



USAID
FROM THE AMERICAN PEOPLE



**GEORGIAN
YOUNG
LAWYERS'
ASSOCIATION**

Free, Fair and Equal Electoral-Political 2022-2025 Cycle in Georgia

NEWSLETTER №40
January, 2023

Tbilisi, 2023

Supervisor:

Nanuka Kruashvili

Author:

Zurab Shelia

This newsletter was made possible by the generous support of the American People through the United States Agency for International Development (USAID). The contents of this newsletter are the sole responsibility of “Georgian Young Lawyers’ Association” (GYLA) and do not necessarily reflect the views of USAID or the United States Government.



USAID
FROM THE AMERICAN PEOPLE

INTRODUCTION

Since August 2019, Georgian Young Lawyers' Association (GYLA) started the implementation of the project Free, Fair and Equal Election electoral political cycle during 2019-2022 throughout Georgia. One of the goals of the project is to promote the improvement of the election environment through monitoring and evidence-based advocacy. In order to achieve this, the organisation will monitor ongoing policy processes and develop recommendations that will be communicated to the public and presented to decision-makers. At the moment we present Newsletter #40, which describes the events of January, that have had an impact on the political environment.

1. EU-GEORGIA RELATIONS

On January 18, the European Parliament adopted resolutions on the implementation of the common foreign and security policy (CFSP) and the execution of the common security and defence policy.¹ The resolutions confirm that the future of the population of Ukraine, Moldova and Georgia, as well as the countries of the Western Balkans, lies in the European Union.²

According to a French-German declaration published on January 22nd on the occasion of the 60th anniversary of the Elysée Treaty, Germany and France support the European aspirations of Ukraine, Georgia and Moldova.³ In the document, the two countries emphasized their enhanced involvement in the eastern flank of NATO and the European Union.⁴

Rikard Jozwiak, the editor of the European Bureau of "Radio Free Europe" (RFE/RL), who became acquainted with the draft report of the European Commission, said that in terms of meeting technical criteria for rapprochement with the European Union, Georgia is ahead of Moldova and Ukraine.⁵

2. HEALTH CONDITION OF MIKHEIL SAKASHVILI

At the briefing held on January 26, the Minister of Justice of Georgia, Rati Bregadze, stated that according to conclusions received from the National Bureau of Forensic Examinations, the psychiatric, gastroenterological and neurological diagnoses made by the psycho-rehabilitation centre "Empathy" for the imprisoned ex-president of Georgia, Mikheil Saakashvili, is not reliable or trustworthy.⁶

The director of "Empathy" Mariam Jishkariani considered the Minister's statement as pressuring experts and an attempt to harm their reputation.⁷ She also explained that the Samkharauli Expertise Bureau only evaluated their conclusion and did not conduct appropriate expertise for Saakashvili.⁸ Jishkariani also emphasized that, from a neurological and gastroenterological point of view, the diagnoses made by "Empathy" completely coincide with diagnoses of the Ministry of Justice, the clinic "Vivamed" and the hospital of Gori.⁹

¹ "Georgia in European Parliament's CFSP and CSDP Implementation Reports", information portal "Civil.ge", January 19, 2023, available at: <https://civil.ge/>, updated: 03.02.2023.

² Ibid.

³ "France, Germany Support Associated Trio's European Path", information portal "Civil.ge", January 23, 2023, available at: <https://civil.ge/>, updated: 03.02.2023.

⁴ Ibid.

⁵ "Scoop: Georgia "Strongest" on Technical Alignment in Upcoming EC Association Trio Report", information portal "Civil.ge", January 9, 2023, available at: <https://civil.ge/>, updated: 03.02.2023.

⁶ "Justice Minister: Empathy Center's Conclusions Unreliable", information portal "Civil.ge", January 27, 2023, available at: <https://civil.ge/>, updated: 03.02.2023.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

Based on the conclusion of the Empathy Centre, Saakashvili’s lawyers requested the court for his release or sentence postponement, on the basis of the deterioration of his health.¹⁰ The court hearings of the request began at the end of December. Since then, several hearings have been held, with local and foreign specialists interviewed.¹¹

According to the Chairman of Parliament, Shalva Papuashvili, the diagnoses of “Empathy” regarding Mikheil Saakashvili are not reliable or infallible.¹² The vice-speaker of the parliament, Giorgi Volski, considered the “Empathy” centre as a “side” in the report prepared regarding the health of the ex-president, Mikheil Saakashvili.¹³

Chairman of the “United National Movement”, Levan Khabeishvili told media at the “Vivamed” clinic that the party is ready to leave parliament and city councils in exchange for the release of Mikheil Saakashvili.¹⁴

3. THE CASE OF MAMUKA KHAZARADZE AND BADRI JAPARIDZE

On January 26, the Tbilisi Court of Appeal left unchanged, the decision made by the court of first instance in the case of so-called money laundering against the founders of “TBC Bank” and leaders of the “Lelo” party - Mamuka Khazaradze and Badri Japaridze, as well as Avtandil Tsereteli, the father of “TV Pirveli” founder, Vato Tsereteli.¹⁵

The court of first instance acquitted Khazaradze, Japaridze, and Tsereteli on January 12, 2022, however, money laundering charges were reclassified as fraud charges¹⁶ and all three of them were sentenced to 7-7 years of imprisonment. Due to the expiration of the statute of limitations for the crime, they were exempted from serving the sentence.¹⁷

4. A PART OF THE OPPOSITION AND SOCIETY STARTS A “NATIONAL LIBERATION MOVEMENT”

The leaders of the parties - “Droa”, “Strategia Aghmashenebeli” and “Girchi – More Freedom” together with representatives of various spheres of society, gathered on Rustaveli Avenue in front of the first classical gymnasium on January 23 and announced the start of a new “national liberation movement”, which, according to them, will be the end of collaborationism and the return of a seized government to the people.¹⁸ For this purpose, they symbolically planned to hold a demonstration, aimed at showing solidarity with the Ukrainian people on February 24, the day Russia’s full-scale invasion of Ukraine began.¹⁹ According to them, the demonstrations will “grow”.²⁰

¹⁰ Ibid.

¹¹ Ibid.

¹² “Shlava Papuashvili - “I don’t need the conclusion of Samkharauli’s examination bureau to doubt conclusions of “Empathy”, information portal “Interpressnews”, January 27, 2023, available at: <http://bit.ly/3XeQxFC>, updated: 08.02.2023.

¹³ “Giorgi Volski on “Empathy”: You can directly call this organization a party”, information portal “Imedinews”, January 27, 2023, available at: <http://bit.ly/40FBasF>, updated: 08.02.2023.

¹⁴ “According to Khabeishvili, in exchange for the release of Saakashvili, the United National Movement is ready to give up its mandates and transfer its offices to “Georgian Dream””, information portal “Radio Tavisupleba”, January 31, available at: <https://www.radiotavisupleba.ge/>, updated: 08.02.2023.

¹⁵ “Court of Appeals Upholds Guilty Verdict into Khazaradze-Japaridze Case”, information portal “Civil.ge”, January 26, 2023, Available at: <https://civil.ge/>, updated: 03.02.2023.

¹⁶ Article 180 of the Criminal Code

¹⁷ “Court of Appeals Upholds Guilty Verdict into Khazaradze-Japaridze Case”, information portal “Civil.ge”.

¹⁸ “Plans for “National Liberation Movement” Announced”, information portal “Civil.ge”, January 26, 2023, available at: <https://civil.ge/archives/522269>, updated: 03.02.2023.

¹⁹ Ibid.

²⁰ Ibid.

5. AMENDMENTS TO THE ELECTORAL LEGISLATION

On January 31st, the “International Society for Fair Elections and Democracy”, “Transparency International - Georgia” and the “Georgian Young Lawyers’ Association” published an assessment of the changes implemented in the election legislation.²¹

In October 2022, the Parliament of Georgia adopted the proposed amendments in the first reading, which provided for changes to the Election Code and the organic law “On Political Unions of Citizens”.²² On October 10, the Chairman of the Parliament sent the draft laws to the Venice Commission and the OSCE/ODIHR and asked them to prepare their opinions in an accelerated manner.²³

On December 19, the Venice Commission and the OSCE/ODIHR published their opinion on the proposed amendments. Based on these recommendations, Parliament made some changes and finally adopted the amendments on December 22 in the third reading.²⁴

According to the assessment of “The International Society for Fair Elections and Democracy”, “Transparency International - Georgia” and “Georgia Young Lawyers Association”, **the adopted legislative changes respond to a number of problems identified by local civic organizations, as well as by the Venice Commission and OSCE/ODIHR, which should be evaluated positively. However, these changes did not fully take into account all essential recommendations, including some of the recommendations presented by the Venice Commission and OSCE/ODIHR in December 2022.**²⁵ According to their joint assessment, the implemented reform is not based on a comprehensive analysis of the Election Code and will only address certain issues.²⁶

The changes may be, taken as a whole, assessed positively: introduction of mandatory certification for members of the precinct election commission; extension of some deadlines for submission and review of complaints/lawsuits; introduction of voter marking in the process of voting with a portable box; halving the upper limit set for annual expenses of parties; reduction of residence permits for candidates in local elections; increasing severity of the fine imposed for use of administrative resources; expanding grounds of incompatibility of positions of members of the Precinct Election Commission elected on a professional basis; in the event of an imbalance in the summary report of the results, the mandatory obligation to open the ballot boxes and recount votes. Besides, in general, the introduction of modern technologies in the election process is welcome. However, it is important that the regulations on this matter be clearer and more comprehensive and that as few issues as possible are left to the discretion of the CEC.²⁷

The Venice Commission and OSCE/ODIHR in their joint report indicated that these changes partially take into account the 12-point recommendations of the European Union regarding election reform.²⁸ According to the conclusion, the draft law is not based on a comprehensive analysis of the Election Code and will only cover selected issues.²⁹

Among essential recommendations of the Venice Commission and OSCE/ODIHR, which were not reflected in the adopted amendments, it is worth noting the incomplete regulations for the election and extension of the powers of the CEC chairman and professional members, as well as the possibility to confiscate treasury funding of political parties, is unfair and does not comply with international standards. In addition, repeated recommendations related

²¹ “Joint Opinion On The December 2022 Amendments To The Election Legislation”, “ISFED” Official Website, January 31, 2023, available at: <https://isfed.ge>, updated: 03.02.2023.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Draft Joint Opinion on the Draft Amendment to the Electoral Code of the Organic Law of Georgia and the Draft Amendment to the Organic Law of Georgia on the Political Association of Citizens, European Commission for Democracy through Law (Venice Commission), OSCE Bureau of Democratic Institutions and Human Rights (OSCE/ODIHR), paragraph 10., December 19, 2022 Available at: <https://www.venice.coe.int>, updated: 03.02.2023.

²⁹ Ibid.

to the election of professional members at the lower level of election commissions and the transparency of this process were not taken into account.³⁰

The Venice Commission and OSCE/ODIHR in their joint report also emphasized that the amendments failed to respond to important challenges such as the use of administrative resources, voter intimidation, and the existence of insufficient criteria for vote recounts and annulment of results.³¹ According to the assessment, it is necessary to implement a comprehensive and inclusive election reform in the future, which will be based on a complete and in-depth analysis of the issues present in election legislation and practice.³² During election reform, the conclusions of the Venice Commission and the OSCE/ODIHR written on separate draft laws, as well as the recommendations presented by the election observation missions at different times, should be taken into account as much as possible.³³

6. ELECTION OF THE “UNITED NATIONAL MOVEMENT”

Levan Khabeishvili became the new chairman of the opposition party “United National Movement” (UNM), and he received 52.58% of the voters’ votes.³⁴ This was announced by the Chairman of the Political Council of the United National Movement, Koba Nakopia, at a briefing held at the party’s office on January 30.³⁵

4 candidates took part in the election. The current chairman, Nika Melia, received 40% of the votes, Nona Mamulashvili - 3.73%, and Giorgi Mumladze - 3.68%.³⁶

According to the explanation of Koba Nakopia, in accordance with the legislation and the party charter, after the elections, the party congress should be held, which will concur the summary minutes of the elections, and after that, the new chairman will start his activities.³⁷

The internal elections of the chairman of the party in the United National Movement were held on January 28-29, 2023 with the so-called blockchain system.³⁸ 49,756 people were registered in the election system.³⁹

³⁰ “Evaluation of the changes introduced in the electoral legislation in December 2022”, “ISFED” Official Website.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ “Levan Khabeishvili Elected New UNM Chairman”, information portal “Civil.ge”, January 30, 2023, available at: <https://civil.ge/archives/>, updated: 03.02.2023.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ The registration for the internal party elections of the “National Movement” has ended”, information portal “Radio Tavisupleba”, January 26, 2023, available at: <https://www.radiotavisupleba.ge/>, updated: 03.02.2023.

³⁹ Ibid.