

**ELECTIONS-RELATED CRIMINAL CASES  
WITH ALLEGED POLITICAL MOTIVES**

**2024**

## HUMAN RIGHTS CENTER



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## INTRODUCTION

Human Rights Center monitors court hearings of those cases, where alleged political motives are identified. Doubts about political motives in these cases are reinforced when the initiation of criminal prosecution against political activists coincides with significant developments in the country.

2020 was a politically active year in Georgia. The Georgian Dream and the opposition political parties reached an agreement, which, among others, was related to the election system.<sup>1</sup> Consequently, many politicians evaluated the 2020 Parliamentary Elections as “decisive elections”.

On October 31, 2020, Election Day, several incidents were observed and criminal proceedings started regarding some of them. Particularly interesting were the incidents that ended with the arrest of persons who were actively involved in the political processes and criticized the government – Lina Dolidze, Akaki Khuskivadze and Akaki Kobaladze, Zviad Kuprava and Kakha Khachidze. Considering the political views of the defendants, allegedly, criminal cases launched against them were politically motivated.

As the criminal prosecution against the abovementioned persons started in relation to the incidents, that happened on the 2020 Parliamentary Elections Day, it is important to inform the public about the results of the trial monitoring of their cases, particularly in the context of the upcoming 2024 Parliamentary Elections and the urgent need to observe the pre-election environment in the country.

The analytical document at hand aims to present the key findings of the trial monitoring of the criminal cases against Lina Dolidze, Akaki Khuskivadze and Akaki Kobaladze, Zviad Kuprava, and Kakha Khachidze; the document reviews alleged political motives in these cases and analyzes respective procedural shortcomings.

## METHODOLOGY

The monitoring of the cases with alleged political motives is carried out by the Human Rights Center (HRC), based on the methodology of monitoring the court proceedings designed by HRC, which aims to assess the compliance of the monitored court proceedings and domestic legislation with international standards of a fair trial and to identify and analyze alleged political motives and shortcomings in the cases.

The monitoring of the court proceedings is carried out by two court monitors who received special training in court monitoring. To ensure an accurate monitoring process, a tailored questionnaire was developed in the initial stage. After each monitored trial, the monitor lawyers

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<sup>1</sup> Statement of the facilitators about the political dialogue in Georgia and March 8, 2020 agreement <https://bit.ly/4aniD8B> [21.03.2024].

process the information obtained during the trials. The monitors' reports are further analyzed by the legal analyst and used for analytical documents and public reports. Besides the trial monitoring reports, the document at hand is prepared based on the information disseminated by various verified and reliable public sources as well as various documents published about the monitored cases. Additionally, the HRC studied the reports of various organizations prepared based on the monitoring of the 2020 Parliamentary Elections as well as the information published by the media.

The monitoring of court proceedings is strictly based on the principles of objectivity and noninterference in the court proceedings. Moreover, the HRC regularly provides the public, the media, and the parties to the proceedings with essential information about the court hearings alongside the relevant findings.

## **INCIDENTS OBSERVED DURING THE 2020 PARLIAMENTARY ELECTIONS AND IN THE PRE-ELECTION PERIOD**

Human Rights Center carried out monitoring of the pre-election environment since March 2020 and identified possible election violations in election districts on Election Day – October 31 too.<sup>2</sup> By the assessment of the HRC and other observation organizations, in the context of the COVID-19 pandemic, “the Election Day, in terms of technical administration, was conducted in coherence with the national legislation”.<sup>3</sup> However, in the pre-election period, political and social tension was evident, as well as economic challenges.<sup>4</sup> Polarization was also observed in the media environment.<sup>5</sup>

In addition, “frequent incidents of oppression and intimidation of opposition politicians, observers, activists, and media representatives “was one of the major challenges in the pre-election environment.<sup>6</sup> According to the conclusion of the OSCE/ODIHR monitoring mission, coordinators and activists of the political parties were mobilized at the election precincts, who conducted surveillance of voters and took their photos without their consent.<sup>7</sup> Such actions created an impression of voter intimidation and oppression. OSCE observers also identified several incidents of violence on Election Day.<sup>8</sup>

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<sup>2</sup> See: Human Rights Center, Monitoring of Pre-election Environment of the 2020 Parliamentary Elections, available at: <https://www.hrc.ge/240/eng/> [22.02.2024].

<sup>3</sup> International Society for Fair Elections and Democracy (ISFED), Final Report on the Monitoring of 2020 Parliamentary Elections, p. 5.

<sup>4</sup> OSCE Office for Democratic Institutions and Human Rights, Limited Election Observation Mission Georgia Parliamentary Elections, *31 October 2020: Interim Report (25 September – 10 October 2020)*, published: 16 October 2020, p. 3; available at: <https://shorturl.at/KLM49> [22.02.2024].

<sup>5</sup> Ibid, p. 9.

<sup>6</sup> Transparency International, Joint Assessment of the Pre-Election Environment of 2020 Parliamentary Elections, October 29, 2020, available at: <https://shorturl.at/biJM9> [22.02.2024].

<sup>7</sup> OSCE Office for Democratic Institutions and Human Rights, *Georgia Parliamentary Elections, 31 October 2020, ODIHR Limited Election Observation Mission Final Report Warsaw*, 5 March 2021, p. 28, available at: <https://shorturl.at/adtKL> [accessed 22.02.2024].

<sup>8</sup> Ibid.

Additionally, in accordance with the long-term monitoring mission of the 2020 Parliamentary Elections of the Georgian Young Lawyers' Association, "trends, which are related [among others] to the control of the free will of voters (all day long, individuals were concentrated in the vicinities of the election precincts, which seemed like surveillance of the election process and hindered the voters from freely exercising their right to vote)".<sup>9</sup> Among the violations were: the movement of unauthorized individuals in the election precincts, breaches of the secrecy of the ballot, violation of inking and voting rules, and violations related to the portable ballot box.<sup>10</sup> It is worth mentioning that an environment of violent tension was also observed during the pre-election period – namely, in Shida Kartli, where members of the opposition political parties were attacked and allegedly intimidated by law enforcement officers.<sup>11</sup> Alleged facts of oppression of public servants were also identified on the part of the campaigners of the ruling party.<sup>12</sup>

In the light of these and other problems observed during the October 31, 2020, Parliamentary Elections, also considering the urgency of the issue with the upcoming 2024 Parliamentary Elections, the document at hand will analyze those cases with alleged political motives, which were related with the incidents of the 2020 Election Day.

## **KEY FINDINGS AND THE CRIMINAL CASES RELATED TO THE ELECTION DAY**

Four criminal cases will be analyzed below: **1) a criminal case against Lina Dolidze; 2) a criminal case against Akaki Khuskivadze and Akaki Kobaladze; 3) a criminal case against Zviad Kuprava, and 4) a criminal case against Kakha Khachidze.**

It is important to note that each case is related to the Election Day of the 2020 Parliamentary Elections. The defendants, although not political party leaders, were actively involved in the election process and consequently, the criminal cases launched against them were allegedly connected with their political activities.

It is also worth mentioning that charges against Zviad Kuprava and Kakha Khachidze were brought in relation to the same incident; Kakha Khachidze holds the victim status in the criminal case launched against Zviad Kuprava and vice versa – Kuprava is recognized as a

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<sup>9</sup> Georgian Young Lawyers' Association, Assessment of the October 31, 2020 Parliamentary Elections, November 1, 2020, 13:30 pm; available at <https://shorturl.at/FGOS8> [25.02.2024].

<sup>10</sup> Ibid.

<sup>11</sup> See more details: GYLA, Interim Report II of the Long-Term Election Monitoring Mission of the 2020 Parliamentary Elections, September 2020, available at <https://shorturl.at/nvLY3> [25.03.2024]; See also: GYLA, Interim Report IV of the Long-Term Election Monitoring Mission of the 2020 Parliamentary Elections, 2020. Available at: <https://shorturl.at/cHVX4> [25.03.2024].

<sup>12</sup> GYLA, Interim Report III of the Long-Term Election Monitoring Mission of the 2020 Parliamentary Elections, October 2020, p. 5, available at: <https://shorturl.at/rTWY2> [24.03.2024].

victim in the criminal case launched against Khachidze. *The same prosecutor represents the prosecution in both cases.*

Various challenges were identified in the course of the trial monitoring, which were related to the investigation stage of the criminal cases as well as their hearings in the court. All findings from each case will be analyzed individually below.

### **Criminal Case against Lina Dolidze**

The prosecutor's office of Georgia accuses Lina Dolidze of committing violence or threat of violence at a polling station, an election commission premises, or their adjacent territory or violence or threat of violence during canvassing or election campaigns.<sup>13</sup>

In accordance with the case materials, on the Election Day of the 2020 Parliamentary Election, Lina Dolidze was an election observer in the election precinct No 90 in Tbilisi, when she physically abused two men, who were in the precinct without special permission.<sup>14</sup>

Charges were brought against Lina Dolidze two years later. According to the defendant, she was called by the police and informed that the criminal proceedings would be terminated. However, having arrived at the police office, she found a completely different situation and in fact, charges were brought against her.<sup>15</sup> Lina Dolidze said: "This accusation is absurd! How could I beat one or two men?"<sup>16</sup>

Hearing of the case on merits is underway in the Tbilisi City Court.

### **Criminal Case against Akaki Khuskivadze and Akaki Kobaladze**

Akaki Khuskivadze and Akaki Kobaladze are accused of violating Articles 339 (1)Part 150 (2)(b) and 151 (2)(a) of the Criminal Code of Georgia, which refer to offering a bribe to a public servant, in order that he/she took a certain action for the benefit of the bribe-giver or other person; also, coercion committed by a group of people when the victim has a well-grounded fear of the coercion; also unlawful restriction of freedom of action by a group of persons i.e. psychological coercion of the other to perform an action, while he/she has right to refrain from doing it.

The investigation stated that,<sup>17</sup> on November 6, 2020, the defendants met the chairman of the Isani Election District N5 – Tedore Gobejishvili, and offered USD 50,000 for demonstratively resigning from the position of the commission chairman in favor of one of the political parties

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<sup>13</sup> Criminal Code of Georgia, Article 162<sup>1</sup> Part I.

<sup>14</sup> See: Khatia Dekanoidze – violence and repression of politically active citizens by using political justice continues; Interpressnews, June 10, 2020, available at <https://rb.gy/9kyn8v> [25.02.2024].

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Police arrested two individuals under the charge of bribe-giving, group coercion and threat, Ministry of Internal Affairs, November 7, 2020, available at: <https://rb.gy/10yetx> [28.02.2024].

and to make publicly state with the media that the election results were frauded. He was promised to get more benefits in case he made this statement.

After they received a refusal from Tedore Gobejishvili, the defendants threatened him and coerced him to accept their proposal.

The next day, on November 7, 2020, Tedore Gobejishvili, born in 1977, died in his house.

Additionally, Akaki Kobaladze was accused under Article 236 (3) of the Criminal Code of Georgia, which refers to the unlawful purchase and storage of firearms.<sup>18</sup>

The Court is currently examining the evidence provided by the defense. The Court has already interrogated the defendants and their family members. Based on the agreement of the parties, the Court found the evidence reliable on the part of the witnesses. In accordance with the clarifications made by the defendants in the Court, they had never threatened or offered a bribe to the deceased person. They cooperated with him and had a friendly relationship.

Judge Giorgi Keratishvili at the Tbilisi City Court carried out a hearing on merits. After Judge Giorgi Keratishvili was appointed to the Appellate Court, Judge Lasha Chkhikvadze substituted him. After these changes, the new judge asked the parties from which stage they wished to continue the hearing of the case. In the end, the Court agreed with the defense and continued hearing on merits with the examination of the defense evidence.

Since May 2023, the hearings were scheduled several times but were postponed because of the absence of the prosecutor.

### **Criminal Case against Zviad Kuprava**

The Prosecutor's Office of Georgia accuses the member of the Tbilisi City Council and the political party United National Movement Zviad Kuprava of violence or threat of violence at a polling station, an election commission premises, or their adjacent territory.<sup>19</sup>

According to the bill of indictment issued by the Prosecutor's Office,<sup>20</sup> on October 31, 2020, during the parliamentary elections, Zviad Kuprava assaulted a person, thereby inflicting bodily injuries and physical pain upon him.

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<sup>18</sup> See, [humanrights.ge](http://humanrights.ge); *HRC will monitor the court hearing of the criminal case against Akaki Khuskivadze and Akaki Kobaladze, December 1, 2020*. Available at:

<http://www.humanrights.ge/index.php?a=main&pid=20290&lang=eng> [25.02.2024].

<sup>19</sup> Article 162<sup>1</sup> Part I of the Criminal Code of Georgia.

<sup>20</sup> The Prosecutor's Office Has Commenced Criminal Prosecution against Two Persons in Connection with the Violence at the Polling Station, October 27, 2022, available at: <https://shorturl.at/dpqJU> [25.02.2024].



The Prosecutor's Office brought charges against the UNM member Zviad Kuprava two years later, on October 27, 2022.<sup>21</sup>

Currently, the case is being heard by Judge Gizo Ubilava in the Panel of Criminal Matters within the Tbilisi City Court. It is noteworthy that initially, the investigation commenced based on the statement of Zviad Kuprava but the Prosecutor's office brought charges against him only two years later. In accordance with his testimony in the Court, "he does not admit the imposed accusations and believes that the case contains political motives".<sup>22</sup>

Currently, the hearing of the case is underway in the court and the evidence of the prosecutor's office is being examined. The prosecutor invited a witness who stated in the Court that Zviad Kuprava had refused his acquaintance to return a badge. The witness asked Zviad Kuprava to return the badge to her friend, but Kuprava refused and lifted an arm to remove her. The husband of the witness saw this fact, and this situation turned into a physical confrontation between him and Zviad Kuprava. The defendant punched the former in the chest, as a result of which he was left breathless and collapsed. When the medical emergency team arrived at the place, the alleged victim told them that he had no injuries and did not need any medical assistance.<sup>23</sup>

The case is being heard by Judge Gizo Ubilava in the Panel of Criminal Matters within the Tbilisi City Court.

### **Criminal Case against Kakha Khachidze**

The criminal case of Kakha Khachidze is directly linked with the criminal case against Zviad Kuprava. In accordance with the case materials, on October 31, 2020, defendant Kakha Khachidze was in the Tbilisi election precinct No. 40, when he saw that Zviad Kuprava was not returning a badge to his friend. After Kakha Khachidze interfered in the dispute, the situation escalated – Kakha Khachidze physically assaulted Zviad Kuprava. Later, to resolve the conflict, Zviad Kuprava called the patrol police.

2 years after the incident, the Prosecutor's Office brought charges against both Zviad Kuprava and Kakha Khachidze under Article 162<sup>1</sup> of the Criminal Code of Georgia,<sup>24</sup> which refers to the violence or threat of violence at a polling station, an election commission premises, or their adjacent territory.

Like in the case against Zviad Kuprava, the position of the Prosecutor's Office in the case against Kakha Khachidze is particularly interesting. Both persons are, at the same time, defendants and victims in the same episode, while both cases are handled by one prosecutor. In accordance with the assessment of the Human Rights Center, this is a serious challenge and

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<sup>21</sup> Ibid.

<sup>22</sup> Report of the HRC trial monitor about the criminal case against Zviad Kuprava, 31.01.2023.

<sup>23</sup> Ibid.

<sup>24</sup> The Prosecutor's Office Has Commenced Criminal Prosecution against Two Persons in Connection with the Violence at the Polling Station, October 27, 2022, available at: <https://shorturl.at/dpqJU> [08/04/2024].

reduces the prosecution’s ability to maintain a high degree of independence and impartiality,<sup>25</sup> defend the interests of the victim, correctly formulate the accusation, and collect evidence - given that the evidence, as well as witnesses, are identical in both cases. The Court is hearing the case on merits and the witnesses are being interrogated. Judge Romeo Tkeshelshvili at the Tbilisi City Court examines the case.

## **ALLEGED POLITICAL MOTIVES IN THE ONGOING CASES AGAINST THE ACTIVISTS DETAINED ON ELECTION DAY OF 2020**

In all four cases, there are circumstances that reinforce doubts about alleged political motives.

The accusation against Lina Dolidze raises doubts about alleged political motives. As it was mentioned above, Lina Dolidze was accused of *physical assault against two men* in the election precinct. Later, that time chairman of the United National Movement made a statement that “a young woman is accused of physical violence against the sportsmen, who were sent by the Special Security Service”.<sup>26</sup> Considering the physical appearance of the victims in the case, it is very unlikely that Lina Dolidze could beat them.

Identical charges are brought against Zviad Kuprava too: the state prosecution blames him for the physical violence against a citizen in the polling station. It is worth noting that Zviad Kuprava personally called the police and informed them about the incident, thus he is the victim in the criminal case, which was launched based on his call. Victim Kakha Khachidze – who holds a victim status in the case of Zviad Kuprava - is the defendant in the case regarding the physical assault against Zviad Kuprava. The Tbilisi City Court examines these cases separately, but the same prosecutor represents the prosecution in both cases.<sup>27</sup> Defendant Zviad Kuprava also speaks about alleged political motives in his case.<sup>28</sup>

In the criminal case against Khuskivadze and Kobaladze, questions about alleged political motives (besides the fact that they were members of the opposition political party) were raised after the special briefing of the Georgian Dream,<sup>29</sup> where, on the date when the DEC chairman passed away, the representative of the ruling party announced that “the DEC chairman and his family were threatened by the UNM activists”.<sup>30</sup> It is important to note that by that time the investigation had not yet identified the defendants.

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<sup>25</sup> Article 9, Order No 234 of the Minister of Justice of Georgia of May 25, 2017 about the Approval of the Ethic Code for the Employees of the Prosecutor’s Office of Georgia.

<sup>26</sup> See. Khatia Dekanoidze – Intimidation and repressions against political activists continues by using political justice, Interpresnews, June 10, 2022, available at: <https://rb.gy/9kyn8v> [25.02.2024].

<sup>27</sup> Statement – we started investigation into the violence act against Zviad Kuprava, MIA, Publika, October 31, 2020, <https://bit.ly/49Zqeun> [21.03.2024].

<sup>28</sup> Report of the HRC trial monitor about the criminal case against Zviad Kuprava, 31.01.2023.

<sup>29</sup> See the statement of the Georgian Dream with regard to the death of the chairman of the Isani District Election Commission, on.ge, November 7, 2020 <https://bit.ly/49Z6uan> [21.03.2024].

<sup>30</sup> Ibid.

Besides that, in all four cases, the defendants are political activists; namely: Lina Dolidze was a civil activist, who actively criticized the activities of the ruling party members.<sup>31</sup> On Election Day, she was an observer at the polling station on behalf of the UNM.<sup>32</sup> Akaki Khuskivadze and Akaki Kobaladze were members of the UNM; Zviad Kuprava was on the election list of the political party UNM - Power Is in Unity. In this light, their affiliation with the political opposition is another proof to allege political motives in their criminal prosecution.

## PROCRASTINATED JUSTICE

Trial monitoring of each of the abovementioned cases revealed the problem of the procrastinated justice. In accordance with the assessment of the Human Rights Center, similar restriction of the right to fair trial is characteristic of other cases with alleged political motives, such as criminal cases against Mikheil Saakashvili, criminal cases against Irakli Okruashvili, and criminal cases against Giorgi Ugulava. With regard to these cases, the Human Rights Center, based on the reports of the court monitors and analysis of other public sources, studied the violation of this component of the right to a fair trial at the stage of the criminal prosecution and court hearings of the cases.<sup>33</sup>

In the cases against Lina Dolidze, Khuskivadze/Kobaladze, Kakha Khachidze, and Zviad Kuprava, notwithstanding their specific differences, the tendency of procrastination was identified. Namely, an analysis of the reports of the HRC court monitors showed that in all four cases, the parties have limited access to timely justice. All four criminal cases were launched with regard to the alleged crimes committed on October 31, 2020, and although more than 3 years have passed since the charges were brought against the defendants, they are still pending in the Tbilisi City Court.

Human Rights Center believes such procrastination of the court proceedings is allegedly connected with the political motives that violate such fundamental components of the right to a fair trial as timely justice and equality of arms in criminal proceedings. In accordance with the case law of the European Court of Human Rights, the term “timely” does not have an abstract definition. “Timely justice” means a reasonable timeframe that is determined individually in each case considering its complexity.<sup>34</sup> As the HRC monitors evaluate, the factual circumstances of the analyzed cases did not create any assumption that court examination of each criminal case would last more than 3 years.

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<sup>31</sup> See: Lina Dolidze’s statement about alleged administrative offence committed by Kakhi Kaladze, Alia, March 26, 2020, <https://bit.ly/3PvRkkz> [21.03.2024].

<sup>32</sup> See, statement of Zaal Udumashvili – there was attack on polling stations to achieve the desired results for Ivanishvili and now they started persecution against our observers, portal of self-government, droa.ge. November 3, 2020, available: <https://droa.ge/?p=90169> [21.03.2024].

<sup>33</sup> See more: Human Rights Center, *Legal Aspects of Procrastination in Proceedings Regarding Cases with Alleged Political Motives*, 2023, available at: <https://www.hrc.ge/512/eng/> [22.022024].

<sup>34</sup> See Council of Europe, *Guide on Article 5 of the European Convention on Human Rights: Right to Liberty and Security* (updated on 31 August 2022), p. 50.

It is worth mentioning, that in some instances, procrastination of justice in politically motivated cases might be connected with the replacement of the judge in charge. Namely, the Criminal Procedure Code of Georgia determines that the Court shall examine the case with immutable composition of judges.<sup>35</sup> However, if any of the judges in charge of the case, for any reason, will not be able to continue the examination of the case, he/she shall be replaced by another judge from the same court and the case examination restarts.<sup>36</sup>

Guaranteed immutability of the court composition ensures significant components of the right to a fair trial: the right to an oral hearing of the case and examination of the evidence, and the right to a reasoned judgment.<sup>37</sup> The legal requirement to restart the case examination if a judge is replaced echoes the said principles.

The national legislation also envisages the possibility of appointing a substitute judge, who will replace the judge if the latter leaves the composition and the case examination continues.<sup>38</sup> Nevertheless, the provision regarding the institute of a substitute judge in the Criminal Procedure Code of Georgia is practically almost never applied in situations when there is no need to restart the examination of the case by a new judge.<sup>39</sup>

Neither are substitute judges appointed in charge of cases, whose complexity is predictable. Among them are the cases with alleged political motives. For example, the HRC monitoring revealed that new judges were appointed in charge of the criminal cases against Mikheil Saakashvili, Ivane Merabishvili, Zurab Adeishvili, Davit Kezerashvili and Gigi Ugulava (so-called November 7 case); new judges are appointed on the cases against Elguja Tsomaia, Giorgi Narimanidze, Zurab and Shalva Tsotsorias; on the case against Akaki Khuskivadze and Akaki Kobaladze. The judges were replaced in all the above-mentioned cases that, in accordance with the law, requires to restart examination of the cases. Only in one of the listed cases, the court examination restarted – in the so-called November 7 case.

In his 2017 report,<sup>40</sup> the Public Defender of Georgia referred to malpractice in the common courts with regard to the violation of the legal requirement on the immutability of judges. Namely, the Public Defender states that in accordance with the information provided by the Kutaisi City Court, in 2017, the judges hearing the cases on merits were replaced in 73 cases and the principle of immutability of judges was respected only in 16 cases.<sup>41</sup> Additionally, the HRC monitors observed that if the composition of judges is changed, the “restart of case

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<sup>35</sup> Criminal Procedure Code of Georgia, Article 183.

<sup>36</sup> Ibid.

<sup>37</sup> Amicus Curiae, Citizens of Georgia Giorgi Gulaberidze and Badri Shushanidze vs. the Parliament of Georgia, author: Public Defender of Georgia, December 3, 2018.

<sup>38</sup> Criminal Procedure Code of Georgia, Article 184.

<sup>39</sup> Human Rights Center, Monitoring of the Activities of the Department of the Chief Prosecutor’s Office of Georgia for the Investigation of Offenses Committed in the Course of Legal Proceedings, 2018, p. 33 available at: <https://www.hrc.ge/files/reports/80PROSECUTOR%E2%80%99S%20OFFICE-eng.pdf> [25.02.2024].

<sup>40</sup> Report of the Public Defender of Georgia about the State of Human Rights and Basic Freedoms, 2017.

<sup>41</sup> Ibid.

examination” usually means only the re-interrogation of witnesses. As for other evidence, like video, material, or document evidence, -they are never re-examined.

This finding is interesting in relation to the principle of examination of the evidence. The principle of immediacy is a significant guarantee in criminal proceedings, which may result in significant results for the defendant based on the court’s observation of the witness's behavior and credibility.<sup>42</sup> In accordance with the principle of immediacy, the judges, who attended all hearings and the full process of evidence collection, shall pass verdicts on the criminal cases.<sup>43</sup>

Judge was changed in one of the cases analyzed in this analytical document but regardless of the rules determined by the procedural law, the case examination continued. Namely, in the case against Akaki Khuskivadze and Akaki Kobaladze, instead of restarting the examination of the case after a new judge was appointed, the judge allowed the parties, referring to the case law of the ECtHR, make a choice between re-examination of the case and continuation of the proceedings. In this case, in accordance with the statement of the defense lawyer, he had an opportunity to re-examine the evidence, while the continuation of the proceedings did not contradict the case law of the ECtHR.

Human Rights Center believes that existing legislation and practice in the common courts contradict each other. Additionally, the judicial practice is also contradictory<sup>44</sup> - in some cases, the court restarts the examination of the case, while in most cases they continue proceedings. Such non-homogeneous practice may be used as an instrument of the procrastinated proceedings, or perceived as such, particularly in the cases with alleged political motives.

Nevertheless, to refrain from procrastinated justice and problems related to the principle of immediacy, the chairman of the court shall ensure the appointment of a substitute judge in the initial stage of the court hearings – particularly when complex and multi-volume criminal cases are examined, so that the substitute judge was able to follow all stages of court proceedings<sup>45</sup> and in case of necessity shall have the possibility to substitute the judge, who will no longer be able to continue examination of the case. Otherwise, the replacement of judges in criminal cases with alleged political motives may be used as an instrument for the arbitrary procrastination of justice.

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<sup>42</sup> July 25, 2019 Judgment of the European Court of Human Rights on the case of *Svanidze vs. Georgia*, referring to *Beraru v. Romania*, March 18, 2014; and *Cutean v. Romania*, December 2, 2014.

<sup>43</sup> Ibid.

<sup>44</sup> Report of the Public Defender of Georgia about the State of Human Rights and Basic Freedoms, 2017, 106.

<sup>45</sup> Amicus Curiae of the Public Defender of Georgia regarding the case of *Citizens of Georgia – Giorgi Gulaberidze and Badri Shushanidze vs. the Parliament of Georgia*, 3 December 2018.

## CONCLUSION

Like the 2020 Parliamentary Elections, the upcoming parliamentary elections scheduled in October 2024 may become the decisive point in the determination of the political vector of the country. Consequently, it is important to mobilize civil society organizations to identify current and possible challenges and to take respective measures to prevent them.

Currently, the Human Rights Center continues monitoring court hearings of the four criminal cases with alleged political motives against the people arrested in relation to the Election Day incidents. It is expected that more criminal or administrative cases will be launched against people in the pre-election period of the 2024 Parliamentary Elections.

Monitoring of the cases with alleged political motives, which are linked with the elections, revealed several problematic issues, including the lack of evidence necessary to prove the accusation “beyond reasonable doubt” and procrastination of the court hearings, which violates the right to a fair trial. With the procrastination of justice, the right of the defendant to timely justice is also breached in cases with alleged political motives. Also, in the two of the analyzed cases (cases of Kuprava and Khachidze), which refer to the same episode, the State prosecution is represented by one prosecutor; this creates a risk of undermining the independence, impartiality, and objectivity of the prosecution.