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# Free, Fair and Equal Electoral-Political 2019-2022 Cycle in Georgia

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# INTRODUCTION

In August 2019, The Georgian Young Lawyers' Association (GYLA), with the support of USAID, launched the project "Free, Fair and Equal Electoral-Political 2019-2022 Cycle in Georgia". It covers the territory of Tbilisi, Kakheti, Mtskheta-Mtianeti, Kvemo Kartli, Shida Kartli, Imereti, Samegrelo-Zemo Svaneti, Guria and Adjara.

One of the primary goals of the project is to support improvement of the electoral environment through monitoring and evidence-based advocacy. To this end, GYLA will monitor ongoing political processes and develop recommendations that will be presented to the public and decision-makers.

## OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (OSCE/ODIHR) NEEDS ASSESSMENT MISSION REPORT

OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Needs Assessment Mission (NAM) has prepared the report for monitoring of 2020 Parliamentary elections, aiming at assessment of pre-elections environment in Georgia.<sup>1</sup> Representatives of NAM held the meetings with representatives of the government, political parties, media, civil society and international organizations.<sup>2</sup>

NAM welcomes the substantial changes made to the election legislation, which were preceded by broad and inclusive process and were aimed at reflecting the recommendations of OSCE/ODIHR in the legislation.<sup>3</sup> However, according to them, consistent enforcement of normative rules is crucial for democratic elections.<sup>4</sup> Additionally, they have positively assessed the introduction gender quota.<sup>5</sup>

NAM representatives expressed concern regarding alleged use of administrative recourses and cases of voter buying by the ruling party in the context of COVID-19 caused crisis.<sup>6</sup>

The Mission considers that the pre-election campaign requires utmost attention in terms of using administrative recourses, voter buying and voter intimidation.<sup>7</sup>

Based on the findings, NAM recommends 28 long-term and 350 short-term monitors for 2020 parliamentary elections.<sup>8</sup>

## NDI PRE-ELECTION REPORT ANALYSIS 2020

National Democratic Institute has developed 2020 parliamentary elections pre-election environment analysis.<sup>9</sup> NDI considers pandemic as the major challenge of the 2020 Georgian Parliamentary elections, as the new virus affects the campaign strategies and polling station protocols, and will also possibly influence the voters' behavior.<sup>10</sup>

<sup>1</sup> OSCE, Office for Democratic Institutions and Human Rights, GEORGIA. PARLIAMENTARY ELECTIONS 31 OCTOBER 2020. ODIHR NEEDS ASSESSMENT MISSION REPORT. 3-8 August 2020, Warsaw, 28 August 2020, OSCE webpage, page 1, available at: <https://bit.ly/3hGkHN8>, updated: 17.09.2020.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid, page 2.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid, page 10.

<sup>8</sup> Ibid.

<sup>9</sup> Georgia Election Watch 2020, National Democratic Institute (NDI), NDI webpage, page 1, available at: <https://bit.ly/2ZTe2cJ>, updated on: 17.09.2020.

<sup>10</sup> Ibid.

NDI expects the election to be held in democratic environment, as according to them, after almost 30 years of gaining independence, Georgia has proven that the country has gained technical capacity to hold credible elections.<sup>11</sup> The report also indicates that the country has made significant steps towards increasing the women participation in politics, and has paved the way for a steady transition to a fully proportional electoral system.<sup>12</sup>

Based on the report, certain election-related issues remain challenging, causing strengthening of polarization and undermining public trust in the electoral process.<sup>13</sup> More specifically the report addresses issues related to the careless or biased enforcement, misuse of administrative resources and legislative powers, intimidation and harassment, personified and polarized election campaign, omitting less represented groups from the process, pollution of information environment.<sup>14</sup> Overall, NDI makes 30 recommendations to improve Georgian election environment.<sup>15</sup>

## CEC RESOLUTION ON SANITARY-HYGIENIC RULES TO BE MAINTAINED AT THE BUILDINGS OF ELECTION COMMISSIONS

On August 31, 2020, Central Election Commission (CEC) hold the meeting with the non-governmental organizations within the framework of initiative “Discuss Together”, where CEC presented the draft resolution on sanitary-hygienic rules to be maintained at the buildings of election administrations.<sup>16</sup>

The resolution establishes the requirements which are binding for everybody in order to prevent the spread of COVID-19. The rules include wearing a face-mask, keeping distance from assembly areas, following the rules of hygiene, using disinfection solutions etc.<sup>17</sup> The person is obliged to follow the rule of wearing the face-mask as defined by this resolution, otherwise will be warned, and in case of further violation of the rule, will be expelled from the building.<sup>18</sup> The resolution shall not apply to being at the polling stations or entering/leaving the stations on the polling day.<sup>19</sup>

**GYLA welcomes the establishment of sanitary-hygienic rules to be maintained at the buildings of election commissions.**

## AMENDMENTS TO THE ELECTION LEGISLATION

On August 31, the Legal Issues Committee of the Parliament of Georgia considered changes to the Election Code of Georgia with the first reading, in the accelerated manner, according to which, the criminal liability shall be defined for voter intimidation, coercion and violation of the voting secrecy.<sup>20</sup>

**GYLA welcomes the tightening of election regulations aimed at eliminating the influence on voters’ will, however, organizations considers that the effective enforcement of these regulations is vital. Furthermore, according to GYLA, legislative changes to the Election Code of Georgia shall be adopted within the reasonable period of time before the elections and not right before the elections.<sup>21</sup>**

<sup>11</sup> Ibid, page 2.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid, pages 3,6,7,10,11,12.

<sup>15</sup> Ibid, pages 5,6,9,13,16.

<sup>16</sup> “Discussing Sanitary-Hygienic Rules for Election Commissions”, official webpage of the Central Election Commission, 31.08.2020, available at: <https://bit.ly/3iOcbgv>, updated on: 11.09.2020.

<sup>17</sup> Article 2 of the Resolution №24/2020 of the Central Election Commission of Georgia, Election Administration of Georgia, dated of September 1, 2020

<sup>18</sup> Ibid, Article 5.

<sup>19</sup> Ibid, Article 6.

<sup>20</sup> “The Legal Issues Committee approved the imposition of the criminal responsibility for the coercion and intimidation of the electors and violation of the voting secrecy”, official webpage of the Parliament of Georgia, 31.08.2020, available at: <https://bit.ly/3iQwYju>, updated on: 15.09.2020.

<sup>21</sup> “Electoral legislation enacted at the “last minute” has the potential to undermine trust in the process and diminish the opportunity

## GIRCHI APPEALED TO THE CONSTITUTIONAL COURT TO ABOLISH GENDER QUOTAS

The Constitutional Court of Georgia admitted for hearing on the merits the claim of political party “Girchi”, alleging unconstitutionality of gender quotas.<sup>22</sup> The party demands to recognize unconstitutionality of the norm, based on which the party is obliged to include every fourth person of the opposite sex in the proportional list.<sup>23</sup>

According to the Constitutional Claim, “Maintaining gender balance in the Parliament of Georgia shall not be considered as a legitimate purpose of restriction, as the voter him/herself must decide, based on the political processes, who will hold certain elected position. Furthermore, [...] not only the passive suffrage of certain individuals is restricted, but also the right of supporters and partners of the political party to staff the party list according to their own decision, which, at the end, jeopardizes the full functioning of the party.”<sup>24</sup>

The Constitutional Court of Georgia admitted the claim of Girchi for hearing on the merits, however, the Court did not grant their request to suspend the mentioned Article of the Elections Code until the final decision is made on the case.<sup>25</sup> Constitutional Court of Georgia will render a judgment in the nearest future.

**GYLA believes that gender quota has crucial, long-term and sustainable positive influence in terms of increasing the number of female candidates and women elected. Therefore, organization considers it appropriate not to repeal the mentioned regulation, but on the contrary, to increase the gender quotas up to 50%.**

## GIORGI RURUA CASE

On August 28, 2020, lawyers of Giorgi Rurua, one of the shareholders of “Mtavari Arkhi”, appealed the ruling of the City Court of Tbilisi regarding Rurua imprisonment in the Court of Appeal.<sup>26</sup> On July 30, 2020, the first instance court found Giorgi Rurua guilty in illegally purchasing, possessing, and carrying a firearm and sentenced him to 4 years in prison.<sup>27</sup>

GYLA was monitoring Giorgi Rurua case at Tbilisi City Court. Based on the monitoring, number of problematic issues were outlined in the case. GYLA will continue to monitor the case.<sup>28</sup>

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for political participants and voters to become familiar with the rules of the electoral process in a timely manner”, OSCE Office for Democratic Institutions and Human Rights (ODIHR), Guidelines for Reviewing a Legal Framework for Elections, Second Edition, OSCE webpage, Warsaw, 2013, page.: 11, available at: <https://bit.ly/3iG59ub>, updated on: 17.09.2020.

<sup>22</sup> Record of session of the Constitutional Court of Georgia of July 30, 2020 of case “NNLE Political Union of the Citizens - "New Political center", Herman Sabo, Zurab Girchi Japaridze and Ana Chikovani v. the Parliament of Georgia”.

<sup>23</sup> Ibid, I-3.

<sup>24</sup> Ibid, I-7.

<sup>25</sup> Ibid, III-1.

<sup>26</sup> “Rurua ruling was appealed in the Court of Appeals by the lawyers”, information portal Netgazeti, 28.08.2020, Available at: <https://bit.ly/3iE7g1P>, updated on: 17.09.2020.

<sup>27</sup> Ibid.

<sup>28</sup> See Latsabidze. M. Information newsletter №10, July 1 – August 1, Georgian Young Lawyers’ Association, Tbilisi, 2020, page.: 6-7, web-page of the Georgian Young Lawyers’ Association, Available at: <https://bit.ly/2ZV566r>, updated on: 17.09.2020.