming a greater role, the former a lesser one—this election was likewise seen as a possible barometer for the country’s future political direction.

According to the report, campaigns focused on the ruling party’s abuse of power and the opposing party’s abuse of finances instead of political platforms. The IATF (Inter Agency Taskforce for Free and Fair Elections) played an important part in facilitating conversations between the authorities and all parties involved despite the polarized atmosphere. Freedom of assembly, association, and expression were mostly upheld. There were, however, many reports of arrests and administrative detentions of activists, which led the IATF to call for more lenient sanctions.⁶¹

A bigger problem was seen in the use of administrative resources in campaigning. Report notes that civil servants sometimes felt pressured, and observers pointed to an unethical relationship between the ruling party and the state. Campaign finance regulation was also criticized, as donations made to GD—sometimes as small as 100 GEL —were audited by the State Audit Service (SAS) in greater number than those made to UNM. In addition, Mr. Ivanishvili was fined 148 million GL for distributing free satellite dishes on allegations of vote buying. Further evidence for an SAS bias surfaced when the head and deputy head of the service resigned to run as UNM candidates. After an outcry against the excessive sanctions and apparent partiality of the SAS, authorities did not levy fines against GD during the campaign period.⁶²

According to the report, the most available private channels were seen as supporting the ruling party. Attempts to increase distribution of opposition-friendly programs led to charges of vote

⁵⁹ ibid

⁶⁰ p. 177 Report on Research of 2012 Parliamentary Elections;

http://www.humanrights.ge/admin/editor/uploads/pdf/HRIDC_2012-election.pdf

⁶¹ p. 17 <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19209&Language=EN>

⁶² p. 8 <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19209&Language=EN>

buying. An initiative called “Must Carry, Must Offer” was championed by many NGOs—it called for the mandatory distribution by networks of all outlets with a satellite broadcasting license and more than 20 percent share of the market. This was put into place until Election Day and was seen as a step forward for equal access.⁶³

In regards with the day of voting, report notes that voting was a peaceful process, though overcrowding in some stations reportedly created tensions. Voter turnout of all those with suffrage was 61 percent. The vote count was seen less positively by observers; some alleged being pressured, and there were 12 counts dismissed by the CEC because of apparent ballot stuffing. GD won 85 of 150 parliamentary seats; UNM won 65. No other parties gained enough votes to enter parliament. President Saakashvili conceded following the results and promised to facilitate a smooth transfer of power. The UNM government resigned on 10 October 2012. Mr. Ivanishvili’s citizenship was reinstated on 16 October 2012 and he was appointed Prime Minister on 17 October 2012. The GD coalition announced its intent to dissolve into three factions upon entering parliament. The parliament confirmed Davit Usupashvili from the Republican Party as its president on 21 October 2012 and confirmed Mr. Ivanishvili’s position as prime minister as well as his cabinet members on 25 October 2012.⁶⁴

In overall, report concludes that the elections was a step forward for Georgia as a functioning democracy, and the governmental change of hands represented the first peaceful transfer of power in Georgia as a result of a democratic vote. It is hoped that the introduction of a strong opposing party into Georgian politics will foster a working system of checks and balances. There are, as has been noted, several issues with the Election Code, among other things, that should be addressed before future elections, but for the time being, the future looks promising for Georgian democracy, report concludes.⁶⁵

Freedom of Media

One of the important features of 2012 was violence and acts of harassment against journalists, particularly in 2012 parliamentary election period. According to US Department of State Georgia 2012 Human Rights Report, violent acts against journalists were manifested in physical and verbal assaults of journalists by police, confiscation of journalists’ cameras by authorities, and intimidation of journalists by government officials due to their reporting.⁶⁶

⁶³ p. 8 <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19209&Language=EN>

⁶⁴ p. 9-10 <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19209&Language=EN>

⁶⁵ p. 10 <http://www.assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19209&Language=EN>

⁶⁶ Report available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

As stated in Ombudsman's Report 2012, when we are talking about freedom of press and media in the scope of freedom of expression, the state has not only a negative obligation, but as well positive one to secure the freedom of expression.⁶⁷ Facts of violence against media representatives hinder principles of democracy. Impunity towards such acts indicates that human rights are not respected and encourages the possibility of its repeated commitment.⁶⁸

According to Human Rights Watch Report 2012 on Georgia "In July 2012 OSCE media freedom representative Dunja Mijatovic, expressed concern over violence against journalists, highlighting the Mereti and Karaleti incidents when journalists were physically and verbally assaulted."⁶⁹

Human Rights Center in its 2012 Parliamentary Election Report reflected violence committed against journalists and rough interference in their activities.⁷⁰

Gela Mtvlishvili's Case

On May 20, 2012 Gela Mtvlishvili was detained when he was taking photos of the Tianeti police station. Police officers took the journalist into the police station, physically assaulted him and seized his camera.

Witness of the incident in Tianeti district police station, manager of the Georgian Dream's Tianeti office Rusudan Sisauri said the police officers arbitrarily detained Gela Mtvlishvili.

According to the witness "On May 15 a family of eight members lost social benefit due to meeting with the Georgian Dream's leaders. The witness informed Gela Mtvlishvili about the fact and he arrived in Tianeti to prepare a news story about it. He video-interviewed the person and Rusudan Sisauri and returned back to Tianeti. Gela Mtvlishvili wanted to take photos of the police station in Tianeti center; he was standing 100 meters away from the building. A person in plain clothes approached him and prohibited to take photos of the police station. Gela got into the car. The stranger demanded him to show his driving license. In reply to it, Gela also demanded him to show the documents. The stranger tried to seize the camera from him. Gela showed him documents – ID card and driving license. Soon other police officers also arrived and demanded technical passport of the car from the journalist. Gela showed them the requested document. Afterwards, they forcibly dragged him out of the car and took him to the police station. Gela shouted at Rusudan Sisauri to take care of the car to prevent others to plant anything in it. Sisauri started calling everybody who could assist Gela. He spent about 1 hour in

⁶⁷ Report available at: <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

⁶⁸ ibid

⁶⁹ <http://www.hrw.org/world-report/2013/country-chapters/georgia?page=2>

⁷⁰ Human Rights Center 2012 Parliamentary Report available at: <http://www.humanrights.ge/index.php?a=main&pid=16315&lang=geo>

the office. Having left the station, Gela felt very bad. He had nervous breakdown. The witness could not express in words how insulted and disparate he felt. Gela said he was physically assaulted in the police station. He reached the car but could not drive it. He felt very bad.⁷¹

On June 13, 2012 the International Federation for Human Rights (FIDH) and its member organization in Georgia, the Human Rights Center (HRIDC), expressed their concern regarding the arbitrary detention and physical assault of independent journalist and human rights defender, Gela Mtvlishvili, by police officers in Tianeti. They called on the Georgian authorities to immediately: guarantee the physical and psychological integrity of Gela Mtvlishvili, and all human rights defenders, carry out a prompt, effective and impartial criminal investigation into the above-mentioned events, the results of which should be made public, in order to prosecute the perpetrators of these acts before a competent, independent and impartial tribunal; put an end to any kind of harassment - including judicial - against journalists and all human rights defenders in the country, in conformity with the 1998 UN Declaration on Human Rights Defenders, as well as with international and regional human rights instruments ratified by Georgia.⁷²

Information Center of Mtskheta-Mtianeti (www.icmm.ge), requested guarantees of inviolability due to uninvestigated incident of May 20. ICMM appealed to human rights and media organizations, diplomatic corps accredited in Georgia to demand the Government of Georgia to start prompt and unbiased investigation of the May 20 incident in Tianeti police office; to guarantee safe environment for journalists' activities and respond to each fact of oppression on regional journalists during the pre-election period.⁷³

Physical assault on journalist Gela Mtvlishvili was condemned by Georgian NGOs.⁷⁴ Mtvlishvili's case is also described in US Department of State Georgia 2012 Human Rights Report.⁷⁵

Case of Saba Tsitsikashvili (Karaleti Incident)

On 12 July 2012, Head of Information Center of Shida Kartli Saba Tsitsikashvili was beaten in Karaleti village in Gori district while performing his professional duties. Karaleti village attorney physically abused the journalist and Saba Tsitsikashvili was taken to Gori hospital. As victimized journalist told Kakheti Information Center, activists of Georgian Dream had meeting with their

⁷¹ Detailed information available at: <http://humanrightsge.org/index.php?a=main&pid=14899&lang=eng>

⁷² Detailed information available at: <http://humanrightsge.org/index.php?a=main&pid=15006&lang=eng>;
<http://www.fidh.org/Arbitrary-detention-and-assault-of>

⁷³ Detailed information available at: <http://humanrightsge.org/index.php?a=main&pid=14959&lang=eng>

⁷⁴ Detailed information available at: <http://electionsportal.ge/en/incidents/1059/>

⁷⁵ Report available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

supporters in Karaleti. Employees of the village administration and people affiliated with Badri Basishvili tried to fail the meeting and physically assaulted journalists too.⁷⁶

On 13, July 2012 Members of the Coalition for Freedom of Choice⁷⁷ were concerned about the physical altercation between government supporters and representatives of the Coalition Georgian Dream in Kareleti village IDP settlement on July 12. Coalition members expressed their concern about the attack on journalist Saba Tsisikashvili and called on the relevant institutions to set a precedent and strictly punish the identified public servants participating in the incidents in order to avoid similar incidents in the future; the government and law enforcement bodies to ensure a peaceful environment for meetings of every political party within the frame of the pre-election campaign; United National Movement and all political parties make sure that their activists do not provoke representatives of rival political parties.⁷⁸

Other Facts of Violating Journalists' Rights

According to humanrights.ge, film crew of the Info 9 was physically assaulted in the village Tsedisi. Journalist Rezo Nadiradze and the cameraman Lekso Alexidze arrived in the village to cover the protest assembly. Tsedisi residents intended to block the road in request of drinking water. Suddenly, car with state number SOV 001 arrived in the village. A person from a car hit the microphone. When the reporter inquired reason of his behavior, second person from the car physically assaulted the journalist and cameraman. The incident was video-recorded. Villagers also interfered in the conflict and strangers were forced to leave Tsedisi. Tsedisi residents recognized people in the car. One of them was police officer Samson Vanishvili from the neighboring village Ateni, who hindered professional activities of journalists.⁷⁹

Humanrights.ge wrote that at 7:00 pm on August 15, Davit Chavleishvili, cameraman of Info 9 in Lanchkhuti district, was beaten when performing his professional activities in front of a mini-bus near Lanchkuti municipal building.⁸⁰

According to humanrights.ge, Badur Poladishvili, who is supposedly an activist of the National Movement, cursed supporters of the Coalition Georgian Dream and journalists of the news agency INFO 9 in Duluzaurebi village in Tianeti district.⁸¹

⁷⁶ Detailed information available at: <http://humanrightsge.org/index.php?a=main&pid=15175&lang=eng>

⁷⁷ The coalition was composed by experts in election issues and Georgian NGOs. Human Rights Center is a member of the coalition.

⁷⁸ Detailed information available at: <http://humanrightsge.org/index.php?a=main&pid=15311&lang=eng>

⁷⁹ Detailed information about the case is available in the 2012 report of Human Rights Center about Parliamentary Elections; http://www.humanrights.ge/admin/editor/uploads/pdf/HRIDC_2012-election.pdf

⁸⁰ Detailed information about the case is available at: <http://humanrightsge.org/index.php?a=main&pid=15346&lang=eng>

On August 2, 2012 a National Movement activist physically and verbally assaulted information agency Info-9 journalist, Sul Khan Meskhidze, in Khulo district. As Meskhidze stated, he heard from a local resident that the activist's name is Mamuli Mgeladze. Mgeladze worked in a hotel that belongs to the vice speaker of the Georgian parliament Anzor Bolkvadze.⁸²

Seizure of Maestro Dish Antennas

In June and July 2012 Georgian authorities seized up to 70,000 satellite dishes, receivers, and other equipment from Global TV and 10,000 satellite dishes that Maestro intended to distribute to households in the regions for a very small fee, allegedly as part of a promotional campaign to increase its audience. The Prosecutor's Office stated it had evidence the antennas were part of a vote-buying scheme for the GD coalition.⁸³

Humanrights.ge wrote that 10,000 satellite dishes, imported by Maestro TV for handing out in regions as part of its campaign to broaden scope of its viewers, were impounded earlier in July after the chief prosecutor's office said it had "sufficient evidence" to prove that Maestro TV was in "sham deal" with companies affiliated to Georgian Dream opposition coalition leader Bidzina Ivanishvili. The chief prosecutor's office claimed that Maestro TV was acting on behalf of Ivanishvili-affiliated companies with a purpose to hand out satellite dishes as part of "vote-buying". New shipments of satellite dishes, imported by Maestro TV, were again seized by the authorities on July 22. Maestro TV has strongly denied links with Ivanishvili or with his companies⁸⁴.

A group of media organizations have launched a campaign, calling on the authorities to return impounded satellite antennas, condemning seizure of the property as the authorities' attempt to hinder public's access to diverse source of information.⁸⁵

Coalition of nongovernmental organizations For Civic Development⁸⁶ expressed concern with regard to seizure of "large amount" of dish antennas of the TV-Company Maestro by Tbilisi City Court based on the solicitation of the Prosecutor's Office. Coalition members could not

⁸¹ Detailed information about the case is available at:

<http://humanrightsgo.org/index.php?a=main&pid=15338&lang=eng>

⁸² Detailed information about the case is available at:

<http://humanrightsgo.org/index.php?a=main&pid=15280&lang=eng>

⁸³ US Department of State Georgia 2012 human rights report available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

⁸⁴ <http://www.humanrights.ge/index.php?a=main&pid=15225&lang=eng>

⁸⁵ Ibid

⁸⁶ Member Organizations of the coalition are: Public Attorney, Research Center of Elections and Political Technologies, Youth For justice, Healthy World, Civil Society and Democracy development Center

understand the statement of the Chief Prosecutor's Office of Georgia which alleged that similar procedural activities "aim to protect pre-election processes from possible offensive involvement of certain parties and to guarantee protection of election rights of citizens as well as freedom of expression".

According to Coalition members, this decision undermined possibility of holding democratic and transparent elections in October of 2012. NGOs called upon the President of Georgia, government of Georgia, Public Defender of Georgia, diplomatic corps and missions of international organizations accredited in Georgia to strictly evaluate this fact in order to promptly ensure freedom of independent media in the country.⁸⁷

Civil society groups including GYLA termed the seizures as illegal and asked the government to present evidence to substantiate allegations that Global TV and Maestro were acting on behalf of the opposition and seeking to buy votes. On October 5, after the elections, the government permitted Maestro and Global TV to retrieve the seized satellite dishes.⁸⁸

The case of satellite dishes is mentioned in US Department of State Georgia 2012 Human Rights Report.⁸⁹

Legislative Amendments

Amnesty Law

In January of 2013, newly elected Parliament of Georgia adopted Amnesty Law based on which several thousands of prisoners left prisons.⁹⁰ The Draft Law on Amnesty was presented to Parliament in December 2012. According to the 28-th of February 2013 data, based on Amnesty Law, 8044 accused/prisoners left prisons and penitentiary departments throughout Georgia.

⁸⁷ <http://www.humanrights.ge/index.php?a=main&pid=15190&lang=eng>

⁸⁸ US Department of State Georgia 2012 human rights report available at:
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

⁸⁹ Available at:
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

⁹⁰ 2012 Parliamentary Report of Public Defender Of Georgia, available at
<http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

⁹¹According to initiators of the law, the aim of the law was restoring justice in accordance with the will of society and humanity principles, acquittal of political prisoners and politically persecuted people in Georgia. ⁹²

Amnesty Law envisaged exemption of prisoners from their punishment or reduction of their sentences. ⁹³

The most problematic was article 22 of Amnesty Law dealing with release of political prisoners from prisons.

According to the Opinions of Venice Commission “An amnesty by Parliament must comply with certain fundamental principles of the rule of law, namely legality (including transparency), the prohibition of arbitrariness, nondiscrimination and equality before the law. The Venice Commission is of the opinion that Article 22 of the Amnesty Law failed to comply with these principles. Nevertheless, it is undisputable that it would be contrary to the principles of legal certainty and non-retroactivity of criminal law if the persons who have been released were to be returned to prison.”⁹⁴

Non-governmental organizations had different opinions on Amnesty Law and release of large number of prisoners.

According to Executive Director of Human Rights Center Ucha Nanuashvili: “Amnesty will not aggravate criminal situation in the country. “Allegation about possible worsening of criminal situation in the country is not correct, in my opinion. I do not think that if people, convicted for stealing 15 GEL or nuts, are released from prison, they will undermine public peace. I think, those people shall have chance to start new life. Those, who were arbitrarily imprisoned, shall also be released. The draft-law does not consider cases of recidivists. So, there is no threat. Possible beneficiaries of the amnesty were placed in prison as a result of dragoon laws and zero tolerance. If they create problems for the society they will be repeatedly arrested and convicted”. ⁹⁵

Executive director of NGO „Human Rights Priority” Lia Mukhashavria positively estimated the amnesty act and considered it a „humane, positive and generous act by the state.”⁹⁶

Representatives of the Georgian Young Lawyers’ Association thought the “government should take responsibility for public safety.”⁹⁷

⁹¹ 2012 Parliamentary Report of Public Defender Of Georgia, available at <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

⁹² https://www.matsne.gov.ge/index.php?option=com_idmssearch&view=docView&id=1819020&lang=ge

⁹³ <http://www.humanrights.ge/index.php?a=main&pid=16070&lang=eng>

⁹⁴ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)009-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)009-e)

⁹⁵ <http://www.humanrights.ge/index.php?a=main&pid=15925&lang=eng>

⁹⁶ <http://www.humanrights.ge/index.php?a=main&pid=16146&lang=eng>

According to parliamentary report (2012) of Public Defender of Georgia „as a result of the reduction of prisoners it will be easier for the Ministry of Corrections and Legal Assistance of Georgia to create adequate conditions for prisoners and to observe national and international standards. In this regard Ombudsman’s Office considers the wide-scale amnesty positively. On the other hand, before the adoption of Amnesty Law it was not well-examined which categories of prisoners were released and due to their social-economic situation what kind of problems they would face in future. According to the special preventive group, it would be better to create elementary conditions for re - socialization and employment of prisoners that would prevent them from returning to prisons.”⁹⁸

The adoption of Amnesty Law was not an easy process. On December 27 of 2012, President of Georgia vetoed the draft law. However, on 28 December, Parliament overrode the veto. The president refused to sign the bill into Law and the Chairman of the Parliament signed it on 12 January 2013.

Another part of Amnesty Law deals with the political prisoners and persons in political exiles. According to the law, 190 persons, arrested and convicted for various criminal charges under the previous government are recognized as “political prisoners” and 25 others as being “in political exile”. The cases were analyzed by a working group, established in early November at the parliamentary committee for human rights.⁹⁹

The working group included over dozen representatives from the non-governmental organizations. The commission’s work has been hampered by controversy after two human rights watchdog organizations, Georgian Young Lawyers’ Association (GYLA) and Article 42 of the Constitution, withdrew from it at initial stage of the process. The two organizations said that the group set very tight deadlines for completing the work hindering them to proper review of all the cases.¹⁰⁰

Despite of quitting the group, GYLA and Article 42 of the Constitution contributed to the process of compiling the list by providing the working group with their conclusions on up to 60 cases, which were studied by them as part of their regular legal advocacy work long before the commission was established.¹⁰¹

In particular, GYLA tabled the list of 49 individuals, who were arrested amid street protest rallies in spring, 2011 on charges mainly related to illegal possession of weapons and drugs to

⁹⁷ <http://www.humanrights.ge/index.php?a=main&pid=15925&lang=eng>

⁹⁸ <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

⁹⁹ <http://www.civil.ge/eng/article.php?id=25519>

¹⁰⁰ *ibid*

¹⁰¹ *ibid*

resisting police. According to GYLA all these cases were handled by the authorities with lack of due process and without proper evidence to prove the guilt of persons involved, which was a reason to suggest that those arrests were politically motivated. GYLA also tabled a list of five other persons, whose cases were not related to 2011 protests, but whose arrests and subsequent convictions were also deemed by the group to be politically motivated.¹⁰²

Criminal Code of Georgia

On 27 March 2012, amendment was made to Criminal Code of Georgia. According to the amendment, criminal liability for any crime committed on racial, language, religious, national, ethnic or other discriminative grounds will become stricter.¹⁰³

The premise for making the amendment was a recommendation of ECRI to the Georgian Government. It is the European Commission which works directly on the issues against racism and intolerance. The necessity for making the amendment was the fact that Georgian legislation did not envisage any regulation against the crime motivated by hatred and intolerance.¹⁰⁴

The initiators of the draft were MPs. The formulation of the norm was presented to parliament by Georgian NGOs - GYLA and, LGBT Georgia". According to the recommendation of the Public Defender of Georgia, the ground of "citizenship" was added to the formulation of the amendment.¹⁰⁵

According to the Ombudsman's Office of Georgia, the amended article is very broad and covers almost all the motives of the intolerance.¹⁰⁶

Amendment to Criminal Procedural Code of Georgia

On 27 March 2012, amendment was made to Criminal Procedural Code of Georgia. According to the amendment, the time to re-examine the case due to newly revealed circumstances by the decision of ECHR (European Court of Human Rights) is limited. The plaintiff needs to address the court in a year after ECHR decision takes effect.¹⁰⁷

¹⁰² ibid

¹⁰³ <http://www.humanrights.ge/index.php?a=main&pid=14557&lang=eng>

¹⁰⁴ <http://www.ambioni.ge/cvileba-sisxlis-samartlis-kodeqssi>

¹⁰⁵ <http://www.ambioni.ge/cvileba-sisxlis-samartlis-kodeqssi>

¹⁰⁶ [http://georgien.boell-net.de/downloads/2 Discrimination as a Grave Circumstance of a Crime Ge.pdf](http://georgien.boell-net.de/downloads/2_Discrimination%20as%20a%20Grave%20Circumstance%20of%20a%20Crime%20Ge.pdf)

¹⁰⁷ https://www.matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=1637963

Must Carry and Must Offer

In June, 2012 Parliament of Georgia made the amendment to Election Code and established „Must Carry” and „Must Offer” principles. According to Must Carry principle, cable TV-s are obliged to switch on all the televisions in broadcasting net from declaring the election day until the day of the election. As for Must Offer principle, cable operators, after declaring day of elections will switch on the signal without the permission of broadcasters.¹⁰⁸

The prerequisite of making the amendments was the fact that during the pre-parliamentary elections period non-governmental televisions were deprived of the possibility to transmit in regions of Georgia. Georgian NGOs and Ombudsman’s Office negatively estimated the period of functioning of Must Carry principle prescribed by Election Code (article 51, paragraph 17) according to which the functioning ceases on the day before the elections..¹⁰⁹ The Public Defender of Georgia considers that in relations to elections the availability of diverse information should be ensured continuously, because it has not only the function of informing electors only during the pre-election period: pluralistic media environment is the important mechanism for ensuring the transparency of the whole election process and the confidence in it.¹¹⁰

In the early of June 2012 Campaign „This Affect You Too” Member Organizations sent an open letter to the Parliament of Georgia in which they highlighted the particular importance of establishment of so-called “must carry” and “must offer” principles. According to the open letter, in accordance to the international practice, implementation of their suggestions will ensure availability of diverse information on various TV -channels for the population and will clear doubts about informing population about ongoing pre-election campaign and problems of media pluralism¹¹¹.

The importance of the must carry principle was discussed by journalists and representatives of various political parties. On August 10 of 2012, an importance of must carry principle during the pre-election period was discussed in the Center of Democratic Involvement in Telavi. The meeting was attended by journalists, NGO representatives and political parties.¹¹²

The establishment of Must Carry and Must Offer principles were positively estimated by EU Ambassador to Georgia Filip Dimitrov who stated that it is very hopeful that Must Carry and

¹⁰⁸ <http://liberali.ge/ge/liberali/articles/111712/>

¹⁰⁹ <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹¹⁰ <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹¹¹ <http://www.humanrights.ge/index.php?a=main&pid=15014&lang=eng>

¹¹² <http://www.heretifm.com/>

Must Offer Principles will start functioning that will be an important step for preparing electors.”¹¹³

Constitutional Amendments (End of December, 2012)

At the end of December 2012 several constitutional amendments were initiated to newly elected Parliament of Georgia.¹¹⁴

The amendments dealt with annulling some restricting principles of dissolution of parliament by the President, annulling President’s power to form a government bypassing the Parliament’s role. According to new constitutional amendments, “if the composition of the Government and the program of the Governmental thereof do not gain the confidence of the Parliament in succession for three times the President of Georgia has no power to nominate a new candidate of the Prime Minister or appoint the Prime Minister without consent of the Parliament and give consent to the Prime Minister to appoint the Ministers. According to amendments, “if the composition of the Government and the program of the Governmental thereof do not gain the confidence of the Parliament in succession for three times, President of Georgia within 3 days shall dissolve the Parliament and schedule extraordinary elections” (article 80, paragraph 5).

The amendments were estimated and discussed by non-governmental organizations and constitutionalists of Georgia.¹¹⁵

NGO Human Rights Center officially expressed its opinions about the constitutional amendments on online newspaper www.Human.Rights.ge.

Human Rights Center shared arguments of authors of draft constitutional amendments on the issue that there is significant legal gaps in Georgian Constitution, which should be filled up, constitutional principle of checks and balances is violated which is also manifested in President’s exceeding constitutional authority to form a Government bypassing Parliament’s role, in cases prescribed by constitution. Human Rights Center considered that it is necessary to create a flexible constitutional mechanism, which will grant the parliament an exclusive authority to form a government, in order for Presidents not to ignore people and its representatives’ (parliament) will.¹¹⁶

¹¹³ <http://www.tavisupleba.mobi/a/24625302.html>

¹¹⁴ <http://constitution.ge>

¹¹⁵ <http://constitution.ge>

¹¹⁶ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

According to Human Rights Center, Georgian Constitution diminishes a controlling role of Parliament within the state authority system. President's exceeding constitutional authorities are manifested in his/her relations with other branches, namely in the authorities of forming government, declaring non-confidence or not declaring confidence to the government, and in other authorities. Human Rights Center positively assessed the part of the constitutional amendments which envisage annulling the president's authority to form a government bypassing Parliament's role.¹¹⁷

According to constitutional amendments, President's role as an arbiter increases in a system of state authority organs.¹¹⁸

Constitutional Amendments envisage annulling article 511, paragraph „a” and „d” according to which president is unauthorized to dissolve parliament within six months from the holding of the elections of the Parliament and within the last 6 months of the term of office of the President of Georgia.

In semi-presidential countries establishing banning conditions for dissolving Parliament serves in a positive way for maintaining checks and balance principle in the process of relation between state authority branches. It also promotes cooperation between Head of State and Supreme Representative Body, also encourages both parties to fulfill duly their constitutional prerogatives. Restricting conditions for dissolution of Parliament limits the President to dissolve parliament on the basis of political conjunctures and to create a desired political crisis.¹¹⁹

Human Rights Center considered that in semi-presidential countries, where there is a threat of creating a political crisis, banning conditions for Presidents to dissolve Parliament should exist and their annulment is unacceptable.¹²⁰

Constitutional amendments (December 28, 2012) are interim measures, which will function until 2013 presidential elections, until taking an oath by the President. As it is found out by an explanatory note of the draft constitutional law, the authors of the draft have no claims on elaborating a new constitutional order or a new form of government. Constitutional Amendments until 2013 presidential_elections serve for prevention of crisis between state

¹¹⁷ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

¹¹⁸ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

¹¹⁹ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

¹²⁰ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

authority branches and cohabitation of forces of different political views until a new reality starts functioning.¹²¹

After 2012 parliamentary elections the new government took progressive steps in strengthening the role of parliament and its controlling functions over the government. The government policy envisaged independence of the supreme legislative body and the government accountable to parliament. The tendency after the parliamentary elections was to strengthen the parliamentary in Georgia, limit the functions of the executive bodies and President in order not to exceed their competences.

Some constitutional amendments are also being prepared by the new government which are supposed to be discussed by a new constitutional commission and Parliament.

Draft Amendments to the Organic Law of Georgia on General Courts

In November 2012 new Government of Georgia initiated draft amendments to the Organic Law of Georgia on General Courts. The legislative package was prepared by the Ministry of Justice of Georgia which envisaged important issues about the regulations of the court system.

According to the draft Law:

The new rule is determined for the composition of the High Council of Justice – six non judge members of the council shall be elected by the Parliament of Georgia from the representatives of society. The requirements and criteria set forth for the members elected by the Parliament secure that recognized experts of this field with good reputation will participate in the High Council of Justice.

Judge - members and the Secretary of the High Council of Justice are no longer nominated by Chairman of the Supreme Court. Any judge attending the Judicial Conference may nominate the candidate. Member elected by the Conference cannot be the chairman of Court, First Deputy Chairman, and Deputy Chairman of the chairman of Board or Chamber or a person who occupied any of the listed positions within the previous 1 year. The same person cannot be a member of the High Council of Justice for consecutive two terms, other than the Chairman of the Supreme Court.

The Administrative Committee of the Judicial Conference will be managed by the person elected by the judicial conference instead of the Chairman of the Supreme Court. Any judge attending the Judicial Conference has right to nominate the candidate.

¹²¹ <http://www.humanrights.ge/index.php?a=main&pid=16527&lang=eng>

According to the Draft, the members of the High Council of Justice will be separated from the Disciplinary Board members.

The regulations provide the greater transparency of the court sessions and availability of their video/audio recordings to the public.¹²²

According to the initiators of the Draft, the motivation for adoption of the Draft Organic Law on General Courts was the inefficient regulations in the current legislation for the formation of an independent and impartial corps of judges.¹²³

Authors of the draft stated that the aim for adoption of the Draft Law was the reorganization of the High Council of Justice of Georgia, for setting forth an effective regulatory system of formation of an independent and impartial corps of judges, and changing rules of formation of the Disciplinary Board and the High Council of Justice. Besides, Draft Law provides enhanced powers for audio and video recording of the judicial procedures for public broadcaster, other representatives of mass media and private entities.¹²⁴

The most problematic regulation of the Draft Law dealt with termination of functions of the current High Judicial Council of Georgia. Paragraph 2 of Article 3 of the amendments provides that upon enactment of the Law “authority of the members of the High Council of Justice, except the chairman of the Supreme Court is terminated.”¹²⁵

By the letter of December 3, 2012, the Permanent Representative of Georgia to the Council of Europe sought the Venice Commission’s opinion on the amendments to the organic Law of Georgia on the Courts of General Jurisdiction (CDL-REF(2012)045).¹²⁶

Venice Commission issued an official opinion regarding the version of the Draft Organic Law on General Courts.¹²⁷

According to the Opinion: “amendments to the Organic Law of Georgia on the Courts of General Jurisdiction improve many provisions of the Organic Law and will bring this Law closer to European standards.”¹²⁸

Besides, Venice Commission gave the following recommendations on problematic issues:

¹²² [http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2012\)045-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2012)045-e)

¹²³ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2012\)045-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2012)045-e)

¹²⁴ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2012\)045-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2012)045-e)

¹²⁵ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2012\)045-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2012)045-e)

¹²⁶ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e)

¹²⁷ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e)

¹²⁸ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e)

“As concerns the coverage of court proceedings, several provisions should be further detailed. Judges should be given wider powers than those of ordering full or partial closure of the session. It might be wise to revisit the list of people authorized to record or take pictures in the courtroom. In addition, the obligation to provide records upon request to “other people” should be clarified in order to take into account the right to respect for private and family life. Finally, matters pertaining to storage should be regulated.”¹²⁹

Venice Commission recommended “deleting Article 3.2 of the amendments, which provides that upon enactment of the Law “authority of the members of the High Council of Justice, except the chairman of the Supreme Court, is terminated”.¹³⁰

Georgian NGOs expressed their opinions about termination of authorities of current members of High Council of Justice. They thought that it will be better not to terminate authorities of the members who are elected by Judicial Conference and do not fulfill administrative duties.¹³¹

Coalition for Independent and Transparent Judiciary¹³² working on ongoing judicial reforms issued a report (2012) on judicial system in Georgia.¹³³ The report includes recommendations for strengthening self-governance of judicial system, judicial appointments, judicial transfers, judicial promotions, and transparency and remuneration issues. Besides, it presents analysis of the independence and enhancement of the judiciary.¹³⁴

Draft Labor Code of Georgia

In February of 2013, Ministry of justice introduced new Labor Code of Georgia where substantial amendments were made. New amendments promote protection of employees’ rights and prevent them from illegal dismissals from work.¹³⁵ Though, Ministry of Justice of Georgia did not fully consider some fundamental recommendations of NGOs and Trade

¹²⁹ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e)

¹³⁰ [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)007-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)007-e)

¹³¹ (<http://www.interpressnews.ge/ge/samartali/232320-saia-arasamthavroboebi-iusticiis-umaghlesi-sabtcos-tsevrebis-uflebamosilebis-vadamde-shetsyvetas-ar-etsinaaghmdgebian.html?ar=A>)

¹³² Coalition includes 32 member organizations; Human Rights Center is one of the member organizations of the Coalition;

¹³³ Coalition for an Independent and Transparent Judiciary , The Judicial system in Georgia, Report 2012

¹³⁴ Coalition for an Independent and Transparent Judiciary , The Judicial system in Georgia, Report 2012

¹³⁵ https://www.matsne.gov.ge/index.php?option=com_ldmssearch&view=docView&id=1856862&lang=ge

Unions¹³⁶ while working on the draft. In particular, new draft Labor Code does not duly envisage women's labor rights, employment of people with disabilities and their labor rights.¹³⁷

For the last several years, during the current Labor Code, employees were dismissed from work without any warning and explanations. Their chances to restore their rights in courts were minimal. As confirmed by reports of ILO Committee of Experts, current Labor Code needed substantial amendments (Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), International Labor Conference, 102nd Session, 2013). In two months after the change of government, Ministry of Justice of Georgia started working on a new draft Labor Code. The elaboration of a new draft was undergoing with involvement and active participation of civil society. At the end of February the draft labor code was sent to Parliament for discussion.¹³⁸

According to the draft Labor Code, grounds for termination of employment relations are amended. They have become more concrete and detailed to avoid interpretation of norms and violation of employees' interests by the employers. However, among grounds for termination of labor relations, there is a vague regulation of "termination of labor relations on the basis of "other objective circumstance" (article 37, paragraph 1, subparagraph "o" of a draft Labor Code). Such a general regulation includes a danger for violating employees' rights.

One of the advantages of the new draft Labor Code is that it prohibits termination of a labor contract on the grounds of discrimination. Despite the fact that the current Labor Code prohibits any kind of discrimination, it is still a general regulation considering how difficult it is to prove the fact of discrimination in courts.

The new draft law expanded grounds of giving compensation to the dismissed employee. In particular, an employer is obliged to give compensation (not less than a month's salary) to an employee within 30 days. The draft envisages some objective circumstances when an employee receives compensation. Unfortunately, the new draft Labor Code does not envisage giving of severance pay for those who are dismissed from work due to commencement of liquidation of the employer as a legal entity. For example, for the last period, as a result of liquidation of

¹³⁶ On 19 February 2013 seven Georgian NGOs (GYLA, Human Rights Center, and Article 42 of the Constitution, GTUC, Multinational Georgia, Public Defender, Center of Development and Democracy) sent the joint official letter to The Minister of Justice Tea Tsulukiani, Chairman of The Parliament of Georgia David Usupashvili and Prime Minister of Georgia Bidzina Ivanishvili. In the letter they stated several recommendations to the initiators of the Draft Labor Code about the improvement of employees' working conditions and labor rights.

¹³⁷ Article available at <http://humanrightshouse.org/Articles/19166.html>;

<http://www.humanrights.ge/index.php?a=main&pid=16548&lang=eng>

¹³⁸ <http://humanrightshouse.org/Articles/19166.html>;

public schools, many employees lost their jobs and did not receive any severance pay. That's why some NGOs recommend envisaging those cases as well in the draft.

According to the new amendments, an employer is obliged to give to a dismissed employee a written reasonable argumentation of termination of a labor relation within 7 days after an employee presents request. Otherwise, a burden of proof on factual circumstances of a dismissal relies on an employer at the court. By recent amendments, an employee will be protected from groundless decisions of an employer. According to a current Labor Code, an employer is not obliged to give any argumentation on reasons of dismissing an employee, which violates the norms of European Social Charter (ratified by Parliament of Georgia, resolution N 1876, July 1, 2005).

Among other innovations, the draft Labor Code envisages a rule of payment for overtime labor. According to the new amendment, overtime labor (labor is considered overtime when a work performance of the employee exceeds 40 hours a week) will be paid according to the increased hourly rate of wages. Besides, according to the draft, overtime work payment is considered to be an essential term of a labor contract. Current Labor Code does not duly regulate overtime payment issues. This violates a constitutional principle of fair reimbursement of labor.. Current Labor Code vaguely regulates this issue, according to which terms of the overtime labor are defined upon consent of the parties.

The revised draft Labor Code envisages a regulation on giving compensation to an employee instead of not used vacation leave by him/her when a labor contract is terminated on the initiative of an employer. Current Labor Code does not envisage any regulation of such kind. There used to be cases when an employer terminated labor contract before employees' going on a leave.

According to the new amendments, employees are protected not only in contractual relations, but also in pre-contractual relations. According to the draft law „any type of discrimination due to race, color, ethnic and social category, nationality, origin, property and position, residence, age, gender, sexual orientation, limited capability, membership of religious or any other union, family conditions, political or other opinions are prohibited in pre-contractual and employment relations“. By the new amendments, an employer is protected during the relation with potential employer until the conclusion of a contract.

The draft Labor Code properly regulates forms of concluding a labor contract (written and verbal). The draft determines the cases when a written labor contract should be concluded.

According to the new regulation „a labor contract is concluded in the written form if a labor relation lasts more than three months.”

The draft clearly determines essential terms of a labor contract on which parties should agree and be envisaged in a labor contract. These terms are: “the date of starting a work performance and the duration of labor relations, working and holiday time, working place, position and the type of a work, the quantity of a salary and its payment, overtime work and its payment, duration of a paid and unpaid vacation leaves and a rule of giving a leave.

According to the draft, an employer is obliged to introduce operations manual to an employee. There have been recent cases when employers did not introduce operations manual to employees and amendments to it. Accordingly, teachers got acquainted with operations manual after they were dismissed from work and started a case in the court.

According to the new regulation, draft Labor Code envisages additional vacation leave for people performing hard, hazardous and dangerous labor. Such employees are granted additional paid leave at least 15 calendar days per annum.

NGOs positively estimated the fact that revised draft Labor Code clearly envisages the duration of a business day for an underage person. Business day for an underage person from 16 to 18 years old should not exceed 36 hours per week. Business day for an underage person from 14 to 16 years old should not exceed 24 hours per week. Current Labor Code does not regulate duration of a business day of underage people which violates norms of “Convention on the Rights of the Child” (binding for Georgia since April, 21, 1994).

According to the new regulation, termination of a labor contract during the leave for the reason of pregnancy, childbirth and childcare is prohibited except for some objective circumstances. Such an imperative regulation is not envisaged in the current Labor Code which led to groundless dismissals of pregnant women being on a maternity leave by which norms of Convention on the Elimination of all Forms of Discrimination against Women was violated.

One of the innovations of the draft is a determination of banning norms of discrimination due to union membership. The new regulation prohibits interference in union activities and discrimination of an employee due to union membership.”¹³⁹

¹³⁹ Article available at <http://humanrightshouse.org/Articles/19166.html>;
<http://www.humanrights.ge/index.php?a=main&pid=16548&lang=eng>

During the discussion of draft Labor Code of Georgia in parliament, some fundamental articles concerning labor contract, termination conditions of the contract, working hours, holiday issues, collective bargaining, mass dismissals and other substantial issues were not discussed. Georgian Trade Union Confederation together with other NGOs expressed their concern about the fact at the meeting of NGOs on June 6th. They estimated the actions of the Parliament as a step backwards from ILO standards.

Political Freedom

Teachers Dismissed on Alleged Political Grounds

One of the main features of the year of 2012 was violation of political freedom of people mainly manifested in dismissals from jobs on alleged political grounds. The cases were the most frequent during pre-election period.

According to the reports of NGOs¹⁴⁰ and Public Defender of Georgia¹⁴¹ the most frequent were the cases of alleged politically motivated dismissals of public school teachers.

According to the US Department of State Georgia 2012 Human Rights Report „The major human rights problems that caused tension between the government and NGOs were the torture and mistreatment of prisoners, harassment and intimidation of political party activists and supporters, dismissals for alleged political motivations, harassment of human rights defenders and journalists, the conduct of IDP evictions, lack of accountability for abuses, and a court system NGOs called “unresponsive” to human rights violations.”¹⁴²

NGOs apply to heads of all corresponding ministries and local self-government agencies to launch immediate probe within respective agencies into the circumstances of politically motivated dismissals in order to restore rights of illegally dismissed persons and to identify makers of illegal decisions in a timely manner.¹⁴³

¹⁴⁰ NGOs Reports are available at <http://www.humanrights.ge/index.php?a=main&pid=16315&lang=geo>; http://www.isfed.ge/pdf/ISFED_report.pdf ; <http://www.transparency.ge/annual-reports>; Besides online newspaper www. HumanRights.ge includes various examples of alleged politically motivated dismissals of public school teachers.

¹⁴¹ Ombudsman’s Report 2012 available at: <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>;

¹⁴² Report available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

¹⁴³ <http://www.humanrights.ge/index.php?a=main&pid=15812&lang=eng>

Case of a History teacher in Sagarejo Municipality

On January 6 of 2012 in the village Kakabeti of Sagarejo municipality history teacher Tamar Sukhiashvili was dismissed. Sukhiashvili's dismissal was related to the request of restoration of citizenship of Georgia for Bidzina Ivanishvili.

As the head of Sagarejo organization of Republican Party Gela Kevlishvili stated to Kakheti Information Center, Tamar Sukhiashvili is a certified teacher.

Kevlishvili noted that she was fired from school because she signed a petition with the request to restore Ivanishvili's citizenship. The grounds for her dismissal were the article 42 of the Law on General Education and article 38th of the Labor Code. According to the first article, the director has a right to issue normative act. As for the second article, if there is no professional union in the organization, the head of the organization has right to dismiss its employee. He said that Sukhiashvili told him those two days before the dismissal the Governor of Sagarejo met her and told her not to distribute proclamations.¹⁴⁴

Case of Apeni Public School Teacher

On 15 March 2012 Tsisana Joiashvili, mother of Zurab Gamezardashvili – Georgian Dream's Lagodekhi district office member, was sacked from the Public School of Apeni village. Tsisana Joiashvili was teaching Georgian Language and Literature at school and her labor contract was due to September 15, 2012.

According to Zurab Gamezardashvili, her contract was ceased on March 15. The real reason of her dismissal was his political activities. She has worked at school for 46 years and has never rebuked there. The director did not clarify the reason of her dismissal. She said she could not clarify anything and his mother could guess everything herself. According to his information, the head of Lagodekhi district education resource center requested the director to fire everybody who is associated with the opposition parties.

Director of the Apeni public school Tamar Tskipurishvili confirmed with the ICK that labor contract with Tsisana Joiashvili was really due to September 15, 2012 and it was ceased early in term.

¹⁴⁴ Details about the dismissal available at : <http://www.humanrights.ge/index.php?a=main&pid=14324&lang=eng>; <http://www.humanrights.ge/index.php?a=main&pid=14358&lang=eng>; <http://netgazeti.ge/GE/88/Life/7738/>; <http://electionportal.ge/ge/incidents/1142/>

The case of Tsinana Joiashvili is included in the reports of NGOs and is published on online-newspaper www.humanrights.ge¹⁴⁶.

Case of a School Coach in Dedoplistskaro District

Akaki Natroshvili, manager of Dedoplistskaro district office of the political coalition Georgian Dream was fired from job. He was coach at the culture and sport center of the Dedoplistskaro district municipal board and trained children in Zemo Machkhaani village in football.

According to Akaki Natroshvili, he had been training children for 10 years for free. “In 2010 they funded my salary – gross 200 GEL per month (160 GEL net)” – he states.

According to him, in the middle of April the head of the service office Ivane Shanshiashvili called him and said he either had to leave the Georgian Dream or quit the job. Natroshvili told him that he was not going to leave the Georgian Dream’s office. So, he ordered him to write resignation letter. Natroshvili refused but finally he wrote the resignation letter. He was fired on April 18, 2012.

The case of Akaki Natroshvili is included in the reports of NGOs and is published on online-newspaper www.humanrights.ge¹⁴⁷

Case of Gori Public School #9 Teacher

On 16 January 2012 a director of Gori public school #9 Elene Khachidze dismissed a certified teacher of Georgian language and literature Ia Bjalava. The teacher connected her dismissal with the fact that her husband Tamaz Makashvili is a member of a political party “Free Democrats”. Ia Bjalava applied to the court to restore her rights though her complaint was not satisfied by the court¹⁴⁸.

Dismissals of Ten Teachers in Sachkhere

One of the well-known facts of alleged politically motivated dismissals took place in Sachkhere municipality On February 11-13, 2012. In several villages of Sachkhere municipality about ten teachers and school directors were sacked from work. According to the report of Transparency

¹⁴⁵ Details about the case is available at: <http://www.humanrights.ge/index.php?a=main&pid=14753&lang=eng>;
http://www.isfed.ge/pdf/ISFED_report.pdf; <http://tspress.ge/ka/site/articles/12307/>

¹⁴⁶ Details about the case is available at: <http://www.humanrights.ge/index.php?a=main&pid=14753&lang=eng>;
http://www.isfed.ge/pdf/ISFED_report.pdf; <http://tspress.ge/ka/site/articles/12307/>

¹⁴⁷ <http://www.humanrights.ge/index.php?a=main&pid=14816&lang=eng>;
http://www.isfed.ge/pdf/ISFED_report.pdf; <http://tspress.ge/ka/site/articles/12307/>

¹⁴⁸ http://www.isfed.ge/pdf/ISFED_report.pdf; <http://tspress.ge/ka/site/articles/12307/>;

International - Georgia if one studies deeply the case and analyses the facts prior to the dismissals, politically motivations are evident. This is the period when employees were sacked from work due to signing the request to restore citizenship to Bidzina Ivanishvili.¹⁴⁹

Dismissal of Odzisi Public School Teacher

Ledi Natadze, member of the election commission of Odzisi village precinct # 25 in Dusheti district from the Georgian Dream, was fired from job. Natadze was teaching Georgian Language and Literature in Odzisi Public School. According to Ledi Natadze, school administration had to resume labor contracts with teachers in September. She was already told that they were not going to continue her contract while all other teachers would have their contracts resumed. This fact was connected with her political affiliation. On August 26, Coalition Georgian Dream nominated Ledi Natadze for the commission membership of PEC # 25 in Odzisi village. According to her, presumably they fired her for that reason. According to her statement, she is an experienced teacher; she has worked at school for 40 years; she has never been rebuked in her life. Although she is 69, there are some teachers at school who are older than her and nobody had fired them.¹⁵⁰

Alleged Politically Motivated Dismissals of Other Employees

In 2012 many other facts of politically motivated dismissals took place in Georgia:

HumanRights.Ge wrote that a watchman of the Poti Public School #7 Zuri Tavartkiladze was sacked from school for reading Georgian Dream's newspaper. According to him, he was punished for reading a newspaper.¹⁵¹

Activist of the political coalition Georgian Dream Zura Tergiashvili, who worked as an ambulance driver at the Gurjaani district medical emergency center, was sacked from job. Zura Tergiashvili told ICK that before being sacked he was initially summoned to the Chamber of Control and then to police because he supported the Georgian Dream.¹⁵²

¹⁴⁹ Report available at: <http://transparency.ge>

¹⁵⁰ Report of Human Rights Center available at: http://www.humanrights.ge/admin/editor/uploads/pdf/HRIDC_2012-election.pdf; www.humanrights.ge

¹⁵¹ The detailed information can be found at: <http://www.humanrights.ge/index.php?a=main&pid=14543&lang=eng>

¹⁵² The detailed information can be found at: <http://www.humanrights.ge/index.php?a=main&pid=14784&lang=eng>

According to HumanRights.Ge, Olympic champion Zurab Zviadauri's friends were fired after he joined the Coalition Georgian Dream. According to him, when the government learnt about his decision to join the party, they started sacking his friends from work.¹⁵³

At the beginning of April, 2012 Head of Gurjaani county organization of Republican Party Zviad Kvirilashvili was dismissed from the position of the vice head of LTD „Cleaning Office” after he had organized the establishment of political party Georgian Dream in Gurjaani.¹⁵⁴

On 17 January 2012 from the chief specialist of the labor, healthcare and social protection office Reziko Otashvili was dismissed from the Dusheti Municipality. According to him, On 11 January Dusheti Municipality head Lasha Janashvili summoned him in her office and told him that he was dismissed from work for the reason that his grandmother rented her office space to Georgian Dream.¹⁵⁵

According to ISFED, in 2012 politically motivated dismissals were frequent in public sector as well as in private sector. According to their report, they registered 57 such cases.¹⁵⁶

According to Transparency International Georgia, the year 2012 was notable for sacking employees from work on political grounds. According to their report, from November 2011 to August 2012, 45 cases of alleged politically motivated dismissals were revealed.¹⁵⁷

According to Transparency International Georgia, politically motivated dismissals featured same characteristics: In majority of cases, dismissals were preceded by a political (opposition) activities of sufferers, in majority of cases, dismissed employees had not been rebuked before and enjoyed a good reputation and the decree of an employer about the dismissals did not contain the reason for firing employees.^{158 159}

On 31 May 2012 the Inter-Institutional Commission for Free and Fair Elections¹⁶⁰ recommended Public Agencies to halt planned or ongoing optimization process and make

¹⁵³ The detailed information about the case can be found at:

<http://www.humanrights.ge/index.php?a=main&pid=14969&lang=eng>

¹⁵⁴ The detailed information about the case can be found at: http://www.isfed.ge/pdf/ISFED_report.pdf)

¹⁵⁵ The detailed information can be found in the report of Transparency International Georgia at:

www.transparency.ge

¹⁵⁶ The detailed information can be found in the report at: http://www.isfed.ge/pdf/ISFED_report.pdf)

¹⁵⁷ p. 18 <http://transparency.ge/post/report/new-ti-georgia-report-pre-election-environment-geo>

¹⁵⁸ p. 18 <http://transparency.ge/post/report/new-ti-georgia-report-pre-election-environment-geo>

¹⁵⁹ The detailed information can be found in the report at: www.transparency.ge

¹⁶⁰ The Inter-Institutional Commission for Free and Fair Elections was established On 18 May, 2012 by the Security Council of Georgia for prevention of violation of election code by public servants, for the reaction to the violations of the election code and to elaborate relevant recommendations. The Commission was composed by the Secretary of Security Council and Vice-Secretary, as well as by the high ranking officials of Ministries. The Inter-

relevant decision only in case of disciplinary or other violations. The Commission had clear position with regard to the politically motivated dismissals: firing of public servants from their jobs because of their or their family members' political views is inadmissible and illegal act. Each case should be studied in details.¹⁶¹

After the 2012 parliamentary elections, Ministry of Education and Science of Georgia established a special commission, which was to study the politically motivated dismissals of the employees of the educational resource centers (legal entities within the Ministry) and public schools.¹⁶²

By the period of December 27, 2012 the special commission within the Ministry of Education and Science of Georgia had studied about 150 cases of dismissed teachers.¹⁶³

Alleged Politically Motivated Dismissals after the Parliamentary Elections 2012

Humanrights.ge wrote that since October 1, 2012 Parliamentary Elections, 679 public servants were dismissed from local self-governmental bodies in Kakheti region.¹⁶⁴

Soon after the elections, process of replacement of senior officials started in the districts. District governors supporting the United National Movement (UNM) quit positions one after another. Representatives of the Georgian Dream replaced them as interim officials. After leaders were changed, massive personnel changes affected even lower levels of the self-governmental institutions. Kakheti Information Center observed many cases when people were compelled to write resignation letter by force and were fired from jobs illegally.¹⁶⁵

In Guria, like in other regions, resignation of senior officials of local governments and replacement of old personnel with new people was an urgent topic¹⁶⁶.

Institutional Commission was presided by the Secretary of Security Council of Georgia George Bokheria; <http://nsc.gov.ge/files/files/media/NSC%20Advisor%20Order.pdf>

¹⁶¹ Recommendation (31.05.2012) of Inter-Institutional Commission for Free and Fair Elections is available at: <http://www.nsc.gov.ge/geo/elections2012.php?typ=1&cp=3#start>

¹⁶² The special commission was established by the Minister of Education and Science of Georgia on 14 December 2012. The commission was composed of the representatives of the Ministry of Education and Science of Georgia, experts of educational field, a representatives of the public organizations and Public Defender's Office of Georgia. The commission was presided by the Deputy Minister of Education and Science of Georgia Aluda Goglichidze.

¹⁶³ <http://netgazeti.ge/GE/105/News/15800/>; information about the special commission within the Ministry of Education and Science of Georgia is available at: <http://www.mes.gov.ge/content.php?id=4461&lang=geo>

¹⁶⁴ <http://www.humanrights.ge/index.php?a=main&pid=16496&lang=eng>

¹⁶⁵ Detailed information about the topic is available at:

<http://www.humanrights.ge/index.php?a=main&pid=16496&lang=eng>

¹⁶⁶ Detailed information on the topic is available at:

<http://www.humanrights.ge/index.php?a=main&pid=16025&lang=eng>

On February 19, 2013 Georgian Young Lawyers' Association and the International Society for Fair Elections and Democracy once more responded to the developments in local self-governments following the elections and expressed their concern over illegal dismissals of public servants from municipalities.¹⁶⁷

Judicial System

Problems in Criminal Justice

Despite implemented reforms and several successful projects, the Georgian judicial system is still marred by problems. According to the Parliamentary Report 2012 of Public Defender of Georgia and US Department of State Georgia 2012 Human Rights Report, the right to fair trial and court proceedings were violated by the state.¹⁶⁸

The Government's positive obligation is to guarantee the right to defense and to ensure implementation of this right in practice. The right to defense comprises that the defendant should have enough time and opportunity to prepare for the defense, to have the counsel and to ensure free and confidential communication between the counsel and defendant. The government should ensure the right to proper defense by the adequate legislative amendments and their implementation in practice.

One of the features of the year (2012) was violation of right to defense. Georgian NGOs and Public Defenders Office depicted violation facts in their reports.¹⁶⁹ The violations were manifested in deprivation of the right of the defendant to have the counsel, to have the opportunity to study the evidence and prepare for the defense as well as violation of defense counsel's right to meet individuals accused of a crime without hindrance, supervision, or undue restriction.

NGOs and lawyer associations complained that long lines and cumbersome entry checks at penitentiary institutions hindered their access to detainees to prepare cases.¹⁷⁰

Another problem of judiciary was ungrounded court decisions and high conviction rate. According to the US Department of State Georgia 2012 Human Rights Report, court decisions in

¹⁶⁷ Detailed information is available at: <http://www.humanrights.ge/index.php?a=main&pid=16438&lang=eng>

¹⁶⁸ Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>;
<http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹⁶⁹ Cases available at: <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹⁷⁰ Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

administrative trials were often “perfunctory” and that in criminal trials appeals were rejected without an adequate explanation.¹⁷¹

According to US Department of State Georgia 2012 Human Rights Report, one of the features of judiciary system was low acquittal rates in criminal cases and low rates of successful appeals as possible indicators of executive branch pressure on the judiciary.¹⁷²

According to the Supreme Court of Georgia, the use of plea-bargaining remained at 88 percent of cases during the year.¹⁷³

During the year observers expressed concern about the lack of transparency and fairness in the implementation of plea-bargaining. According to Transparency International/Georgia 2010 report, the core problem was not in the law, but in the law’s application. Transparency International/Georgia raised significant concerns about the fairness of the system, highlighting the imbalance between the powers of the prosecution and the judiciary and the system’s lack of transparency in the application and collection of fines.¹⁷⁴

Some NGOs expressed concern about the adequacy and proportionality of punishment. In pre-trial hearings, GYLA found that the courts only applied pretrial detention or bail, rather than less severe measures allowed by the criminal code such as allowing the defendant to go free on his or her recognizance, even in cases involving only minor crimes.¹⁷⁵

High-Profile administrative cases

Chamber of Control vs. Bidzina Ivanishvili

One of the mandates of the Chamber of Control (Financial Monitoring Service of Political Parties) is to monitor the execution of party financing regulations in Georgia. Pursuant to Georgian legislation, cases against Bidzina Ivanishvili – at that time the leader of the political coalition Georgian Dream (and the current Prime Minister) – were referred to the court by the Chamber of Control.

On 11 June 2011, the court declared Bidzina Ivanishvili to have conducted an administrative violation for distributing satellite dishes for electoral goals. He was fined GEL 126,220,190.

¹⁷¹ Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

¹⁷² Available at:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204287#wrapper>

¹⁷³ Information available at: www.supremecourt.ge

¹⁷⁴ Available at: www.transperency.ge

¹⁷⁵ Information available at: www.gyla.ge

Also on 11 June 2012, Bidzina Ivanishvili was found guilty of committing a different administrative violation by allegedly donating 239 cars to LTD Burji and LTD Elita Burji. The cars were then used to serve the interests of the political parties enrolled in the coalition Georgian Dream. The court accepted the application of the Chamber of Control and fined Bidzina Ivanishvili GEL 22,429,941.¹⁷⁶

State Audit Service vs. Individuals

On 7 August 2012, four individuals were found to have made illegal contributions to the political party Industry Will Save Georgia, a member of the political coalition Georgian Dream. Prior to referring the case to the court, the State Audit Service investigated the case and found that the origin of the contributions to the party was fraudulent, based on the fact that the defendants were retired and did not have sufficient income to make the contributions. The court fully accepted the claim, and the individuals were together fined a total of GEL 24,500.

On 17 August 2012, the Financial Monitoring Service referred another case to the court. The dispute concerned allegedly illegal contributions made by private parties to the coalition Georgian Dream. The State Audit Service investigated the case, and here as well found that the origin of the contributions was fraudulent. The six individuals were together fined a total of GEL 278,650.¹⁷⁷

On August 13 of 2012, Human Rights Center issued a statement about fining of Kakhi Kaladze and Bidzina Ivanishvili. According to the statement, with its recent judgments, the Tbilisi City Court completely neglected important principles of the judiciary system that should be the basis for the government acting under the Constitution, justice, ethic and moral ideals of justice. Bearing the abovementioned circumstances in mind, Human Rights Center requested to immediately stop politically motivated persecution of opponents of government.¹⁷⁸

Administrative Imprisonment of Elita Burji's Lawyer Imeda Nikuradze

On 9 August 2012, Human Rights Center made a statement on the detention and 20-Day-Imprisonment of Elita Burji's Lawyer Imeda Nikuradze.

During the night of August 7, 2012 people in plain clothes detained Imeda Nikuradze, Elita Burji Ltd's lawyer, and took him to an undisclosed location. Later it was clarified that he had been detained and was held in the main Tbilisi Police Station. On August 8, Tbilisi City Court

¹⁷⁶ Court Monitoring Report #2 (June 2012- October 2012), Transparency International Georgia. Report available at: <http://www.transparency.ge/en/post/report/court-monitoring-report-2>

¹⁷⁷ Ibid

¹⁷⁸ Statement available at: <http://www.humanrights.ge/index.php?a=main&pid=15347&lang=eng>

sentenced Imeda Nikuradze to 20-day administrative imprisonment for resisting court executors during the raid of Elita Burji's office on the night of August 6.

News programs and footage from the scene showed people in plain clothes taking movable private property – vehicles - from the territory of Elita Burji Ltd on August 6. Videos show company lawyers trying to get relevant documents from the people carrying out the operation. The police officers, however, did not produce any search warrant that would have allowed them to carry out the operation on the company's territory. As a result, some employees of Elita Burji tried to prevent the police from taking away company property.

Human Rights Center believed that the lawyers of Elita Burji Ltd, including the detained lawyer Imeda Nikuradze, acted in accordance with Article 4 of the Georgian Law on lawyers and tried to protect the interests of their client. Article 38 of the same law prohibits interference with the lawyers' activities and the imposition of liability on the lawyer for verbal or written statements which she/he had provided to the court or administrative agency in accordance with the interests of his/her client.

Considering the abovementioned circumstances, Human Rights Center condemned interference in the lawyer's activity. Organization called upon the relevant authorities to stop the persecution of Imeda Nikuradze and release him from administrative imprisonment.

Human Rights Center also called upon the Public Defender of Georgia, the Georgian Bar Association, as well as embassies and international organizations present in Georgia to monitor this case and respond to it appropriately.¹⁷⁹

Constitutional Lawsuits prepared by Human Rights Center

Human Rights Center prepared a constitutional lawsuit, wherein Besik Adamia is a suitor who submitted a complaint against the Constitutional Court of Georgia on July 27, 2012. In the lawsuit, Besik Adamia requests that Article 116 Part VII of the Georgian Election Code be declared unconstitutional with regard to Article 14 and Article 29 Part I of the Constitution of Georgia.

Human Rights Center (HRC) represented Georgian citizen Besik Adamia in court when he fought for the right to participate in the Parliamentary Elections of Georgia scheduled on October 1 as

¹⁷⁹ Statement available at: <http://www.humanrights.ge/index.php?a=main&pid=15324&lang=eng>

a majoritarian independent candidate in the Kutaisi single-mandate majoritarian election district # 59.

In order to be eligible for participation in the upcoming parliamentary elections, Article 116 Part VII of the Georgian Election Code stipulates that Besik Adamia does two things after being nominated by a voters' initiative group. As a majoritarian candidate, Adamia shall provide the district election commission with a list of supporters and a bank notification proving that he has deposited 5,000 GEL onto the bank account of the Central Election Commission. However, while Besik Adamia has the support of voters, he cannot afford to make the deposit.

Article 116, Part VII of the Georgian Election Code states: "the money allocated on the mentioned deposit will be completely returned to the candidate if she/he gains at least 10% of votes in the relevant elections. Otherwise, the money will be transferred to the state budget of Georgia." Part XII of the same article states: "the chairperson of the district election commission will not register the candidate for the parliamentary elections of Georgia if: ...the requirements and terms of Part VII are breached."

Thus, if a candidate does not provide a bank notification verifying the 5,000 GEL deposit, she/he will not be registered as a candidate.

This requirement of the Election Code only applies to one election subject – a majoritarian candidate nominated by the initiative group of voters. The same requirement does not apply for majoritarian candidates nominated by political parties or blocs.

Human Rights Center believes that the imposition of such a mandatory requirement on election participants, who have equal rights, violates Article 14 of the Constitution of Georgia – the principle of equality before the law. This provision demonstrates that if a concrete person wishes to participate in the elections as an independent majoritarian candidate, who is not associated with any political party or election block, she/he shall transfer 5 000 GEL worth so-called election guarantee on the CEC bank account.¹⁸⁰

Another constitutional lawsuit appeals against constitutionality of formation rule of single-mandate majoritarian election districts for the parliamentary elections of Georgia regulated by Article 110 Part I and II(1) of the Election Code of Georgia with regard to Article 14(2) and Article 28(3) Part I of the Constitution of Georgia.¹⁸¹

¹⁸⁰ Available at: <http://www.humanrights.ge/index.php?a=main&pid=15268&lang=eng>

¹⁸¹ (Part I: "For the elections of the Parliament of Georgia, 73 single-mandate majoritarian election districts shall be set up, including 10 majoritarian election districts in Tbilisi." Part II: For the Parliamentary elections, each

In accordance to the constitutional lawsuit, there is significant difference between numbers of registered voters in single-mandate election districts and it contradicts the principle of equality guaranteed by Article 14 of the Constitution of Georgia.

Namely, 5 810 voters elect majoritarian MP in single mandate election Kazbegi district # 29 whilst 128 545 voters elect one majoritarian MP in Saburtalo DEC # 3. Thus, number of registered voters in Kazbegi DEC is 22 times more valuable than votes of voters registered in Saburtalo DEC. Authors of the constitutional lawsuit believe the aforementioned circumstances breach the equality principle guaranteed by the Constitution of Georgia including the principle of equality between voters' votes that discriminates voters in accordance to their places of residence.¹⁸²

Freedom of Religion

In October and November of 2012 the locals of village Nigvziani along with Orthodox priests protested against holding prayers in the house of Muslim local. The protestors were verbally abusing Muslim residents of the village.

On November 2nd of 2012 the Orthodox Georgians blocked the way and did not allow the Muslim leader and other Muslim people to enter the village.¹⁸³

The law-enforcement failed to react adequately to this action. Particularly, they could not ensure that the Muslim people could enter the village without hindrance. Though interrogations were conducted, the intruders who did not allow Muslims to enter the village were not brought to justice.¹⁸⁴

municipality (self-governing city, district), except for Tbilisi, shall be a single-mandate majoritarian election district.)

2. Article 14 of the Constitution of Georgia: "Everyone is free by birth and is equal before law regardless of race, colour, language, sex, religion,

political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence."

3. Constitution of Georgia, Article 28, Part I: "Every citizen of Georgia who has attained the age of 18 shall have the right to participate in referendum or elections of state and self-government bodies. Free expression of the will of electors shall be guaranteed."

¹⁸² Available at: <http://www.humanrights.ge/index.php?a=main&pid=16080&lang=eng>

¹⁸³ p. 521 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

¹⁸⁴ *ibid*

In November and December of 2012 in the village Tsintskaro local Orthodox people were aggressively protesting against the Muslim gatherings and praying.^{185,186} They were threatening that they would not allow them to hold prayers in their mosque.¹⁸⁷

It should be noted that the members of the Parliament visited the village and met with the local Orthodox. When the locals were stating they would not allow local Muslims to pray in the mosque one of the MPs Viktor Japaridze nodded and agreed with the statements.¹⁸⁸

The local Orthodox stated that the reason of their protest was the fact of taking down the cross from the joint Christian and Muslim graveyard. However, it was not clear who took down the cross.

In order to solve the problem representatives of Orthodox Church, members of Parliament and executive government came to the village and participated in the meeting between two conflicting parties. Agreement was reached at the end of the meeting according to which Muslims from other regions were deprived right to come for prayers in Tsintskaro. The agreement was made in written form.

This agreement restricts freedom of religion and violates right of free movement guaranteed by the Constitution of Georgia.

Law-enforcement and Human Right

According to the report of Ombudsman, law-enforcement bodies failed to open investigations on the concrete facts with signs of crimes. Facts with signs of crimes were intensively covered by various media outlets especially during pre-election period. Ombudsman notes that often Office of Ombudsman provided the law-enforcement with this kind of information. However, law-enforcement often failed to open investigation on such facts.¹⁸⁹

According to the report of Ombudsman, during 2012, Office studied numerous cases of administrative detentions, when the detainees stated that they were not explained their rights upon detention. Often in the protocols of administrative detentions it was not indicated that

¹⁸⁵ <http://www.youtube.com/watch?v=kg8mT5UJj0I>

¹⁸⁶ <http://www.youtube.com/watch?v=Bs7i3oObS08>

¹⁸⁷ *ibid*

¹⁸⁸ <http://ick.ge/rubrics/society/13099-2012-12-06-10-22-09.html>

¹⁸⁹ p. 416, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

the detainees were explained their rights upon the detention which made it hard for Ombudsman to find truth on concrete cases.¹⁹⁰

Violation of presumption of innocence was often observed during the pre-election period. During pre-election period and afterwards numerous facts were observed when the government officials or representatives of law-enforcement violated presumption of innocence in their public statements.¹⁹¹

According to the report of Ombudsman, during the year of 2012 the number of complaints regarding the physical abuse from the law-enforcement bodies had unprecedentedly increased. The report reviews cases when the citizens addressed the Office of Ombudsman with the complained that they were physically abused by the police.¹⁹²

Ombudsman also pays attention to the cases where the law-enforcement was supposed to open investigations but failed to do so.¹⁹³

Presumption of Innocence

Case of Tamaz Tamazashvili

On September 18th of 2012 MIA disseminated statement according to which according to the information received from Gldani #8 prison, investigation started regarding the facts of inhuman and degrading treatment exercised by officials of penitentiary department against the prisoners.¹⁹⁴

According to the statement, after the joint investigation conducted by the MIA and Penitentiary Department of Ministry of Corrections and Legal Assistance, the prison employees received an offer from inmate Tamaz Tamazashvili to organize inhuman treatment against the prisoners, to videotape it and to give the videos to client who were willing to pay large amount of money for the tapes.¹⁹⁵

According to the statement of MIA, the charges were brought against the employees of Gldani prison #8. However, no charges were brought against Tamaz Tamazashvili who was named to be the organizer of the above-mentioned crime.

¹⁹⁰ ibid

¹⁹¹

¹⁹² p. 421, 422, 423, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

¹⁹³ p. 424, 425, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

¹⁹⁴ p. 434 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

¹⁹⁵ ibid

MIA violated presumption of innocence of Tamaz Tamazashvili when it named him as an organizer of crime though no charged were brought against him.

Lopota Special Operation

One of the most notorious cases of 2012 was a special operation conducted at the end of August at Russia-Georgia near Daghestani in Lopota Valley, which, according to MIA, aimed to free Georgian citizens captured by armed group of Chechen fighters. Several members of the armed group died as a result of special operation.

Report of Ombudsman states that according to the confidential information received by Ombudsman and according to the information received from the deceased fighters, the reality differs from the information disseminated by Georgian law-enforcement and high government officials according to which, armed group of Chechen fighters entered Georgian territory from Northern Caucasus.¹⁹⁶

“According to the confidential source, since February of 2012 by the request of high officials of MIA, negotiations started with the veterans of Chechen war, IDPs from Chechnya and Chechen Resistance Movement representatives living in different parts of Europe.

According to the source, Georgian law-enforcement promised Chechen fighters to provide the so-called “corridor” to enter Chechnya and to train, equip and create all necessary means to help them to transfer to Chechnya. Since March Chechens from different countries of Europe started coming to Georgia. The apartments were rented for them in various parts of Tbilisi (mostly in Saburtalo). According to the promise of MIA high officials, approximately 50 fighters would transfer to Chechnya every month.

According to Ombudsman’s report, residents of Pankisi Valley also confirm arrival of big group of Chechens from Europe.¹⁹⁷

“People inquired in Pankisi Valley stated: Earlier Chechens would rarely come to Pankisi from Europe. In the summer of 2012, more than hundred people came from different countries of Europe.”

According to Ombudsman’s confidential source, since March of 2012 training of Chechen fighters lasted longer than planned that caused negative emotions in them.

“According to the confidential source, since March of 2012 training of Chechen fighters took longer than planned. Chechen fighters asked MIA officials who they had been in contact with to

¹⁹⁶ p. 408, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹⁹⁷ p. 409, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

give them the promised so-called “corridor”. MIA officials gave them different promises and told them different dates. Some Chechen fighters lost trust towards Georgian government and MIA officials.”

According to the confidential source, some Chechen fighters went to Lopota Valley on their own with necessary armament, food and other necessary items and started waiting for the permission to be allowed to enter Chechnya.¹⁹⁸

To ease the situation and negotiate with Chechen fighters MIA officials addressed authoritative Chechen figures. Chechen fighters refused to yield the weapons. After the refusal, Georgian armed forces started the so-called anti-terrorist operation as a result of which several Chechen fighters died, - states the source to Ombudsman.¹⁹⁹

Based on the information provided by the confidential sources and information provided by the residents of Pankisi Valley and family members of the deceased, signs of the alleged following crimes are observed in the case: formation of illegal armed group, threat against the family members of the deceased and persecution envisaged by the Criminal Code of Georgia.²⁰⁰ Office of Ombudsman addressed the Office of Prosecutor to open the investigation into the case.

Freedom of Assemblies and Manifestations

During the year of 2012, there were several instances when the law-enforcement did not duly fulfill their responsibilities. One such instance was May 17th of 2012 when the NGO Identoba was holding peaceful demonstration to celebrate International Day against Homophobia. The notification about the action was sent to Tbilisi City Hall according to the established regulations.²⁰¹

The participants were walking from the territory of Philharmonia (Tbilisi State Concert Hall) to the Rustaveli Avenue when they were blocked by the representatives of Orthodox Parents’ Union and Union of St. King Vakhtang Gorgasali who verbally and physically assaulted the peaceful protestors.²⁰²

Though police was able to control situation and suppress physical confrontation, they were unable to ensure that protestors could continue walking on Rustaveli Avenue and duly exercise their right to peaceful demonstration.

¹⁹⁸ p. 410, <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

¹⁹⁹ ibid

²⁰⁰ ibid

²⁰¹ P.489 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

²⁰² http://www.youtube.com/watch?v=-Qmj_NFu5ok

There was one instance when local government unlawfully disrupted peaceful manifestation organized by the youth members of Georgian Dream.²⁰³ The youth was celebrating Day of Kutaisi and lit candles as a celebration in the center of Kutaisi in front of the Aghmashenebeli monument. City Hall Cleaning Service used water cannons to quench the candles and disperse the protestors. The video shows that they City Hall Cleaning Service car came unexpectedly and without giving any warning starting splashing water on the protestors.²⁰⁴

Tbilisi City Hall stated that their action was prompted by sanitary and hygiene reasons and fear of fire eruption. However, this statement clearly lacks reasoning as the protestors were standing besides the candles and there was no reason to anticipate they would leave them untaken care of. Besides, the fact that Tbilisi City Hall did not give any warning to the protestors and unexpectedly started splashing water at them that their motivation was far different from sanitary or hygiene reasons.

During the reporting period, there were instances when the police could not suppress illegal acts of protestors. Such acts took place on December 19th of 2012 and February 8th of 2013. In both cases, actions took place against the UNM who became parliamentary minority after October 1st elections.

During the actions, the protestors tried to restrict the freedom of movement of UNM members and to physically assault them. Particularly, on December 19th of 2012 in the office of UNM in Kutaisi the meeting with President Saakashvili took place.²⁰⁵ Action took place in front of the building against the UNM. After the end of the meeting, protestors clashed with the UNM members.²⁰⁶

Video material disseminated by various media outlets show that protestors did not allow members of UNM and President to leave the building. Protestors verbally assaulted UNM members and tried to physically abuse them. Though law-enforcement was present, they were unable to control the situation.²⁰⁷

Similar fact took place on February 8th of 2013 in the territory of Tbilisi National Library where President planned to present his annual report. Hundreds of people gathered in front of the library protesting against President's presentation. Part of them requested to enter the library

²⁰³ <http://www.youtube.com/watch?v=vwW7W5RArsA>

²⁰⁴ *ibid*

²⁰⁵ P. 490 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkahkdqvc.pdf>

²⁰⁶ *ibid*

²⁰⁷ *ibid*

to ask the President questions. When the representatives of UNM approached the building in an attempt to enter it, physical confrontation took place.²⁰⁸

The number of police present at the scene was not enough to prevent physical confrontations. Considering the number and tens attitudes of protestors MIA should have ensured that the sufficient police is present at the scene to avoid the clashes between the parties.

The year of 2012 saw the necessity to legally regulate issue of spontaneous actions. Georgian law does not envisage holding such actions. It obliges protestors to give prior notification to authorities before holding action.²⁰⁹

However, after leaking videos showing torture, inhuman and ill-treatment in Georgian prisons, the need of regulation of spontaneous actions was obvious as mass spontaneous actions took place across the country. Often, because of large number of people, the streets were blocked. The local governments were not informed about these types of actions. However, in most cases the law-enforcement did not intrude these peaceful protests.

Inaction of police was troublesome during picketing of work of local governments which took place after the change of government. According to the law of Georgia, local government elections are held separately from central government. Thus, UNM which became parliamentary minority after the October 1st elections still dominated the local governments. The series of picketing work of local governments took mass nature in different regions of Georgia. Often, police did not react adequately to ensure that the work of officials of local government is not hindered.²¹⁰

Administrative Detentions

Through conducting a series of interviews with lawyers and detainees, among others, the Human Rights Watch (HRW) compiled a January 2012 report that points to serious problems in Georgia's code for addressing administrative offenses.

Georgian authorities have increasingly had to deal with popular protests regarding such demands as the resignation of President Saakishvili and a call for early elections. This has resulted in a number of arrests for administrative offenses. Many of these arrests have led to

²⁰⁸ <http://www.youtube.com/watch?v=RLP4wGdtWUs>

²⁰⁹ Article 5;

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCQQFjAA&url=http%3A%2F%2Fflaws.codexserver.com%2F176.DOC&ei=NzKqUZ67Gujx4QShj4DIaw&usg=AFQjCNGkvrCR7twuBUrXzOY1xGCAnhgOIQ&sig2=Zveqel-r2QcnD4nuA0Ow2g&bvm=bv.47244034,d.bGE>

²¹⁰ P. 414 <http://www.ombudsman.ge/files/downloads/ge/iicsizmorgdfkakhkdqvc.pdf>

administrative detentions, which the HRW calls administrative imprisonments after citing the fact that they are punitive rather than preventative measures, imposed by a court after a verdict is made. The HRW cites countless cases of administrative offenses, mostly citations for “petty hooliganism” or disobeying a police officer, leading to fines and administrative imprisonment.²¹¹

The report finds innumerable problems with many parts of the system for handling administrative offenses. Those arrested are *de facto* denied due process; provisions allow officers to not be required to notify detainees of the reasons for their detention until at least twelve hours after their arrest. Even then, the charges are presented on written “administrative offense protocols,” many of which go unread by the accused, especially by those who harbor objections to their arrests. Their rights are not explicitly told to them but are instead printed on the backs of these protocols; many detainees do not realize that their rights are located on the protocols, and many more, as has been mentioned, do not read the protocols at all. Because of this, detainees are often not informed of their rights, including their right to a lawyer and to contact a third party.²¹²

Even when detainees know their rights, they are often not upheld. The HRW cites several instances of detainees being unable to contact their families or a lawyer, even after asking to do so. The report says that oftentimes families are only made aware of detainees’ arrests if they happen to see them on news coverage or hear about them from an eyewitness. This is a serious problem when it is taken into account that the most practical way for a detainee to obtain a lawyer is through contact with his or her family. When detainees are able to secure the services of a lawyer—and there exist cases where they weren’t, one notable case from the report involving the detaining police officer being appointed as the defense attorney—they are often unable to meet him or her before their trial. Lawyers often have a difficult time locating where their clients are being held before a trial, even after inquiring by official means. It is common for lawyers to simply wait at Tbilisi City Court for multiple hours leading up to their clients’ trials, which must take place within twelve hours of arrest. Because detainees must eventually be brought there, it is the only surefire way for a lawyer to locate his or her client. Even still, the report mentions a detainee on trial whose lawyer was in the court building but not allowed into the court room, even after the defendant’s repeated requests for an attorney.²¹³

The trials of detainees are essentially trials by name only and in practice are more like hearings. They are often very short, lasting close to 15 minutes. Some lawyers reported that the small

²¹¹ p. 1 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

²¹² p. 21 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

²¹³ p. 17 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

quarters in which they are held provide insufficient space for the trial to be opened to the public. Defending lawyers are given an inadequate amount of time during which to prepare their defenses; the report quotes some lawyers as saying that the time allotted is often not enough for them to read their clients' administrative offense protocols—which are all-too-often unavailable to the lawyers until the trial—let alone to prepare a cogent defense. Furthermore, judges often do not allow for the admitting of evidence or for the presentation of witnesses, two vital aspects of any proper trial procedure. The report cites instances of judges' refusals to hear claims of ill treatment by arresting officers; when one accused person asked the judge to look into their very evident injuries, they were told to appeal to the prosecutor's office. In addition, hearings are often held on multiple cases at the same time, which only adds to the hardships the defense faces in preparation.²¹⁴

The ombudsman's office conducted a study of judges' rulings in administrative offense cases and found that rulings are often written using templates. Often only names are changed. Even though the wordings of the decisions are exactly the same in some cases, different punishments are doled out with no apparent intent to apply the law consistently and fairly.²¹⁵

The appeals process for detainees presents another set of issues. The period of appeals for those sentenced to custody is a mere 48 hours. The 48 hour appeals period is at odds with the 72 hour waiting period for the release of court records. Because of this, lawyers are forced to submit appeals without the benefit of access to such records. In addition, lawyers are obliged to secure their clients' signatures before they are allowed to submit an appeal on their behalf. The already-mentioned fact that many lawyers have trouble locating their clients therefore leads to some lawyers being unable to submit appeals for their clients.²¹⁶

The temporary detention isolators (TDIs) that are the destination of those sentenced with administrative imprisonment were designed to hold detainees for no more than 72 hours. The TDIs fail in countless respects to meet international standards. Prisoners are often not allowed outdoor exercise, though it is recommended that those in detention for more than 24 hours be given at least an hour per day. Even if the TDI happens to have showers, prisoners are often unable to use them. According to the report, the cells, which are more cramped than international standards demand, do not have heat nor proper lighting and ventilation. There are often no beds or linens, and the blankets that are provided are dirty and washed monthly if at all. There is often little access to water. Though the report quotes the Ministry of Interior as

²¹⁴ p. 2 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

²¹⁵ p. 22 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

²¹⁶ p. 25 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

saying that renovations and improvements were being made, facilities that had already been renovated were evaluated as still not being up to standards.²¹⁷

IDPs

According to Internal Displacement Monitoring Center Report on Georgia, in 2012, inadequate housing remained one of the biggest issues for IDPs.²¹⁸ Around 1,500 internally displaced families illegally occupied around 50 buildings in Tbilisi and other cities after the October 2012 parliamentary election in search of resolution for their poor housing situation. The ministry responsible for IDPs, and international organizations profiled the group and found that only some were eligible for government housing assistance. Others had already received support. By the end of the year, many had left because of the onset of winter.²¹⁹

According to the report, government continued to facilitate local integration elsewhere in Georgia and for this purpose provided housing assistance to IDPs as part of its national strategy on internal displacement which included the renovation and transfer of ownership of accommodation in collective centres, the construction of new apartments, the use of abandoned housing and the allocation of new social housing units.²²⁰

Internal Displacement Monitoring Center estimates that privatisation of collective centre space proceeded faster in 2012 than in previous years and it benefitted around 7,650 families. Also, on the positive note, report states that the housing locations offered to IDPs tended to be in larger towns rather than remote rural areas with few economic opportunities.²²¹

However, according to the report: “The quality of some of the housing IDPs received was substandard with inadequate foundations, lack of proper insulation, unsafe wiring and poor sanitation. Many families who had signed agreements for their living space were still waiting to have their ownership registered, and access to livelihoods remained difficult as many sites were remote. The selection of beneficiaries for new housing continued to be less than transparent and many IDPs, including highly vulnerable families, are yet to benefit. A significant number of IDPs living in private accommodation are still to receive assistance to improve their housing.”²²²

²¹⁷ p. 26 <http://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf>

²¹⁸ <http://www.internal-displacement.org/countries/georgia>

²¹⁹ *ibid*

²²⁰ *ibid*

²²¹ *ibid*

²²² *ibid*