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

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**Supervisor:**

Nanuka Kruashvili

**Author:**

Zurab Shelia

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# INTRODUCTION

Since August 2022, the Georgian Young Lawyers' Association (GYLA) began implementation of the project “Free, Fair and Equal Electoral Political Cycle during 2022-2025” throughout Georgia. One of the goals of the project is to promote the improvement of the electoral 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.

## 1. STEPS TAKEN TO IMPLEMENT THE 12-POINT PLAN OF THE EUROPEAN COMMISSION IN THE PARLIAMENT

### Amendment of the electoral legislation

On October 4, the Parliament discussed the first reading of the draft amendments to the “Electoral Code” and the Law “On Political Unions of Citizens” within the framework of the implementation plan of the 12-point recommendations of the European Commission at the Legal Committee.<sup>1</sup> On October 5, the issue was passed at the plenary session, the bill was supported by 83 deputies.<sup>2</sup> After the first hearing, the Speaker of the Parliament, Shalva Papuashvili, asked the OSCE Office for Democratic Institutions and Human Rights (“OECD/ODIHR”) and the Venice Commission to prepare an accelerated opinion on the amendments to the Election Code.<sup>3</sup>

According to the project, starting in 2024, Georgia will use electronic technologies for elections, which involves the digitization of the procedures for registration and identification of voters arriving at the polling station, counting votes, and drawing up a summary protocol of the results. In addition, in those areas where there will be no electronic registering and counting equipment, the ballots showing the votes will be fully digitized and uploaded to the official web portal of the Central Election Commission.<sup>4</sup> In addition, the legislative initiative clarifies, introduces or formulates in a new way certain procedures, such as: deadlines for appeals, limiting circumstances for appointment as a member of the election commission and registration of a person as a local observer, certification of members of the precinct election commission, rules for the participation of voters using wheelchairs in elections, voting through a portable ballot box Marking rules and others.<sup>5</sup>

On September 30, GYLA sent an assessment of the project to the legal committee before considering the package of initiatives.<sup>6</sup> On October 3, it published a statement regarding the draft law and positively evaluated a number of changes that increase and specify the criteria for recalculation of precincts by district election commissions, change the deadlines for conducting election disputes and reflect some of the recommendations of the OSCE/ODIHR and Venice Commission. **Nevertheless, according to the organization, the project cannot fully improve the electoral environment in the country and cannot solve some problems, including the issues of using administrative resources, controlling the will of voters, and resolving electoral disputes in a fair manner.**<sup>7</sup>

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<sup>1</sup> “Within the framework of the implementation plan of the recommendations of the European Commission, the Parliament starts considering the project of amendments to the “Electoral Code” and the Law “On Political Associations of Citizens”, information portal “Interpressnews”, October 3, 2022, available at: <https://www.interpressnews.ge/ka/article>, updated: 04.11.2022.

<sup>2</sup> The bill was supported by: 69 deputies of “Georgian Dream”, 2 representatives of “Girchi”, 2 representatives of “Citizens” and 2 representatives of “European Socialists”. Also, 7 non-partisan MPs, including independent member of Parliament Tamar Kordzaia and members of the public movement “People’s Power”. “Parliament adopted amendments to the Election Code with 83 votes”, official website of the Parliament of Georgia, available at: <https://info.parliament.ge/#law-drafting/24699>, updated: 04.11.2022.

<sup>3</sup> “Shalva Papuashvili asks the Venice Commission and OSCE/ODIHR to prepare an opinion on the changes in the election code”, information portal “Civil.ge”, October 31, 2022, <https://civil.ge/ka/archives/511177>, updated: 08.11.2022.

<sup>4</sup> “The Legal Affairs Committee discussed the amendments to the “Electoral Code” and the Law “On Political Unions of Citizens” in the first reading”, the official website of the Parliament of Georgia, October 3, 2022, available at: <http://bit.ly/3Omutq1>, updated: 09.11.2022.

<sup>5</sup> “Opinions of GYLA regarding amendments to the Election Code”, website of “Georgian Young Lawyers’ Association”, October 3, 2022, available at: <http://bit.ly/3Ex8uZP>, updated: 04.11.2022.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

## Other ongoing processes in the Parliament regarding 12 recommendations

In addition to the election issues, in order to fulfil the 12-point plan of the European Union, work was carried out on several issues in the Parliament, in particular, on October 17, the review of draft laws related to the strengthening of gender equality and the fight against violence towards women began,<sup>8</sup> on October 25, interviews with the candidates for the Public Defender's Office at the Human Rights Protection and Civil Integration Committee began.<sup>9</sup> On October 31, the Legal Affairs Committee discussed the draft law "On Deoligarchization" for the first reading. The representatives of the opposition did not support the bill.<sup>10</sup> According to Levan Bezhashvili, a member of the "National Movement", the prepared version did not take into account the Georgian reality and was an analogue of the Ukrainian version.<sup>11</sup>

## 2. THE ILLEGITIMATE SAKREBULO OF SENAKI

On October 1, interim elections were held in Senaki to elect the majority member of the assembly.<sup>12</sup> Voting was held in 3 precincts. Electronic technologies were used in the elections.<sup>13</sup> GYLA and the International Society for Fair Elections and Democracy („ISFED“) demanded the abolition of the midterm elections in Senaki and the holding of early Assembly elections throughout the municipality.<sup>14</sup> **According to GYLA, the Senaki Sakrebulo has not convened for more than 6 months, which is the basis for its dismissal and appointment of extraordinary elections in accordance with the Local Self-Government Code.**<sup>15</sup>

As a result of the mid-term elections on October 1, "Georgian Dream" won the majority in Senaki Sakrebulo. At the meeting held on October 25, Saba Odisharia, a member of "Georgian Dream", was elected as the new chairman of the Sakrebulo. The opposition announced a boycott of the October 25 session.<sup>16</sup> The members of the party "United National Movement" and the party "For Georgia" assessed the ongoing processes in the Senaki Sakrebulo as illegitimate. They called the issue of electing the chairman of the Sakrebulo a farce.<sup>17</sup> In addition, they expressed readiness to be involved in the further activities of the Sakrebulo determined for the needs of the municipality.<sup>18</sup> On the other hand, "Georgian Dream" announced that they would not create an artificial crisis for the opposition and would act in accordance with the law.<sup>19</sup>

On October 29, GYLA, together with ISFED and Transparency International Georgia, answered the question about the election of the chairman of the Senaki Assembly and indicated that the Senaki Assembly was not

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<sup>8</sup> "Within the framework of the 12-point recommendations of the European Commission, on issues related to the strengthening of gender equality and the fight against violence against women, the Parliament starts working on several packages of draft laws", the official website of the Parliament of Georgia, October 5, 2022, available at: <http://bit.ly/3TzjVod>, updated: 04.11.2022.

<sup>9</sup> "Parliament begins listening to candidates for the people's defenders", the official website of the Parliament of Georgia, October 24, 2022, available at: <https://parliament.ge/media/new>, updated: 04.11.2022.

<sup>10</sup> In the first reading, 80 MPs supported the bill "On Deoligarchization". Among them were representatives of "Georgian Dream" and public movement "People's Force". The first reading of the bill "On Deoligarchization", the results of the vote, the official website of the Parliament of Georgia, available at: <https://info.parliament.ge/file/1/BillReviewContent/310463?>, updated: 11.11.2022.

<sup>11</sup> "Levan Bezhashvili - the Georgian law on "de-oligarchization" must correspond to the Georgian reality - naturally, the opposition will not be able to support the façade law", information portal "Interpressnews", November 3, 2022, available at: <http://bit.ly/3tB89Pu>, updated: 15.11.2022.

<sup>12</sup> "Today, mid-term elections of the Senaki municipality council are being held", information portal "Interpressnews", October 1, 2022, available at: <https://www.interpressnews.ge/ka/article/>, updated: 04.11.2022.

<sup>13</sup> Ibid.

<sup>14</sup> "GYLA requests the cancellation of the by-elections appointed by the CEC in Senaki", website of "Young Lawyers' Association of Georgia", August 15, 2022, available at: <http://bit.ly/3AiAaPH>, updated: 04.11.2022; "Illegitimate City Council of Senaki Municipality continues its activities in violation of the law", website of "International Society for Fair Elections and Democracy", August 28, 2022, available at: <http://bit.ly/3UFknCH>, updated: 04.11.2022.

<sup>15</sup> Ibid.

<sup>16</sup> "According to NGOs, the Senaki City Council elected the chairman in violation of the law", information portal "Civil.ge", October 31, 2022, available at: <https://civil.ge/ka/archives/513262>, updated: 04.11.2022.

<sup>17</sup> "Opposition MPs left the session of the Senaki City Council", information portal "Atinati", October 18, 2022, available at: <http://bit.ly/3EHECud>, updated: 08.11.2022.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

competent and until the election of a new Sakrebulo, the Senaki municipality would be left without a legal representative body. According to the organizations, according to the Local Self-Government Code, the powers of the Assembly are terminated early if it is not convened for 6 consecutive months, which is the legal basis for the introduction of direct state administration. The government makes a decision on this matter. Despite the non-convening of the session of the Senaki municipality council for 6 consecutive months, the government of Georgia did not fulfil the obligation imposed by the law and did not introduce direct state governance in the municipality. GYLA appealed to the court and demanded the cancellation of the by-elections planned in Senaki.<sup>20</sup> The court did not grant the request, after which GYLA initiated a dispute against the government demanding the termination of the authority of the Senaki Sakrebulo.<sup>21</sup>

**According to GYLA, the Government of Georgia should fulfil the duty assigned to it by law - should make a resolution on the early termination of the powers of the Sakrebulo and the introduction of direct state governance, which will be temporarily implemented by a trustee appointed by the government, a collegial body or an authorized person determined in accordance with the law, until the powers of the elected Sakrebulo are known as a result of special elections.<sup>22</sup>**

### 3. A NEW POLITICAL MOVEMENT FOUNDED BY FORMER MEMBERS OF THE “GEORGIAN DREAM”

On October 4, another 5 deputies left “Georgian Dream” and joined the public movement “People’s Power” founded by the so-called quaternion.<sup>23</sup> The following deputies left “Georgian dreams”: Zaal Mikeladze, Eka Sefashvili, Davit Kacharava, Viktor Japaridze and Dachi Beraya. “People’s Power” will be represented in the Parliament of Georgia by 9 deputies.<sup>24</sup> Despite the exit from the “Georgian dream”, like the so-called four, the other five deputies remained in the parliamentary majority.<sup>25</sup> Besides them, several experts and TV presenters also joined the movement.<sup>26</sup>

On October 3, Viktor Japaridze, the representative of “People’s Power”, and the deputy of the parliamentary majority, bought a 52% share of “Postv” television company for GEL 520 thousand and registered it in an accelerated manner.<sup>27</sup> The “Media Advocacy Coalition” called on the Communications Commission to study the issue of the legality of the ownership of “Postv” shares by Viktor Japaridze, a member of the Parliament.<sup>28</sup> “Information Freedom and Development Institute-IDFI” responded to Viktor Japaridze’s purchase of “Postv” shares and called on the Communications Commission to determine the legality of the ownership of “Postv” shares by Viktor Japaridze, a member of the Parliament.<sup>29</sup> According to the deputy, he did not commit any illegality. He was interested in the television business; he liked the information covered by “Postv” and at the same time he did not intend to interfere in the editorial policy of the channel.<sup>30</sup>

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<sup>20</sup> “Illegitimate City Council of Senaki Municipality continues to violate the law”, website of “Georgian Young Lawyers’ Association”, October 29, 2022, available at: <http://bit.ly/3gaW40n>, updated: 08.11.2022.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> “5 more deputies of Georgian Dream: Zaal Mikeladze, Eka Sefashvili, Davit Kacharava, Viktor Japaridze and Dachi Beraya leave and join the so-called four”, information portal “Interpressnews”, October 4, 2022, available at: <http://bit.ly/3EvD3im>, updated: 04.11.2022.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> “Communications Commission to study the issue of the sale of shares of Postv”, website of the Institute for the Development of Freedom of Information, October 3, 2022, available at: <https://idfi.ge/ge/communications>, updated: 04.11.2022.

<sup>28</sup> “Communications Commission should study the issue of the sale of shares of “Postv”, website of “Charter of Journalistic Ethics of Georgia”, October 1, 2022, available at: <https://www.qartia.ge/ka/siakhleebi>, updated: 08.11.2022.

<sup>29</sup> “Communications Commission should study the issue of the sale of the shares of “Postv”, website of the “Institute for the Development of Freedom of Information”.

<sup>30</sup> “Viktor Japaridze on the purchase of “Postv” - I am interested in that business and I bought it - the first task of the “People’s Power” movement is to let the people know the truth”, information portal “InterpressNews”, October 4, 2022, available at: <http://bit.ly/3tuch3M>, updated: 08.11.2022.

## 4. CONSTITUTIONAL CHANGE IN THE PROCEDURE FOR ELECTING THE PROSECUTOR GENERAL

On October 18, with 126 votes, the Parliament, in the first reading, adopted the draft of amendments to the constitutional law, which provides for a new rule for electing the Prosecutor General - his election with a quorum of 90 votes.<sup>31</sup> According to the project, the Parliament of the next two convocations will elect the Prosecutor General for a term of 6 years, with 90 votes. If the Parliament fails to elect the Prosecutor General twice in accordance with the mentioned procedure, then his election will be done by the majority of the full composition, i.e., 76 votes. In this case, the term of office of the Prosecutor General will be one year instead of six years.<sup>32</sup>

The project of constitutional amendments received mixed evaluations from the side of the parliamentary parties.<sup>33</sup> A part of the opposition stated that they have specific remarks, but they supported the constitutional amendment in the first reading because it is one of the conditions of the recommendations of the European Commission.<sup>34</sup> According to the second part of the opposition, the parties adopted a bad law “at each other’s expense”.<sup>35</sup> The management team announced that the support was given with the sole argument - for the purpose of Georgia’s integration into the European Union.<sup>36</sup>

**GYLA welcomes the constitutional amendment project and considers it to be in line with the April 19 agreement developed at the request of the President of the European Council and is an important step towards correcting the gaps in the legislation.<sup>37</sup> GYLA believes that in order to reduce political polarization, it is important to appoint the General Prosecutor with a high consensus among the parties for a term of 6 years. Since, if he is elected for a term of 1 year, there will be suspicions of political influence and bias against him.**

On October 8, a general public discussion was held in the Parliament of Georgia regarding the amendment to the Constitutional Law of Georgia.<sup>38</sup> On the same day, constitutional amendments were discussed in the format of a public discussion at Akaki Tsereteli University in Kutaisi.<sup>39</sup> The members of the organizing commission of the general public discussion<sup>40</sup> introduced the public to the reasons for making changes to the constitutional law of Georgia.<sup>41</sup>

The representatives of the prosecutor’s office, lawyers’ association, and legal aid service, as well as professors of the criminal law department of Tbilisi State University, and employees of the legal committee office attended the discussion in the parliament. The information about the public discussion was published the day before the meeting, and the meeting itself was held on Saturday in Tbilisi and Kutaisi.<sup>42</sup> According to the Rules of Procedure of the Parliament, the organizing commission of the public discussion will review the draft constitutional law within

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<sup>31</sup> “Parliament adopted amendments to the constitutional law in the first reading regarding the new procedure for electing the Prosecutor General”, information portal “Interpressnews”, October 18, 2022, available at: <http://bit.ly/3g9YJYn>, updated: 04.11.2022.

<sup>32</sup> “On Amendments to the Constitution of Georgia” “on Amendments to the Constitutional Law of Georgia”, the official website of the Parliament of Georgia, available at: <https://info.parliament.ge/#law-drafting/24570>, updated: 09.11.2022.

<sup>33</sup> “Prosecutor Selection Procedure: Neither the Opposition nor the Ruling Party Shares the Content of the Document”, “Euronews Georgia” News Portal, October 19, 2022, available at: <https://euronewsgeorgia.com/2022>, updated: 09.11.2022.

<sup>34</sup> Ibid.

<sup>35</sup> A similar opinion was expressed by the leaders of the parties “For Georgia” and “Citizens”. Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> N. Kruashvili and others, Free, Fair and Equal Electoral-Political Cycle in 2019-2022, Newsletter No. 23, August 2021, website of “Georgian Young Lawyers’ Association”, available at: [https://gyla.ge/files/2020/23\\_geo.pdf](https://gyla.ge/files/2020/23_geo.pdf), updated: 09.11.2022.

<sup>38</sup> “The general public review of the draft constitutional amendments was held in the Parliament”, the official website of the Parliament of Georgia, October 8, 2022, available at: <https://parliament.ge/media/>, updated: 04.11.2022.

<sup>39</sup> “Regarding the amendment to the constitutional law of Georgia, a public discussion was held in Kutaisi”, official website of the Parliament of Georgia, October 8, 2022, available at: <http://bit.ly/3E9AUIf>, updated: 04.11.2022.

<sup>40</sup> The members of the public review commission were from the parliamentary majority: Anri Okhanashvili, Mikheil Sarjveladze, Nino Iobashvili. From the parliamentary opposition: Fridon Injia, Davit Usupashvili, Iago Khvichia and Mikheil Daushvili.

<sup>41</sup> “Regarding the amendment to the constitutional law of Georgia, a public discussion was held in Kutaisi”, the official website of the Parliament of Georgia; “The public discussion of the draft constitutional amendments was held in the Parliament”, the official website of the Parliament of Georgia.

<sup>42</sup> Ibid.

one month after the start of the discussion.<sup>43</sup> In this case, the discussion took place on the last day of the 1-month period. GYLA was present at the discussion. According to the position of the organization, the information about the meeting was published late for the public discussion, the discussion was held in the parliament building, where entry is associated with certain bureaucratic difficulties. In addition, the meeting was not attended by the general public.

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<sup>43</sup> Rule of Procedure of the Parliament of Georgia, Article 125, Section 5.