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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) 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 the improvement of the electoral environment through monitoring and evidence-based advocacy. To this end, the organization will monitor ongoing political processes and offer recommendations that will be presented to the public and decision-makers.

<https://civil.ge/archives/394475>

## Termination of the Powers of the deputies of the "Alliance of Patriots"

At the sitting of January 4, the Procedural Issues and Rules Committee discussed the issue of termination of the term of office for Irma Inashvili, Giorgi Lomia, and Gocha Tevdoradze, Members of Parliament (MPs) of the tenth convocation of Georgia.<sup>1</sup> The Committee found that the submitted applications genuinely reflected the will of these individuals and each of them confirmed their consent in that respect.<sup>2</sup> The Committee supported the termination of the mandate of the Member of Parliament for all three MPs.<sup>3</sup>

Apart from the members of the "Patriots Alliance", members of other opposition parties have also applied to the Parliament to terminate their term of office.<sup>4</sup> However, the issue of early termination of their authority has not been reviewed by the Parliament so far.<sup>5</sup> According to Irakli Kadagishvili, Chairperson of the Procedural Issues Committee, the reason for only considering the matter of the "Patriots Alliance" MPs so far is that the CEC has not canceled their list yet, and several members on the list wish that if the first three members of the "Patriots Alliance" leave the Parliament, they will take their places according to the rule of succession.<sup>6</sup>

On January 5, after the suspension of the authority for the three members of the "Patriots Alliance" as per their own applications by the CEC, the Procedural Issues and Rules Committee submitted the documentation concerning the candidates for MPs to the Parliament.<sup>7</sup> The Committee decided to recognize Gela Mikadze as the successor for Irma Inashvili; MP Pridon Injia as a successor for Giorgi Lomia and Davit Zilfimiani for Gocha Tevdoradze.<sup>8</sup>

Another member of the party, Avtandil Ehlukidze, who is the fourth on the proportional list, made an announcement back in December that he would retain his mandate and join the Parliament.<sup>9</sup> Furthermore, the four MPs issued a joint statement explaining the reason for entering the Parliament and announced that they were leaving the "Alliance of Patriots" and establishing a new political union, the "European Socialists".<sup>10</sup>

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<sup>1</sup> A sitting of the Procedural Issues and Rules Committee, the official website of the Parliament of Georgia, 04.01.2021, Available: <https://bit.ly/2NfgNkZ>, Updated: 10.02.2021.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> The powers of the "Patriots Alliance" Deputies are suspended in the first place - why? – An explanation of the "Dream", News portal "Netgazeti", 04.01.2021, available: <https://bit.ly/2MS4tYe>, updated: 10.02.2021.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> A sitting of the Procedural Issues and Rules Committee, the official website of the Parliament of Georgia, 05.01.2021, Available at: <https://bit.ly/2Z7bmY6>, Updated: 10.02.2021.

<sup>8</sup> Ibid.

<sup>9</sup> "Four MPs from the list of the "Patriots Alliance" enter the Parliament and leave the party", News portal "civil.ge", 05.01.2020, available at: <https://bit.ly/3tTwLIN>, Updated: 10.02.2021.

<sup>10</sup> "Parliament recognizes the powers of three members of the "Alliance of Patriots"; News portal TV "Rustavi 2", 05.01.2020, available at: <https://bit.ly/2Zd6PDv>, updated: 10.02.2021.

According to the election law, the party list for the parliamentary elections shall be submitted to the CEC for registration in such a manner that at least one person in each four on the party list shall be a representative of the opposite sex.<sup>11</sup> If an MP who has participated in the election through a party-list withdraws from the Parliament, his/her seat shall be taken by the next candidate for MP on the list who shall be a representative of the same sex.<sup>12</sup> To that end, a candidate shall give his/her consent to become a member of the legislative body within 15 days after the vacancy.<sup>13</sup> Otherwise, the vacancy shall be taken by the next candidate who is a representative of the same sex.<sup>14</sup> If there is no longer a candidate of the same sex to be elected to the Parliament on the party list, the vacancy shall be filled by the candidate on the party-list following the one withdrawing from the Parliament of Georgia.<sup>15</sup>

Consequently, as the female candidates of the “Patriots Alliance” succeeding Irma Inashvili did not submit to the Parliament with a relevant application, she was replaced by a member of the opposite sex.

## Boycott of the Opposition

Due to the disparity of views over the election results, several rounds of talks between the ruling party and the opposition, mediated by facilitating ambassadors, proved to be futile.<sup>16</sup> The opposition remains in a boycott mode.

Mr. Irakli Kobakhidze, executive secretary of the Georgian Dream, made an announcement regarding the creation of a fact-finding commission in February to study the results of the 2020 parliamentary elections.<sup>17</sup> According to him, the promise that in case of finding a deviation of even 1% from the official results of the parliamentary elections, the ruling party will immediately call early parliamentary elections, remains in force.<sup>18</sup>

Opposition parties<sup>19</sup> have disseminated a statement declaring their unwavering support to their position that the election was rigged and that their common demands remain the same: the release of the political prisoners, new elections, new election administration and election rules, and the amendments to the electoral system.<sup>20</sup> As they noted, the “Georgian Dream” must understand that the only way out of the crisis is to hold early elections.<sup>21</sup>

Responding to the process, Mr. Andrius Kubilius, a Member of the European Parliament, negatively assessed the situation in the country.<sup>22</sup> He said that the situation will not change, the parliament will not function properly, and this will damage the image of the country.<sup>23</sup>

Voting on the termination of the mandate of the opposition’s MPs is scheduled to take place on the plenary session on February 2.

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<sup>11</sup> The Election Code of Georgia, Article 203, Paragraph 2.

<sup>12</sup> Ibid. Paragraph 6.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> See Latsabidze M. Newsletter №15, December, Georgian Young Lawyers’ Association, Tbilisi, 2020, p. 1-4. The website of the Georgian Young Lawyers’ Association, available at: <https://bit.ly/2ZmLK9w>, updated: 05.01.2021.

<sup>17</sup> "Parliamentary Commission of Inquiry set up in connection with the elections - Kobakhidze", News portal "Netgazeti", 11.01.2021, available at: <https://bit.ly/3pe6Q4w>, updated: 10.02.2021.

<sup>18</sup> Ibid.

<sup>19</sup> The statement is signed by "Lelo", "Girchi - More Freedom", "European Georgia", "Strategy Aghmashenebeli", "Labor Party", the bloc "Power is Unity", "Progress and Freedom", "National Movement", "State for the People", "Republican party".

<sup>20</sup> "Opposition Parties Urge the Dream to Return to Negotiations", "News portal "Netgazeti", 26.01.2021, available at: <https://bit.ly/3b4w3JU>, updated: 10.02.2021.

<sup>21</sup> Ibid.

<sup>22</sup> "Kubilius about the ambition of the "Dream", News portal "Formula TV," 20.01.2021, Available at: <https://bit.ly/3pcPgXR>, Updated: 10.02.2021.

<sup>23</sup> Ibid.

# Memorandum between the Government and the Political Party “Citizens”

On January 28, Mr. Aleko Elisashvili, the leader of the political party “Citizens,” in connection with the replacement of the remand detention with bail as a preventive measure against those arrested in the so-called “Cartographers case” declared that “it is a step towards resuming the negotiations and restoring trust between the parties”.<sup>24</sup> Consequently, the leaders of the political party “Citizens” arrived at the Parliament to negotiate with the “Georgian Dream”, where they agreed to sign a memorandum.<sup>25</sup>

The memorandum signed between the party “Georgian Dream” and the “Citizens” aims at implementing fundamental electoral reforms.<sup>26</sup> The document envisages, *inter alia*, amendments to the electoral system, the rules for staffing the election administration, and election procedures.<sup>27</sup> More specifically:<sup>28</sup>

## **a) Parliamentary and local self-government elections:**

- The threshold for the 2024 parliamentary elections will be no more than 5 percent and no less than 3 percent. The threshold will be specified after the public and parliamentary deliberations of a relevant constitutional bill.
- The minimum required number of members of a parliamentary faction will be determined according to the election threshold. The right to form a parliamentary faction in the current parliament will be granted to at least 4 members of parliament (instead of 7);
- All consecutive Municipal Assembly elections in Tbilisi, Kutaisi, Batumi, Rustavi, and Poti municipalities will be held in a four-to-one ratio between proportional and majoritarian electoral systems. In other municipalities, the ratio is determined according to local characteristics, so that the ratio between proportional and majoritarian electoral systems is at least two-to-one in favor of the proportional system. The electoral threshold for Tbilisi City Municipal Assembly elections will be 2.5 percent, and for other Municipal Assembly elections - not more than 3.2 percent;

## **b) Election administration:**

The memorandum envisages reforming the election administration, full professionalization, and optimization in accordance with the OSCE/ODIHR recommendations. In particular, the composition of the CEC will be at least 7 and no more than 11 members elected on a professional basis. Candidates for the CEC chairmanship and membership will be nominated by the President from among individuals selected by a special commission established by the President and composed of representatives of independent NGOs and local observer organizations.

## **c) Controlling the will of voters**

It will be prohibited to gather and obstruct citizens within a 100-meter range near polling stations, as well as to record voters arriving on Election Day in the mentioned area. Strict sanctions will be imposed against anyone who violates these rules.

Moreover, as per the OSCE/ODIHR recommendations, the norms on the use of administrative resources, as well as the provisions related to addressing election disputes, will be reviewed and implemented in order to ensure timely, transparent, and proper resolution of disputes.<sup>29</sup> The reform also envisages the introduction of new technologies for elections.<sup>30</sup>

<sup>24</sup> "Elisashvili on the release of cartographers: this is the result of negotiations", News portal "Netgazeti", 28.01.2021, available at: <https://bit.ly/2Z846uP>, Updated: 10.02.2021.

<sup>25</sup> "Elisashvili and Ioseliani again arrived at the Parliament to meet with "Georgian Dream", News portal "Netgazeti", 29.01.2021, available at: <https://bit.ly/3rPOisW>, updated: 10.02.2021.

<sup>26</sup> "What memorandum did the "Citizens" sign with the government", News portal "Publika," 29.01.2021, available at: <https://bit.ly/3jP5Um7>, updated: 10.02.2021.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

In accordance with the abovementioned points, a special working group composed of parliamentary parties, NGOs, and international partners will be set up.<sup>31</sup>

## GYLA's Conclusion

GYLA has prepared a report regarding the electoral reform. The organization welcomes the steps taken to address the gaps in the legislation. However, there are still issues that need to be addressed.

The opinions of the organization concern such important issues as the electoral threshold, system of local self-government elections, staffing of the election administration, control of the voter's will, electoral disputes, gender quota, and the possibility to recount election results. GYLA, *inter alia*, notes:

### **1. Election threshold**

In order to reflect the mood of the voters as fairly as possible and to promote political pluralism, parliamentary elections should be held with a natural threshold.

### **2. Composing the election administration**

GYLA shares the idea of staffing all levels of election commissions on a fully professional basis. However, the organization believes that nominated candidates shall gain the support of both the opposition and the government.

### **3. Controlling the voter will**

GYLA considers that not only the placement of campaigning materials and obstruction of voters within a 100-meter range near polling units should be prohibited, but also the presence of any unauthorized person.<sup>32</sup> The term "assembly of citizens" referred to in the memorandum is rather narrow and does not cover the control of the will of the electorate by specific individuals. Any breach of this regulation must result in a warning, and in case of the repeated offense, the imposition of liability. GYLA shares the disposition of the memorandum in this regard.

### **4. Period of silence**

GYLA believes that street campaigning should be banned on Election Day and the day before the election. The ban should also apply to political advertising through television and radio the day before the election.

### **5. Local self-government elections**

At the local level, the majoritarian system shall be abolished and one of the types of proportional system - The Single Transferable Vote (STV) model - established.<sup>33</sup> According to the STV, a political party and its specific member, as well as an initiative group and its affiliated candidate can participate in the elections.<sup>34</sup>

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<sup>31</sup> Ibid.

<sup>32</sup> Latsabidze, M., Newsletter № 10, July 1 - August 1, 2020, p. 2, GYLA's website, available at: <https://tinyurl.com/yk4lssca>, updated: 10.02.21.

<sup>33</sup> Reynolds A., Reilly B. and Ellis A., Electoral System Design: The New International IDEA Handbook, Stockholm, Sweden, 2005, §109.

<sup>34</sup> Ibid. §111.