On the Unfounded Criticism of the Ruling Party on the Report of GYLA

The Georgian Dream has analyzed the interim reports on the 2021 self-government elections prepared by the observer organizations, including GYLA. The findings were presented to the public on Friday. Our organization always carefully reviews feedback on our documents, which gives us an opportunity to improve them. Therefore, we

have read this analysis with close attention and would like to share the conclusions of our observations with you. The present text focuses solely on GYLA's report.

The ruling party has a few general remarks:

1. Their first remark concerns the timeframe of the monitoring. They note that *"all three interim reports, which were supposed to contain the facts uncovered during the pre-election campaign, mention cases that occurred before the start of the election campaign, which is, before August 3, 2021. [...] Referring to the violation of electoral laws during this period is, of course, superfluous. [...] Therefore, we call on these organizations* ***to make it clear in their reports*** *that the election campaign began on August 3 and that the suggested cases cannot constitute a violation of the pre-election campaign rules".* Later we encounter the same appeal again in the document.

As part of this year's approach (which is similar to last year's), GYLA studies the environment before elections and publishes a report on a long-term observation mission. The first report covers the period from the fifth to the third month before the elections and the other deals with the timeframe from two months before the elections to Election Day. This approach is based on the fact that 60 days before the Election Day, special regulations come into effect and therefore, we study these two periods separately. This is explicit in our report and thus, clearly does not refer to the period when special regulations apply. Even more, every time we mention this time interval, we emphasize that special regulations have not yet gone into effect. See the extracts from our report supporting the given argument: "It is no coincidence that the time for the approval of this initiative is the day before the official start of the election campaign. Thus, the government avoided the regulation, which would not allow the implementation of this initiative from the following day, and considered it as a use of administrative resources" and "Considering the fact, that the regulations that prohibit the misuse of the administrative resources have not yet taken an effect, these actions do not violate the Electoral Code. Nevertheless, GYLA considers the use of public resources in support of the party as bad practice". Hence, as it turns out, we have already accomplished what the ruling party urges us to do (to explicate to the public that the cases reported before August 3 do not constitute a violation of the rules of the election campaign), consequently, their argument is baseless. The ruling party itself indicates in the analysis several times that we distinguish "violation" and "bad practice". See an example: "*With regard to the three facts described in chapters 1 and 2, it is clearly stated that they do not amount to the violation of the law*

”. As a reference it should be noted, that there are 3 cases in a sum in GYLA’s report where we indicate that the government’s action is a “bad practice”, not a “violation of the legal norm”. It is contradictory that on the one hand, the ruling party calls for setting boundaries between “violation of the law“ and “bad practice”, and on the other hand, states in the analysis that this is “clearly emphasized“ in the GYLA’s document.

As strange as it may sound, the Georgian Dream’s next remark concerns our approach that we separate the violations and other facts: “*In all three reports, there is a general tendency to suggest that the misconducts observed are not in themselves violations of the law but are bad practices and detrimental to creating a healthy pre-election environment. Such statements make it ambiguous for the public as to whether a particular political entity has violated the law or its actions simply do not meet the internal standards of a particular organization*”. According to the given citation, we do specify that a reported fact is not a “violation”, but a “bad practice”, thus, they are distinguished from each other. If that is so, then there is nothing unclear about it.

1. The next comment reads as follows: “*[...] organizations, [...] speak in such new terms as “the activity carried out to win the hearts of voters” and the reported cases are evaluated as violations. According to this reasoning, any activity of the government during the non-election period can be evaluated as winning the hearts of voters, which is clearly not correct and leads to the formation of wrong perceptions in society, as if it is a violation*”. The ruling party provides an example and claims that this is a new term used by the observing organizations, including GYLA. However, we have never used it. Our report says otherwise: “This is a manipulation aimed at winning the hearts of the voters”. The cited phrase implies that political parties, including the ruling one, certainly have the right to win the hearts of the electorate. Moreover, their activities should serve this purpose. They are entitled to do so not only in general but also in the 60 days before the elections, however, they must accomplish this goal in a good faith. We make an objection to the strategies aimed at winning the hearts of voters, which have manipulative character. In case the government approves a program the day before the restrictions are imposed and consequently, it could not have been adopted the next day, they must properly justify what insurmountable obstacles have been encountered, that hindered the introduction

of the program sooner or three months later. Instead, however, they make unsubstantiated accusations against us.

2. Another criticism of the ruling team is what it follows: two months ago, amendments to the electoral legislation entered into legal force, and the observer organizations had the opportunity to propose their initiatives during the legislative process. "*Evaluation of the parties' activities two months later with additional criteria, and describing them as if they were in violation of the law does not, in our assessment, meet the standard of conscientious observation*", they write. We have not considered additional criteria violations of the law, which have already been clarified above. Now let us discuss how conscientious it is to introduce additional criteria. GYLA's report includes two categories of facts that do not currently violate the legislature. One is an issue of political ethics, which we have not recommended to regulate by law at this stage (therefore, we could not propose it during the legislative process), and the other is the ban on funding the advertisement for the ruling party from the state budget, which can be settled by law. We have not taken up this issue so far because it has not emerged as a problem in our reports and is a new tendency. Besides, further deficiencies in legislation that were not previously identified can be brought to light at any time. If the government links the identification of previously unnoticed shortcomings based on the diligent post-reform analysis of the legal norm, it will destroy the opportunity for further development of the legislation. This is a standard working process, even though the government sees it as a conspiracy against them.

Ruling team criticism on our analysis of specific cases:

1. With regard to the first case, concerning the government's approval of the subsidizing program of loan obligations, one day before the ban went into effect, the ruling team states: "*The assessment that the government went past the legal norm gives the impression of a one-sided and biased judgment. In fact, the government complied with the law and issued an order before the start of the election campaign*". In this case, too, the terms "one-sided" and "biased" are used towards us without justification. GYLA's report does not say that the government violated the law. On the contrary, we say that it bypassed the special regulation and launched the program at a time when it could not be considered a violation of the law. However, it would have had exactly the same

negative effects, which are the reasons for banning it from the next day.

The analysis states, “GYLA ignores the fact that the initiative was submitted by the Prime Minister in June”. In fact, this chapter begins by mentioning this detail. We note: “On June 25, Prime Minister Irakli Gharibashvili presented to Parliament, along with last year’s government report, the priorities of the 10-Year Economic Development Plan”. It is factual, that GYLA has indicated in the report that the program was presented in June, therefore the given claim of the “Georgian Dream” is unfounded.

1. The second chapter of our report deals with the sponsorship of party advertisements on Facebook pages from the state budget. The Georgian Dream does not deny the fact itself, but only notices that the law was not violated, which is also mentioned in our report. For that reason, we call for an improvement of the legislation so that such actions are prevented in the future.
2. The third argument concerns the case of Oleg Khubuluri. He was dismissed by the Gori Municipality for speaking about the problem of discrimination on political grounds in the public service. His action was considered disciplinary misconduct and damaging the reputation of the public institution. However, Khubuluri did not name the responsible authority he was referring to, so he could not harm the reputation of any institution. Georgian Dream’s analysis admits, “*Khubuluri’s words separately do not necessarily point to a specific authority,”* however still claims that this person was obviously talking about the Gori municipality, since *”the TV news mentions exactly what position Khubuluri held and in which public authority he worked. Thus, when he links the disciplinary proceedings against him to a systemic problem of dismissals based on political grounds, he is referring to his own employer, namely the Gori Municipality”.* The analysis is based on the following logical reasoning: 1. Khubuluri worked at the Gori Municipality and this fact was also mentioned on the TV; 2. He talked about his own situation because he linked the disciplinary proceedings against him with political persecution; 3. Since Khubuluri referred to the disciplinary proceedings against him and the audience is aware of his workplace, therefore, he clearly accuses the Gori Municipality of the discrimination on political grounds. Such reasoning is wrong, to say the least. Khubuluri could not talk about disciplinary proceedings against him because for that moment proceedings were not even started. The broadcast was aired on May 15, while the order of the mayor of Gori municipality to initiate disciplinary proceedings was issued on May 21. The ruling

party writes: *“Therefore, the evaluation of GYLA [...] leaves the impression of being tendentious”.* Arranging the facts in the right order demonstrates that the only thing that can be deducted from the analysis of the ruling party is its superficiality.

In sum, the criticism of the Georgian Dream can be described as contradictory, slanderous, formalistic, and superficial. They distort the facts. The ruling party is fully aware that GYLA has a reputation as an impartial and competent organization, and for that reason, they try to undermine it. They use words like “one-sided” and “tendentious” without any justification. They write that our reports “do not meet the standard of conscientious observation”, that we should present certain issues “squarely to the public” as if we were deliberately obscuring things. This government strategy is not impulsive, personal, or spontaneous. Rather, it is rational and seeks to harm our reputation by attacking our content. Once again, we are ready to listen to all remarks and criticism and even revise our conclusions if there are valid arguments. However, the analysis presented by the Georgian Dream is not one of that kind. It is not aimed at a healthy discussion, but a discreditation.