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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.

SENTENCING OF GIORGI UGULAVA

On February 28, 2018, Tbilisi City Court found Giorgi (Gigi) Ugulava, a former mayor and the leader of the political union "European Georgia," guilty of abuse of powers in the case of the Tbilisi Development Fund¹ and sentenced him to one year and three months imprisonment.² The conviction into another criminal case (the case of "Tbiliservice Group") absorbed Ugulava's sentence and it was determined as served.³ The Prosecutor's Office appealed the decision of the City Court to the Court of Appeals and requested the aggravation of the charges, but the Court of Appeals affirmed the decision.⁴ In January 2019, the Prosecutor's Office appealed against the decision of the Court of Appeals, the hearing of which was scheduled for after a year.⁵ On February 10, 2020, the Supreme Court of Georgia partially considered the appeal of the General Prosecutor's Office, finding Gigi Ugulava guilty of embezzlement/misappropriation⁶ and eventually sentencing him for three years, two months and eight days in prison.⁷

GYLA indicates that two factors in the case include the following shortcomings:⁸

1. The panel reviewing the case in the Supreme Court was chaired by newly-appointed Judge Shalva Tadamadze who had been holding the position of the Prosecutor General upon the submission of the appeal in the same case. Given the prosecution's vertical management system and the importance of the case, the Prosecutor General himself might have been involved in handling the case. The doubts regarding the conflict of interest have not been dispelled by the court;
2. Although the Supreme Court overturned the decisions of the two instances, it did not hold an oral hearing at of the case, which deprived the parties of the opportunity to express their views.

THE PROCESS OF AMENDING ELECTORAL SYSTEM

On November 14, 2019, the majority rejected the draft constitutional bill on holding the 2020 Parliamentary Elections through the fully proportional, zero threshold electoral system causing public protest. With the aim of overcoming the crisis in the country, negotiations between the ruling party and the opposition began with the initiative and participation of diplomatic corps. Four rounds were held, yet the parties failed to agree on changing

¹ Article 333, paragraph 1 of the Criminal Code of Georgia;

² "Gigi Ugulava Found Guilty by Court in Tbilisi Development Fund Case", News Portal Netgazeti, 28.02.2018, available at: <https://bit.ly/2AnnXNH>, updated: 02.03.2020.

³ "The Case of Gigi Ugulava - Why Was He Imprisoned?", News Portal "Publika", 11.02.2010, available at: <https://bit.ly/2LnOBYV>, updated: 02.03.2020.

⁴ Id.

⁵ Id.

⁶ Article 182 (2) (d) and Article 182, Paragraph 3 (a) and (b) of the Criminal Code of Georgia.

⁷ "Supreme Court Releases Statement on Gigi Ugulava Case", Imedi TV, 10.02.2020, available at: <https://bit.ly/2TffOub>, updated: 02.03.2020.

⁸ "The Case of Gigi Ugulava - Why Was He Imprisoned?", Cited source.

the electoral system.⁹ The final fourth round of the negotiations was held on December 20.¹⁰ Furthermore, upon sentencing Gigi Ugulava to imprisonment on February 10,¹¹ the opposition refused to continue the talks with the ruling party on the electoral system.¹² The dialogue came to a halt.

On the same day, the parliamentary faction “Independent MPs” released a statement concerning the electoral system, in which they presented a four-point proposal in order to reach a consensus.¹³ According to the proposal, independent MPs are ready to support the model proposed by the government (100/50) provided that (1) the proportional electoral system comes into force in 2024, (2) extraordinary elections between 2020 and 2024 are held under the 2020 election model and (3) all citizens of Georgia who happen to be on the territory of Georgia on the Election Day are obligated to vote.¹⁴

At the briefing held on February 17, MP Gia Zhorzholiani suggested that the authorities should start discussing the “115/35” model and in order to gain support, negotiate with those 28 MPs who are neither in the majority nor in the minority.¹⁵ According to the MP, most of these members of parliament are ready to discuss the initiative.¹⁶

On February 25, Chargé d’Affaires of the US Embassy to Georgia held an informal meeting with officials of the Georgian government and opposition, as well as with independent MPs and ambassadors of various countries.¹⁷ After the meeting, a new version of the electoral system emerged, i.e. 110/40. The Georgian Dream expressed its consent regarding 40% according to which the election-winning force gaining less support would not be able to form a government.¹⁸ For its part, the opposition is considering to resume the dialogue if this electoral system is adopted and political prisoners are released.¹⁹ This concordance has given rise to the prospect of reaching a consensus.

The next informal meetings were held on February 27 at the residence of the EU Ambassador to Georgia²⁰ and on February 28 at the residence of the German Ambassador.²¹ The meetings were attended by representatives of the Georgian government, opposition and diplomatic corps. Politicians emerging from the meeting declared that no agreement was reached on the issue, yet all sides were taking steps to reach a consensus.²² However, as the parliamentary elections are approaching and the prospect of implementing the constitutional amendments to the electoral system diminishes, GYLA calls on the ruling party and the opposition to make more efforts to reach a consensus on the electoral system.

⁹ “Politicians Assess Ruling Team’s Initiative on Maintaining a Mixed Electoral System,” news portal “civil.ge”; 20.12.2019, available at: <https://bit.ly/2Ws86FY>, updated: 11.02.2020.

¹⁰ “The Fourth Round of Dialogue,” First Channel of Georgian Public Broadcaster, 20.12.2019, available at: <https://bit.ly/2AqUL8v>, updated: 11.02.2020.

¹¹ “The Supreme Court Releases a Statement on Gigi Ugulava’s Case,” the cited source.

¹² “The Opposition Refuses to Continue Dialogue”, Radio Hereti, 12.02.2020, available at: <https://bit.ly/35ULvFa>, updated: 02.03.2020.

¹³ “The Statement of the Parliamentary faction “Independent Mps” on the Electoral System for the period 2020-2024”, the official webpage of the Parliament of Georgia, 10.02.2020, available at: <https://bit.ly/2AqVbf5>, updated: 07.03.2020.

¹⁴ Id.

¹⁵ “Gia Zhorzholiani Offers Ruling Force New Initiative on Electoral System”, Georgian Public Broadcaster, First Channel, 17.02.2020, available at: <https://bit.ly/3dNPWEN>, updated 03.07.2020.

¹⁶ Id.

¹⁷ “Representatives of Government, Opposition and Diplomatic Corps Hold Meeting”, News portal Netgazeti, 25.02.2020, available at: <https://bit.ly/3fMiIr2>, updated: 07.03.2020.

¹⁸ “Georgian Dream agrees with the 40% support principle- Mdinardze,” News portal Netgazeti, 27.02.2020, available at: <https://bit.ly/2zD9xJ2>, updated 07.03.2020.

¹⁹ “Over 40% Support and Release of Political Prisoners - Bokeria”, News Portal Netgazeti, 27.02.2020, Available at: <https://bit.ly/2Ln-FyXR>, updated: 07.03.2020.

²⁰ “What the Dream and the Opposition Talked About at an Informal Meeting,” News Portal Netgazeti, 27.02.2020, available at: <https://bit.ly/3buvUgE>, updated: 07.03.2020

²¹ “How the Informal Meeting between the Ruling Force and the Opposition Representatives Ends”, The Newspaper Kviris Palitra, 29.02.2020, available at: <https://bit.ly/2zBADjo>, updated: 07.03.2020

²² Id.