



Unlawful participation in campaigning and violation of campaigning rules

There are no separate regulations on the use of the Web space and social networks for campaigning purposes and unlawful campaigning. Together with development of technologies, the nature of electoral violations has also been transformed and, in some cases, they also occur in the Web space, cases in point being campaigning using social networks, including Facebook, and the use of video transmissions from abroad to involve foreign nationals in election campaigning.

We think that the cases described below contain violations of electoral legislation, which was manifested in civil servants' sharing campaigning information through a social network (Facebook) during working hours, on the one hand, and in involvement of a foreign national in election campaigning from the territory of a foreign country, on the other. It should be noted, however, that these cases have also revealed certain shortcomings in the legislation. There are no separate regulations on the use of the Web space and social networks, including Facebook, for campaigning purposes and unlawful campaigning, and unfortunately, even the existing regulations have not yet been interpreted progressively, which increases the risk of violations and the syndrome of impunity in this area.

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Below we give several facts observed by our monitors:

On July 24, 2016, the former President of Georgia, currently a citizen of Ukraine and Governor of Ukraine's city of Odessa, Mikheil Saakashvili, allegedly carried out election campaigning in violation of statutory requirements. In particular, at the presentation of Ramin Bairamov, the United National Movement's majoritarian candidate in Gardabani, he addressed the population of Gardabani via the Internet and appealed them to support the majoritarian candidate.

An analogous violation took place on July 31, 2016, at a public meeting organized by the UNM in Batumi, where majoritarian candidates for the October 8, 2016 parliamentary elections and elections for the Supreme Council of the Autonomous Republic of Adjara were presented to constituents. The meeting organizers screened a video appeal of Georgia's former president which obviously contained an appeal to support the UNM.

GYLA filed an application regarding violation of campaigning rules in the election administration.

The election administration failed to take into account GYLA's opinion about the violation of campaigning rules and ruled that the aforementioned act could not be regarded as an offense as it was not committed in the territory of Georgia. GYLA appealed the decision in court.

During working hours of August 16, 18, and 19, 2016, **Levan Gogelashvili, Head of the Organizational and Human Resources Department of the Kutaisi City Council**, posted information supporting the Georgian Dream – Democratic Georgia party **on a social network (Facebook)**.

Employees of the Akhaltsikhe Town Hall, Meri Gogolauri, Sopo (Nana) Meskhi, and Inga Diakonova, shared a video of Giorgi Kopadze, Georgian Dream's majoritarian candidate, on their Facebook pages during working hours.

We have also observed participation of a police official in campaigning through a social network.

On August 25, 2016, Shota Mosulishvili, acting chief of the Gurjaani District Division of the Kakheti Police Department, shared a [photo](#) showing a campaign meeting with the population from the campaigning page of Davit Songulashvili (“Davit Songhulashvili for majoritarian MP of Gurjaani”), a majoritarian candidate of Georgian Dream, on his personal Facebook page.

According to news reports of September 6, Shota Mosulishvili was appointed as the chief of the Gurjaani District Division of the Kakheti Police Department.

The Deputy Governor of Imereti also used the social media to carry out campaigning during working hours.

During working hours on July 1, 4, and 5, Giorgi Chighvaria, Deputy State Trustee/Governor of Imereti, posted information supporting the Georgian Dream – Democratic Georgia party on his Facebook page, which, according to the Election Code, is a violation of campaigning rules.

GYLA filed applications regarding violation of campaigning rules in the election administration and the Interagency Commission.

The Kutaisi District Election Commission refused to satisfy GYLA’s application, arguing that the Deputy Governor had not used the official page and had not taken part in election campaigning by the aforementioned act.

We believe that sharing information through a social network easily falls within the concept of “any public action”. In addition, against the background of the current quick development of and increasing demand for technologies, information posted on social networks becomes available for far more people than that disseminated by other means of communication.