

Pre-election Programs of the Parties on the Issues of Justice - 2020

The document was prepared with the support of the Open Society Foundation (OSF). Its contents are the sole responsibility of the Human Rights Education and Monitoring Center (EMC) and do not necessarily reflect the views of the donor.

Introduction

The document analyzes the visions / pre-election programs on justice issues of the political parties participating in the 2020 Parliamentary Elections. More specifically, the document discusses the parties' visions and strategies in relation to the judicial reform, gaps in the law enforcement, reform of the State Security Service, and drug policy.

A general theme is the lack of reasoned, realistic, and concrete ideas on the issues listed. While systemic problems in the courts and law enforcement bodies are constantly at the top of the political agenda, political parties only list the major areas they intend to work on in the newly convened parliament. These visions are not substantiated with detailed plans, which would define their implementation time period, as well as indicate the needed human and financial resources. In addition, the presented plans are in some cases fragmented and a number of important issues are missing altogether. For example, on the subject of the judiciary, none of the political entities talk about the issues of judges already appointed for life at the Supreme Court, less emphasis is placed on the reform of the Constitutional Court, and the issue of access to justice is largely ignored. The future of the Prosecutorial Council, which should be the guarantee of the independence and efficiency of the Prosecutor's Office, in the current constitutional arrangement, has been left out of consideration. It is particularly worrying that the party programs mostly ignore the issue of drug policy, even though the existing policies continue to be repressive and unjust, and many citizens continue to be subjected to disproportionately harsh sentences for drug offenses.

The Georgian Dream deserves special criticism, as its pre-election program is largely general and it is impossible to identify specific visions or plans in the program. In exceptional cases, the party program speaks of fragmented areas, such as timely and high-quality administration of justice in civil and administrative disputes, and the party program fails to address fundamental issues in the area of justice. It is clear that the Georgian Dream is simply choosing a strategy of non-recognition of the problem, and this approach extends to challenges in both the judiciary and the law enforcement as well as the State Security Service.

Law enforcement system

A number of reforms have been carried out in the field of law enforcement in recent years, although most of them lacked cohesion. The Georgian Dream government did not have enough political will to make law enforcement agencies truly independent and politically neutral; A significant challenge in the country to date is the high risk of political influence on the system, weak accountability, and strictly centralized hierarchy. Therefore, it is logical that in the pre-election context, a number of parties are talking about the needed reforms in the police, the Prosecutor's office and security services.

I. Reform of the Ministry of Internal Affairs

The following issues are especially problematic at the Ministry level:

- The scope of the Minister's authority;
- Integrity of investigation;
- Faulty system of disciplinary liability;
- Ineffective prevention of excessive use of force

About a month and a half prior to the elections, the five opposition parties, the United National Movement, European Georgia, Strategy Agmashenebeli, United Georgia, and Girchi, signed an agreement on justice system, which, among other things, also refers to the reform of law enforcement agencies.¹

Restricting the powers of the Minister of Internal Affairs, decentralizing the police system, establishing the institute of elective sheriffs, and improving the quality of investigations are among the key parts of the agreement reached between the opposition parties. In itself, it is important that these issues are included in the plans of the political parties, however, the presented visions lack cohesion and specificity. In this part of the agreement, the institute of elective sheriffs is particularly critical, which absolutely changes the current arrangement of the police. In addition to the many accompanying questions that arise about this model (scope of authority, accountability system, budgeting, relations to the central / local government, initiation of dismissal, insurance of corruption risks, investigation of crimes committed by the organ, subordination issues, etc.), whether choosing a police chief at the local level is in line with the existing state arrangement is disputable and what vision the authors of the idea have regarding the associated risks is unclear. The agreement of the political parties does not say anything about increasing the accountability of law enforcement agencies, raising their professionalism and other important challenges that exist in the system.

The reform of the Ministry of Internal Affairs has been discussed independently by several parties that signed the agreement. "European Georgia" in its vision directly refers to the decentralization of the police, the removal of police powers from the Minister of Internal Affairs and the reform of the

¹ For more information on the agreement between the opposition parties, see the link: <https://bit.ly/3nVULBM>
Last accessed: 10.13.2020

investigation.² It is important that the party made this issue part of the program, as the reduction of the minister's powers and the restriction of police functions is one of the main challenges to date, in terms of politicizing the system. However, a number of issues from the European Georgia's program are also left out of the spotlight - including the use of excessive force by the police, raising the qualifications of law enforcement officers, reform of operative-investigative activities, etc.

In order to depoliticize the agency, the **United National Movement** plans to appoint leaders of various police departments independently of the Minister of Internal Affairs. According to the presented frame, the person to be appointed to the position should be selected by the Parliament from the candidates nominated by the civil sector. The party did not provide further details on the matter, namely, according to what procedure, with whose participation and which officials should be elected independently of the Minister.

The separate reference to the issue of police discipline by the **United National Movement** should be positively assessed. The party plan envisages the transformation of the existing model of the General Inspectorate and its staffing by representatives of the civil sector, through transparent procedures.³ The arrangement of the General Inspectorate and the existing rule of responsibility are still the main challenges of the system, which has not been the subject of discussion at the political level.

The police reform plan is formulated as a separate direction in the political vision of the **"Strategy Agmashenebeli"**. The party focuses on the depoliticization of the system, the election of senior police officials, and the professional and social empowerment of police officers, as set out in the agreement between the opposition parties.⁴ As with the programs of other parties, the specific areas of reform are not sufficiently detailed in this case, which would be important for in-depth discussion and analysis.

Lelo also has a general vision for police reform. Police reform is part of the party's "Marshall Plan", but the document does not provide a detailed description of the reform. "Lelo" only generally focuses on the need to establish an independent investigative bureau in the country, to depoliticize the police, and to establish a fair and effective law enforcement system.⁵

Reform of the Ministry of Internal Affairs and the Prosecutor's Office is also integral part of the reform of the justice system for the political union **"For Justice"**, however, the party does not formulate specific directions in that regard, which would be important for assessing the reform vision or strategy.⁶

²,European Georgia 2020 Election Program "Available at: <https://bit.ly/318YPF3>, Last accessed: 10.15.2020

³ For more on the party's political plan, see: <https://bit.ly/2SVpUH7> Last accessed: 10.15.2020

⁴, "Strategy Agmashenebeli" - Police Reform Plan, see: <https://bit.ly/3523iKC>, Last accessed: 10.15.2020

⁵ For more on "Lelo Marshall Plan" - Georgia Reconstruction Program, see: <https://bit.ly/3lMYe3r> Last accessed: 10.15.2020

⁶ For more on the party's political plan, see: <https://bit.ly/2SSLKet> Last accessed: 10.15.2020

An important issue for political parties is the reform of the investigative system, which should be positively assessed. Under the current model, the investigation is fully controlled by the prosecutor's office, investigative bodies do not have the opportunity to conduct basic investigative actions without prior consent of the prosecutor and all the directive of the prosecutor are mandatory by nature. In this situation, investigation, as such, is more of a tool for the prosecution in pursuit for successful criminal prosecution, than a process that can determine the objective circumstances of the case. Accordingly, the weakening of prosecutorial oversight over the investigation should become a prerequisite for an independent, impartial investigation in the country.

As for the ruling party, "**Georgian Dream - Democratic Georgia**" considers the continuation of reforms in various directions in the Ministry of Internal Affairs as part of the next 4-year plan.⁷ Party's vision addresses issues related to the code of administrative offenses, road safety, emergency situations management reform. The fact that the ruling party, like other parties, considers the reform of the investigative system important - the separation of prosecutorial and investigative powers - should be positively assessed. According to the party, the aim of the reform should be to increase the independence of the investigator and increasing the quality of the investigation. The inclusion of this issue in the political plan of the party is especially important. Since, the state has not taken active steps in this direction lately.⁸ Each topic covered by the Georgian Dream's plan, is an important component of the system, though insufficient for fundamental reform. The presented vision does not say anything about the issues of concentration of power, depoliticization, discipline and abuse of power in the system, which unequivocally indicates the non-recognition of the problem by the party. It is unfortunate that the public does not know how thoroughly the ruling party plans to reform the law enforcement system, specifically what steps it intends to take to improve the system.

II. Prosecution reform

Despite the changes in the prosecution system since the 2018 constitutional reform, the following significant challenges remain:

- Politicization of the agency, simultaneous prosecutorial and investigative functions within the prosecutor's office;
- Composition, functions and inefficiency of the activities of the Prosecutorial Council;
- Procedure for appointing the Prosecutor General;
- Strict hierarchy and low degree of independence of individual prosecutors.

The reform of the prosecutor's office is also part of the **agreement between the opposition parties**.⁹ While the agreement does not fully address the challenges, one of its important components is the removal of the prosecutorial oversight from the investigation, which should form the basis for a political actualization of the reform of the investigative system. As for the criminal prosecution, the

⁷ For more on the party's political plan, see: <https://bit.ly/31c7Pt0> Last accessed: 10.15.2020

⁸ For more on the party's political plan, see: <https://bit.ly/2TunMWX> Last accessed: 20.28.2020

⁹ For more information on the agreement between the opposition parties, see the link: <https://bit.ly/3nVULBM> Last accessed: 10.13.2020

agreement, in this regard, develops a completely new perspective and, in case of less serious crimes, gives the victim the right to choose a prosecutor / lawyer at their own discretion.

This idea can be challenged by many arguments, including the increased risks of corruption, the diminishing role of the state in the fight against crime, the risks of undue pressure on the victim, and so on. In addition, the state has a responsibility to protect society from crime and to be effective in that regard. The proposed idea shifts the responsibility from the state to the individual. Initiating a new arrangement of the issue in itself is an echo of a lack of trust towards the agency. However, the focus should be not on reducing the role of the state in the fight against crime, but on creating a socially responsible system, equipped with protective functions.

It should be noted that changes in the prosecution system are similarly shared by other parties. for example:

According to the plan of "**European Georgia**",¹⁰ the rule of appointment of the Prosecutor General should be changed and the accountability of the agency should be increased. In addition, the Prosecutor's Office authority should be limited to criminal prosecutorial functions, without additional investigative competence. In itself, this idea is important for improving the quality and independence of the investigation, although the party plan requires more detailed assessment on how to increase agency accountability, or what the procedure should be for appointing a Prosecutor General. The party plan also does not talk about what should be the policy of the Prosecutor's Office in relation to the fight against crime.

According to the program of the **United National Movement**, the existing structure of the prosecutor's office should be changed. According to the presented vision, two independent bodies - a general prosecutor's office and office dealing with official misconduct should be established in the country, and their management should be elected by the parliament from the candidates nominated by non-governmental organizations. The participation of opposition parties will be necessary in the process of electing a candidate.¹¹ Unfortunately, there is no specificity in the party plan as to how to elect the leadership of the newly formed bodies with the involvement of civil society organizations and the opposition. The issue of accountability and transparency of the prosecutor's office, as well as the policy of combating crime is also left out of the spotlight.

Separation of investigative powers from the prosecutor's office and the idea of maintaining only the prosecutorial functions in the agency is shared by the political union "**Lelo**".¹² In addition, the party considers it important to review the personnel issues of the agency and depoliticize the system. Unfortunately, Lelo's plan in this regard is also rather general and does not offer a more detailed view of how, with what specific changes, it envisages implementing the reform. The need to complete the

¹⁰ European Georgia 2020 Election Program is available at: <https://bit.ly/318YPF3>, Last accessed: 10.15.2020

¹¹ For more on the party's political plan, see: <https://bit.ly/2SVpUH7> Last accessed: 10.15.2020

¹² For more on "Lelo Marshall Plan" - Georgia Reconstruction Program, see: <https://bit.ly/3lMYe3r> Last accessed: 10.15.2020

process of reforming the prosecutor's office and to achieve institutional independence is also important for the political union **"For Justice."**¹³

Although the plans of the mentioned political parties in relation to changes in the prosecution system are quite general, the programs still outline key areas for reform, which largely address problems such as the appointment of the Prosecutor General, the revision of agency functions, and accountability. Especially important is the approach that shares the idea of establishing a prosecutor's office as the body only responsible for prosecution matters. This is an essential component of the reform of the investigative system, which will increase the objectivity and independence of the investigation process in the country.

The **Georgian Dream** also talks about the changes to be made in the prosecutorial system. However, the vision of the reform is mainly related to the issues of human resource management, ethics and discipline, and electronic case management.¹⁴ The presented program does not include broad institutional topics that are crucial in terms of depoliticizing the agency.

It is unfortunate that almost none of the political party plans address the reforms of the Prosecutorial Council, and strengthening the capacity of individual prosecutors. Ignoring these issues indicates that parties fail to recognize the challenges and do not see the need for reform in this area.

III. State Security Service

The State Security Service is one of the most closed agencies, with much accumulate power. At the same time, its degree of accountability and external control mechanisms remain to be weak.

The main challenges of the Security Service today are:

- Politicization of the agency;
- Excess power and weak control mechanisms.

Despite the scale of the problems facing the SSSG, the plans of political parties, with a few exceptions, relate the least to the Security Service reform. Unfortunately, the parties have not properly assessed the challenges facing the Security Service and, consequently, the voters are unaware of their detailed visions for solving the problems in the agency.

The agreement of the opposition parties envisages the dissolution of the SSSG and abolishing its function of the so-called "political police". At the same time, the signatory parties agree to establish an independent anti-corruption bureau.¹⁵

Political union **"For Justice"** discusses the need to strengthen the oversight role of the parliament, which, in turn, will be important in terms of strengthening the accountability of the agency.¹⁶

¹³ For more on the party's political plan, see: <https://bit.ly/2SSLKet> Last accessed: 10.15.2020

¹⁴ For more on the party's political plan, see: <https://bit.ly/2TunMWX> Last Accessed: 28.10.2020

¹⁵ For more on the agreement between the opposition parties, see the link: <https://bit.ly/3nVULBM> Last accessed: 10.13.2020

Depoliticizing the agency, its gradual reorganization, eliminating illegal covert surveillance and recording are the main issues **Lelo** considers important in relation to the Security Service reform.¹⁷

The reform of the SSSG is also part of the political plan of the **Strategy Agmashenebeli**, although the document does not provide any detailed explanation of the specific directions of the reform.¹⁸

The **United National Movement-United Opposition** speaks about the abolition of the agency, the redistribution of counter-intelligence and anti-terrorist functions within the Ministry of Internal Affairs.¹⁹

As mentioned, the State Security Service is one of the most closed agencies in the system, under which excess power is concentrated. With such an institutional and functional arrangement, in the view of the public, the agency has long gone beyond the scope of providing democratic security and has become a mechanism of social control. It is another issue, however, how the dissolution of one agency will solve the accumulated problems. Neither the agreement of the opposition parties nor the programs of the individual parties offer a concrete vision of what the concept of security should be in the country, who, in what manner and under what scope should be the entity politically responsible for the security issues. Or, more generally, to what extent the simple redistribution of functions to other agencies will insure against the above-mentioned risks, without revising the methods of the SSSG operations. In addition, it is unfortunate that none of the party programs for Security Service reform goes beyond the institutional and agency accountability. From the point of view of political parties, the need for transformation of security policy, which today is largely aimed at the marginalization and permanent control of specific groups, is largely missing.

It should be noted that, unfortunately, the issue of reforming the Security System is completely ignored in the election plans of "**Georgian Dream-Democratic Georgia**". The ruling party does not see the need for change in the security sector and supports maintaining the Service in its current form and mandate.²⁰

To summarize, the main political parties in the election program talk about the reforms to be implemented in various areas of the law enforcement system. However, unfortunately, not all the issues that would be important for the improvement of the whole system were included in the party programs. Also, the presented visions are of a very general nature, do not allow for detailed discussion and evaluation, which in turn raises questions about the credibility / actuality of specific programs. It is especially critical that the ruling political party talks the least about the changes to be made within

¹⁶ For more on the party's political plan, see: <https://bit.ly/2SSLKet> Last accessed: 10.15.2020

¹⁷ For more on "Lelo Marshall Plan" - Georgia Reconstruction Program, see: <https://bit.ly/3lMYe3r> Last accessed: 10.15.2020

¹⁸ „Strategy Agmashenebeli” – Police reform plan“, available: <https://bit.ly/37fHFZU> Last accessed: 10.15.2020

¹⁹ For more on the party's political plan, see: <https://bit.ly/2SVpUH7> Last accessed: 10.15.2020

²⁰ For more on the party's political plan, see: <https://bit.ly/31c7Pt0> Last accessed: 10.15.2020

the system. This position once again indicates that the Georgian Dream does not recognize existing challenges and does not plan to initiate thorough reforms in the field of law enforcement.

Drug policy

The current drug policy has, for years, been a leverage of human rights violations in the hands of the law enforcement system. Considering that the fundamental reform of drug policy is yet to be implemented, it continues to create risks of excessive use of force, imposition of unfair sanctions and control over citizens in a number of directions. The repressive and unjust nature of drug policy is due to the following circumstances:

- Repeated use of drugs is criminally punishable;
- The amounts of most drugs are not defined by law, leading to unfairly high sentences;
- Number of civil rights are restricted for years onwards, even after the drug offender has served their sentence;
- Compulsory drug testing can be carried out on any person by the law enforcement representative, often in a degrading manner;
- There are no effective social, medical and harm reduction policies for drug users in the country.

In general, it should be noted that in the pre-election context, the issue of drug policy is, in fact, largely ignored and public discussions are held on it only in exceptional cases. In the pre-election programs and visions, this topic is presented in a very fragmented manner.

According to the election program of the **National Movement**, drug policy reforms should be based on the decisions made earlier by the Constitutional Court of Georgia. According to the party plan, the drug reform should be carried out, including in relation to decriminalization in accordance with the list of drugs and limits on quantities as established by the Constitutional Court.²¹ The program does not specify future changes to other drug policy issues, although according to the public positions of party members during the election period, drug users should not be viewed as perpetrators of a crime, instead, the National Movement considers it necessary to provide users with access to treatment and rehabilitation programs. The party advocates a strict criminal policy for crimes related to drug sales.²²

In the election program of **"European Georgia"** drug policy is discussed separately after health and social security issues. In the view of the party, the main challenge in the field of drug policy, on the one hand, is the increasing number of heavy (intravenous) drug users and, on the other hand, the current repressive policy aimed at punishing drug users. The party aims to carry out the reform in

²¹ The election program of the party "United National Movement", see: <https://bit.ly/35HH155>.

²² What are the parties' views on drug policy - Elections 2020, see: <https://bit.ly/3nU4NmN>.

two directions, which includes combating drug dealers and, at the same time, offering full-fledged social and health programs for persons with drug dependence.²³ The program misses the party's vision on a number of issues, however, according to the public statements, the party supports full decriminalization of consumption.²⁴

The "Marshall Plan" presented by the political party "**Lelo**" also addresses the drug policy reform. The program presents the issues that need to undergo reform as bullet points. Decriminalization of drug use is also included in the list of topics. The abolition of criminal punishment for drug use should be welcomed, as the criminalization of drug use stigmatizes persons with drug dependence and has severe economic and social impact them. In parallel with the decriminalization of consumption, the Marshall Plan does not say anything about changes related to drug possession. One of the main challenges today is uncertainty around the dosage of drugs, which often leads to years of imprisonment for possession of the amount of drugs for a single use.²⁵ The "Marshall Plan" focuses on the fight against drug dealers and pharmaceutical drug trafficking. In the field of health, the program includes provision of treatment and rehabilitation centers for persons with drug dependence.²⁶ The program generally announces the transition from punishment to care, although we do not know what measures are planned in this direction.

Drug policy is an important part of the election and political agenda for **Girchi**. The party is actively talking about the repressive nature of the current drug policy and the need for the next parliament to change the violent system so that "people are not punished by the law for drugs."²⁷ **Girchi's** vision does not specify what the wording implies, as well as the scope and content of future reforms, although party members have repeatedly expressed support for decriminalizing drug use, as well as for more liberal approaches in general.

The **Eka Beselia - For Justice** party's election program also addresses the need for changes in drug policy. According to the party, fundamental drug policy reform should be based on caring for and reducing the number of persons with drug dependence, providing them with the services they need, and promoting healthy living.²⁸ The program does not provide a detailed plan for drug policy reform, however, the party's attitude towards the issue can be assessed by an amnesty bill prepared by the party, which was submitted to parliament on June 15 this year. The draft provided for the exemption from criminal liability of those convicted for drug use, as well as for the purchase, possession and manufacture of large quantities of substances, the abolition of probation, conviction and additional rights restrictions for these individuals. The bill was quite explicitly aimed at abolishing the basic and additional penalties imposed on consumers.²⁹ The extent to which there is a willingness on the part of the party to support fundamental changes in drug policy is difficult to assess with the existing program and public positioning.

²³ Political party "European Georgia - Movement for Freedom" election program, see <https://bit.ly/3ISIVYp>.

²⁴ What are the parties' views on drug policy - Elections 2020, see: <https://bit.ly/3nU4NmN>.

²⁵ Article 260, paras 1 and 3 of the Criminal Code of Georgia.

²⁶ Political party "Lelo", "Marshall Plan" - Georgia Reconstruction Program, see: <https://bit.ly/3k4cgNZ>.

²⁷ Political party "Girchi", election goals, see: <https://bit.ly/3nV7iFI>.

²⁸ Political party "Eka Beselia - For Justice", see: <https://bit.ly/37b3mKM>.

²⁹ For more on the initiation of the amnesty bill for persons convicted of drug use, see: <https://bit.ly/3mfYs3r>.

The issue of drug policy was not included in the election program of the "**Strategy Agmashenebeli**",³⁰ however, according to the public statements made by the party, there is a need to change the legislation and, in their view, the main focus should be on decriminalization of personal use and determining amounts sufficient for personal use for different drugs. The party considers it necessary to offer and finance medical and rehabilitation services. It is problematic that **Strategy Agmashenebeli** does not properly understand the repressive nature of current drug-related legislation, as they support imposition of additional sentences – limitations on civil rights as well as maintaining administrative penalties.³¹

The ruling party "**Georgian Dream - Democratic Georgia**" completely ignores the issue of drug policy, as well as many other problems. Specifically, the party's positions on drug policy can be understood only from the public statements of its representatives. According to Tea Tsulukiani, the former Minister of Justice and the fourth person in the Georgian Dream party list, the first task of the future drug policy reform is to redetermine the amounts of drugs and thus establish fair sentences.³² According to her, unlike drug dealers, the user has no place in prison and they should have access to treatment. Apart from determining drug doses, the political agenda of the ruling party on other issues of drug policy reform is unknown.

In conclusion, some of the parties registered in the 2020 parliamentary elections have fragmented plans in relation to drug policy reform in their election programs, while others, including the ruling party, have completely ignored the issue. Consequently, the future visions of political parties, including in the field of drug policy, cannot be assessed in depth. It should be noted that, unlike the judiciary and the law enforcement system, the joint agreement reached by some of the opposition parties says nothing about drug policy.³³ The issue of drug policy is considered by some parties only in a narrow criminal justice context, which does not meet the real needs of the people affected by the current strict drug policy. Some political parties do take into account access to social, health, and harm reduction services for persons with drug dependence, in addition to legislative reform; However, the extent to which election subjects are prepared for fundamental changes in drug policy, given the general content of election programs, is difficult to say. The parties pay less attention to such issues as - automatic deprivation of civil rights, the rule of determining the quantities of drugs, the vicious practice of forced drug testing, specific medical-rehabilitation and social support programs. The ruling party's absolute neglect of the issue deserves special criticism in the light of the fact that **Georgian Dream** has repeatedly made promises on systemic drug policy reform, in recent years.

³⁰ Political party "Strategy Agmashenebeli" election program, see: <https://bit.ly/31dQjnZ>.

³¹ What are the parties' views on drug policy - Elections 2020, see: <https://bit.ly/3nU4NmN>.

³² Tea Tsulukiani's statement regarding the reform of drug doses, see: <https://bit.ly/2GRgxG9>.

³³ For more on the Joint Agreement of the Opposition Parties, see: <https://bit.ly/3nVULBM>.

Court system

Since the acquisition of national independence, the justice system has failed to gain sufficient autonomy from political influence, which is reflected in the low degree of public confidence in the judicial system.³⁴ Numerous local and international organizations point to the so-called “influential group” or a “clan” existing within the justice system, which enjoys unlimited powers.³⁵ The exercise of its constitutional powers by the High Council of Justice of Georgia presents a weak impression of democracy, publicity and justice, while individual judges are more dependent on their political affiliations, in the light of which the protection of basic human rights and democratic standards tend to pale into insignificance.³⁶ The main challenges of the justice system are:

- The clan mentality within the justice system;
- The flawed rules of recruitment of the High Council of Justice of Georgia, which fails to balance the interests of different groups within the court;
- An imperfect rule and practice of selection and appointment of judges;
- The transparency of the system of justice.

This subsection analyzes the visions of the parties (entities) participating in the 2020 parliamentary elections, focusing on their stances on judicial reform, as delineated in their election manifestos (if any) and / or their publicly stated positions.

The joint agreement of the opposition parties such as European Georgia, National Movement, Girchi, Strategy Aghmashenebeli, United Georgia, Civil Movement and New Georgia name the “clan governance” and public distrust as the main challenges to justice. The parties see the dismantling and decentralization of the existing hierarchy as a way of solving these problems. Therefore, they are announcing the following reforms: the termination of the powers of the current members of the High

³⁴ Human Rights Education and Monitoring Center (EMC), Caucasus Research Resource Center (CRRC), Institute for Development of Freedom of Information (IDFI), *Knowledge and Attitudes of the Georgian Population towards the Judicial System*, 2018, are available at: <https://bit.ly/3jb7Mns>.

³⁵ Abashidze A., Arganashvili A., Beraia G., Verdzeuli S., Kukava K., Shermadini O., Tsimakuridze E., *The Judicial System Past Reforms And Future Perspectives, Coalition for an Independent and Transparent Judiciary*, Tbilisi 2017, p. 12, available at: <http://bit.ly/3b468A4>; Regarding the clan system, also see *Coalition for an Independent and Transparent Judiciary*, “The Coalition is Starting “Make Courts Trustworthy” Campaign”, available at: <http://bit.ly/33sRNKY>.

³⁶ Coalition for an Independent and Transparent Judiciary, “Assessment of the Hearings of Supreme Court Judicial Candidates at the Parliament Legal Committee, Coalition for an Independent and Transparent Judiciary”, available at: <http://bit.ly/2Qu56po>; Office for Democratic Institutions and Human Rights, ODIHR Report, Second Report on the Nomination and Appointment of Supreme Court Judges in Georgia, June – December 2019, available at: <http://bit.ly/33tmwYx>; also, European Commission, “Joint staff working Document Implementation Report on Georgia”, par.2.3 Justice, freedom and security, available: <http://bit.ly/2UeDzJC>, in a greater length see: Public Defender, *Monitoring Report on the Selection of Supreme Court Judicial Candidates*, available at: <https://bit.ly/2Y6UHMz>.

Council of Justice of Georgia; decentralization of the judicial system and transfer of the right to recruit its staff to the people; annulment of all the life tenure appointment acts for judges since 2017; establishment of the position of Court Marshal; Unification of the Supreme and Constitutional Courts; the judges for the majority of the appellate and supreme courts will be elected from the American and British judiciary; Recognizing U.S. Supreme Court decisions as legal precedents in certain types of cases; the introduction of administrative arbitration; strengthening the institution of the jury and extending it to all prison cases; reducing the deadlines for civil litigation; fully enforce the rule of interrogation only in the presence of witnesses at the courtroom; introduce the rule of the voluntary election of a judge in the first instance (by the accused / plaintiff); empower women, especially women belonging to ethnic minorities, and encourage their access to justice.³⁷

The above list is quite extensive and involves many fundamental changes, although political parties do not specify what legal instruments and financial resources will be used to achieve the listed goals, or how long it will take to implement the plan; what will be the priority of the issues and, consequently, the consistency of their implementation. The application for the appointment of foreign judges is questionable, as this issue is accompanied by a number of challenges, both political and administrative: how right it is for the state to transfer the administration of justice to lawyers brought up in other legal systems? How will this decision affect the development of Georgian law and legal culture? How and by what criteria should such foreign judges be selected? How long will they take to adapt to Georgian litigation and what mechanisms will be used to exert political or other influence on foreign judges? While answering the questions listed is vital, neither party talks in detail about how they intend to implement the plan.

Another issue that needs to be addressed is the issue of the election of judges. This model exists in many countries around the world, including several US states. However, the public election of judges in these countries is balanced by the very strictly limited jurisdiction of elected judges, the administrative nature of their cases and other mechanisms. In our case, the political parties do not specify what kind of cases they offer for the elected judges; Or what problem do they aim to solve by introducing this innovation; How will it be ensured that a populist judge is not elected to a position that will make decisions based on political affiliation instead of the steadfast protection of human rights.

The political party Lelo also pays attention to the reform of the judicial system.³⁸ The party's "Marshall Plan" announces reforms in several areas: the introduction of a transparent court management system and accountability to the public; Creating a High Council of Justice protected from political and clan influence; adding the function of "Mini Strasbourg" to the Constitutional

³⁷ For more about the agreement of opposition parties, see the link: <https://bit.ly/359vGe3>; Also, see: European Georgia - Movement for Freedom – party election program, available at: <https://bit.ly/3lSlVYp>; About the political plan of the party - National Movement, available at: <https://bit.ly/2SVpUH7>; Political party Girchi, available at: <https://bit.ly/3dH2izt>; Political party Strategy Agmashenebeli, - party elections program, available at: <https://bit.ly/3o2pfBU>.

³⁸ Political party Lelo, "The Marshall Plan" – Georgia's Reconstruction Program, available at: <https://bit.ly/3k4cgNZ>.

Court; the timeliness of court decisions and recruiting the new 400 credible judges for the system. This list is very general and unfortunately, the party program does not contain more detailed information about the measures to be taken. In particular, how Lelo ensures the liberation of the High Council of Justice from clan rule; what are the ways and procedures for appointing 400 new judges to positions; what does it mean to add a “mini-Strasbourg” function to the Constitutional Court and, in general, what is the party's vision for freeing the Constitutional Court from political influence - all these are important questions requiring concrete answers.

Eka Beselia – For Justice also speaks about reforming the judicial system. The party’s plan is relatively detailed and includes several steps: a new regulation of the formation and decision-making rules of the High Council of Justice by the Constitution; restructuring the Board; increasing the role of non-judicial members in the activities of the Board; the temporary suspension of the rule of perpetual election of judges; improving the rules for electing judges to the Supreme Court; the reform of the High School of Justice and the appointment of at least 100 new judges; the withdrawal of the mechanism of the disciplinary responsibility of judges from the Council of Justice of Georgia.³⁹

Unfortunately, **Georgian Dream - Democratic Georgia** has an extremely fragmented position on the issue of justice and focuses only on technical issues, in particular, reducing the length of proceedings or raising the qualification of staff in the judicial system.⁴⁰ Georgian Dream still does not recognize the fundamental problems in the judicial system and says nothing about ensuring the political neutrality of the system, liberation from clan rule, strengthening individual judges, or other fundamental issues.

The assessment of the parties' election visions shows that the main opposition parties agree on the issue of “clan” at the court. It is also important that some opposition parties unite around this issue, although their vision requires more specificity and detailed implementation plans. As mentioned, the Georgian Dream completely ignores the difficult situation in the justice system and offers only fragmentary and extremely superficial views on the reforms to be implemented in this direction.

³⁹ The initiative of the leader of the party For Justice, Eka Beselia, on judicial reform is available at: <https://bit.ly/3kadxTJ>; See more about the political plan of the party “For Justice”: <https://bit.ly/2SSLKet>.

⁴⁰ More about the plan of the political party see “Democratic governance – report and future plan”: <https://bit.ly/31c7Pt0>.