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

**NEWSLETTER №19**  
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# INTRODUCTION

Since August 2019, the 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 #19, which describes the events of April that have had an impact on the political environment.

## POLITICAL CRISIS AND COMPROMISE AGREEMENT

On April 1, seven leading MEPs<sup>1</sup> have issued a statement condemning the rejection of political parties over the signing of a document proposed by Christian Danielson.<sup>2</sup> According to the letter, due to the failed negotiations between the Georgian Dream and the opposition, the European Parliament would raise the issue of suspending additional aid to Georgia and demand an increase in the principle of conditionality on macro-financial and budgetary assistance programs.<sup>3</sup> Member of the European Parliament Marketa Gregorova joined the statement, emphasising that the EU is a partner and not an instrument to achieve the goal.<sup>4</sup> According to another member of the European Parliament, Rasa Juknevičienė, this letter fully reflected the position of the European Parliament.<sup>5</sup>

GYLA, along with other non-governmental organizations, called on US senators to engage the United States more in addressing the crisis in Georgia.<sup>6</sup> With this statement, the organizations asked the senators to help them achieve five goals:

1. The US should have made clear its position that the status quo, or the actual one-party parliament, was incompatible with membership in the Euro-Atlantic community;
2. The crisis should have been de-escalated through the release of Nika Melia and Giorgi Rurua from custody and the suspension of cases that were to be discussed in a future reformed court;
3. The US should have clearly required to implement judicial and electoral reforms. In particular, the consent of the opposition was required to appoint members of the Supreme Court, non-judicial members of the High Council of Justice, and the chairman and members of the Central Election Commission. Both parliamentary and local self-government elections were to be held in a proportional system, with a barrier close to ordinary. The implementation of these systemic changes had to begin at the spring 2021 session;

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<sup>1</sup> David McAllister (EPP, Germany), Marina Kaljurand, Chair of the European Parliament's Foreign Affairs Committee (S&D, Estonia), Andrius Kubilius (EPP, Lithuania), Viola von Cramon-Tubadel (Greens, Germany), Sven Mikser (S&D, Estonia), Michael Gahler (EPP, Germany), Petras Austrevicius (Renewed Europe, Lithuania). See „Georgia: Leading MEPs react to the refusal of the political parties to reach an agreement”, European Parliament, April 1, 2021, available: <https://bit.ly/2RoULyN>, updated: 20.05.2021.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> „According to Marketa Gregorova, if the statement of 7 MEPs about the ongoing processes in Georgia is not enough, she will be the 8th to join this statement”, *information portal „Interpressnews”*, April 2, 2021, available: <https://bit.ly/3f4X6rw>, updated: 20.05.2021.

<sup>5</sup> „Rasa Juknevičienė - We are all behind the statement of the 7 MEPs, including the proposal on EU financial assistance and possible termination of cooperation”, *information portal „Interpressnews”*, April 7, 2021, available: <https://bit.ly/3wm8Wn6>, updated: 20.05.2021.

<sup>6</sup> „NGOs are writing to senators for more US involvement to overcome the crisis in Georgia”, website of the Georgian Young Lawyers' Association, April 23, 2021, available: <https://bit.ly/2RqrCTW>, updated: 20.05.2021.

4. The distribution of power in various institutions, including parliament, should have been encouraged;
5. Once the ruling party would make these commitments to the Georgian people and international partners, the opposition should have won the seats in parliament in the 2020 elections, become involved in the institutionalized political process, and participated in the development and implementation of the above-mentioned reforms.<sup>7</sup>

On April 12, Irakli Kobakhidze, chairman of the Georgian Dream, paid a working visit to the United States.<sup>8</sup> During the visit, he met with George Kent, Deputy Assistant Secretary of State for European and Eurasian Affairs, Senator Jame Risch, Member of the Senate Foreign Relations Committee, as well as Co-Chairs of the Group of Friends of Georgia in the House of Representatives, Congressmen Gerry Connolly and Adam Kinzinger<sup>9</sup> One of the main topics of discussion at the meetings was the political crisis in Georgia.<sup>10</sup>

On April 16, the political party Lelo announced its arrival at the parliament building on Monday.<sup>11</sup> On the same day, the Georgian Dream signed a document proposed by the Special Representative of the President of the European Council, Christian Danielsson.<sup>12</sup> Some opposition parties refused to sign because “the document did not include the issue of calling early elections, and the fate of political prisoners [was] unclear”.<sup>13</sup>

### New document by the President of the European Council on resolving the political crisis

The President of the European Council, Charles Michel, decided to present a new document to the parties in order to resolve the political crisis.<sup>14</sup> The new compromise agreement became publicly disclosed on 19 April.<sup>15</sup> This document differed from the first version of the agreement by several points. Among them are the two issues that have caused controversy among opposition parties, namely:

1. The measures to address the two issues perceived as politicized justice were specified. The response mechanism should have been amnesty and/or measures that would have had a similar effect;
2. The mechanism against the emergence of a deadlock situation in the election of the Chairman and/or professional members of the Central Election Commission has been defined;
3. An anti-deadlock mechanism has been established in the election of future Attorneys General;
4. Finally, according to the document, in accordance with the Georgian Dream’s proposal of April 16, 2021, early parliamentary elections would be called in 2022 if the Georgian Dream party received less than 43% of the actual proportional vote in the October 2021 local elections.<sup>16</sup>

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<sup>7</sup> Ibid.

<sup>8</sup> „Irakli Kobakhidze, who is visiting the United States, talks about compromise with the opposition”, *information portal „Civil.ge”*, April 15, 2021, available: <https://civil.ge/ka/archives/413244>, updated: 20.05.2021.

<sup>9</sup> Ibid.

<sup>10</sup> „In the US, we hear a hint that the “dream” needs to take concrete steps. – Kobakhidze”, *information portal „Netgazeti”*, April 15, 2021, available: <https://netgazeti.ge/news/535322/>, updated: 20.05.2021.

<sup>11</sup> „Vakhtang Megrelishvili - The initiative taken by the Georgian Dream is welcome - if an agreement is reached, we usually enter as full-fledged members of parliament”, *information portal „Interpressnews”*, April 16, 2021, available: <https://bit.ly/3tYnpnu>, updated: 20.05.2021.

<sup>12</sup> „Georgian Dream Signs Danielsson’s Document”, *information portal „Formula”*, April 16, 2021, available: <https://bit.ly/2SejKOE>, updated: 20.05.2021.

<sup>13</sup> These parties were: More Freedom - Girchi, European Georgia, Strategy Builder, Lelo for Georgia and the National Movement. See. Ibid.

<sup>14</sup> „Charles Michel presents a new document to resolve the political crisis”, *information portal „Civil.ge”*, April 18, 2021, available: <https://civil.ge/ka/archives/413780>, updated: 20.05.2021; Joint Statement by the High Representative of the European Union / Vice-President of the European Commission and the Spokesperson of the US Department of State on EU Mediation, EU Delegation to Georgia, Official Website, April 18, 2021, available: <https://bit.ly/3v4d9vb>, updated: 20.05.2021.

<sup>15</sup> „The President of the European Council, Charles Michel, announces a new proposal, which he proposed to the political parties of Georgia today”, EU Delegation to Georgia, Official Website, April 18, 2021, available: <https://bit.ly/3fAh8JI>, updated: 20.05.2021.

<sup>16</sup> „A way ahead for Georgia”, EU Delegation to Georgia, Official Website, April 19, 2021, available: <https://bit.ly/3uqnm47>, updated: 20.05.2021.

The President of Georgia, Salome Zourabichvili, held a briefing on April 19, criticising a number of actions of the ruling party, in which she linked her name to an act of pardon of a specific person without the permission and consent of the President.<sup>17</sup> The President emphasised that the decision to pardon was not the subject of pressure, instructions and demands from either the Georgian Dream or the opposition. Considering this, the first person of the country noted that if the ruling party and the opposition signed a new compromise proposal proposed by the EU to bring the country out of the crisis, she would pardon one of the shareholders of the “Mtavari Channel”, Giorgi Rurua.<sup>18</sup>

All MPs were invited to sign the new document by the Spokesperson for the High Representative of the European Union/European Commission and the Spokesperson of the US Department of State.<sup>19</sup>

On April 19, GYLA alongside other NGOs called upon the MPs to sign the document.<sup>20</sup> **According to the organizations, although the document did not fully reflect all the demands and interests of the parties involved, the compromise was to reach a consensus on such contentious issues.**<sup>21</sup>

### The signing of a new EU compromise document

On April 19, at the Orbeliani Presidential Palace, a compromise proposal offered by the President of the European Council, Charles Michel, was signed by 16 members of the opposition, along with the Georgian Dream.<sup>22</sup>

The ceremony was attended by representatives of political parties and the host - President Salome Zourabichvili; EU Ambassador to Georgia - Carl Hartzell and US Ambassador to Georgia - Kelly Degnan, and the President of the European Council - Charles Michel was joining the meeting from Brussels.<sup>23</sup>

The signing of the document by political parties was positively assessed by the US State Department and the US Embassy in Georgia.<sup>24</sup> According to State Department spokeswoman Ned Price, the move indicates significant progress in the development of democratic processes in the country.<sup>25</sup>

On April 20, the President of the European Council, Charles Michel, visited Georgia.<sup>26</sup> During the visit, he met with representatives of the Georgian Dream and opposition parties in parliament.<sup>27</sup> The meeting

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<sup>17</sup> „President Giorgi Rurua will be pardoned if the parties reach a compromise”, *information portal „Civil.ge”*, April 19, 2021, available: <https://civil.ge/ka/archives/414040>, updated: 20.05.2021.

<sup>18</sup> Ibid.

<sup>19</sup> „The European Union and the United States - we call on all members of the Georgian Parliament to sign the agreement, which will be proposed today by Charles Michel”, *information portal „Interpressnews”*, April 18, 2021, available: <https://bit.ly/3u8pLQK>, updated: 20.05.2021.

<sup>20</sup> The statement was signed by GYLA, the International Society for Fair Elections and Democracy and Transparency International-Georgia. Georgian Young Lawyers' Association Website, April 13, 2021, available: <https://bit.ly/3yof141>, updated: 20.05.2021.

<sup>21</sup> Ibid.

<sup>22</sup> The document was signed by the opposition: Salome Samadashvili (United National Movement, she signed the document as an individual MP), Khatuna Samnidze (Republican Party), Davit Bakradze (former Chairman of European Georgia), Shalva Shavgulidze and Armaz Akhvlediani (European Georgia), Mamuka Khazaradze (Lelo for Georgia), Badri Japaridze (Lelo for Georgia), Davit Usupashvili (Lelo for Georgia), Ana Natsvlshvili (Lelo for Georgia), Giorgi Vashadze (Strategy Builder), Paata Manjgaladze (Strategy Builder), Teona Akubardia (Strategy Builder), Zurab Japaridze (Girchi - more freedom), Iago Khvichia (Girchi), Vakhtang Megrelishvili (Girchi), Alexander Rakviashvili (Girchi). „Georgian Dream and part of the opposition signed a compromise document of the European Union”, *information portal „Civil.ge”*, April 19, 2021, available: <https://civil.ge/ka/archives/414264>, updated: 20.05.2021.

<sup>23</sup> Ibid.

<sup>24</sup> „The United States welcomes the agreement reached on April 19”, *information portal „Civil.ge”*, April 20, 2021, available: <https://civil.ge/ka/archives/414389>, updated: 20.05.2021.

<sup>25</sup> Ned Price, Twitter post, 20 April 2021, 3:06 AM, available: <https://bit.ly/3v6qkf9>, updated: 20.05.2021.

<sup>26</sup> „Charles Michel is already in Georgia”, *information portal „Interpressnews”*, April 20, 2021, available: <https://bit.ly/3v4oSkv>, updated: 20.05.2021.

<sup>27</sup> „Charles Michel meets with Georgian Dream and Opposition MPs in Parliament”, *information portal „Interpressnews”*, April 20, 2021, available: <https://bit.ly/2RwaFqU>, updated: 20.05.2021.

was attended by EU Ambassador Carl Hartzell and US Ambassador Kelly Degnan.<sup>28</sup> After the meeting, Charles Michel pointed out at a news conference that signing the document was not enough. In his opinion, co-operation between political parties and the government was important in order to carry out the electoral, judicial and rule of law reforms mentioned in the agreement.<sup>29</sup>

The signing of the EU document by the political parties was also welcomed by the MEPs - Marina Kaljurand, Sven Mikser and Viola von Cramon-Taubadel.<sup>30</sup> In the same statement, they called on the remaining parties and MPs to sign a compromise document.<sup>31</sup>

US Senators Ron Johnson, Jeanne Shaheen and Jim Risch have introduced a resolution in the US Senate calling on the Georgian Dream, the United National Movement and other parliamentary parties to fully implement the agreement proposed by European Council President Charles Michel.<sup>32</sup> With this resolution, the senators appealed to the deputies to occupy their seats in the parliament.<sup>33</sup> In addition, the resolution calls on the authorities to implement systemic reforms by executing the recommendations of the Venice Commission and other experts, which will ensure the impartiality and independence of the judiciary.<sup>34</sup>

### Differences of opinion among opposition parties over Charles Michel's new document

Leaders of opposition parties had different attitudes on the signing of the new compromise agreement.<sup>35</sup> For example, Salome Samadashvili signed the EU document independently of the United National Movement.<sup>36</sup> She noted that “there [was] no place for her in this “misunderstanding”, and she took a temporary time-out from political activities on behalf of the party”.<sup>37</sup> The chairman of European Georgia, Giga Bokeria, did not sign the agreement because, in his opinion, the document “[did] not fully meet” the demands of the opposition.<sup>38</sup> The founder of “Law and Justice”, Tako Charkviani, which is part of the election bloc – “Giorgi Vashadze - Strategy in Aghmashenebeli”, left the bloc due to disagreement with the signature.<sup>39</sup> Elene Khoshtaria, the founder of the Droa movement, said the updated document offered to the parties by Charles Michel was not a way to resolve the crisis.<sup>40</sup> At the same time, she did not intend to use the parliamentary mandate obtained from the party list of “European Georgia”, as she left the party and, consequently, the mandate belonged to the latter.<sup>41</sup> The leader of the Labor Party, Shalva Natelashvili, also expressed his dissatisfaction with the signatories of the document.<sup>42</sup>

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<sup>28</sup> Ibid.

<sup>29</sup> „Charles Michel - I have a feeling that others will join the agreement, the agreement will become a starting point for more politeness, more stability, real and strong political will”, *information portal „Interpressnews”*, April 20, 2021, available: <https://bit.ly/3yoz5U3>, updated: 20.05.2021.

<sup>30</sup> „Joint statement by Ms KALJURAND, Mr MIKSER and Ms VON CRAMON TAUBADEL, on the resolution of the political crisis in Georgia”, European Parliament, April 21, 2021, available: <https://bit.ly/2S7Hpqw>, updated: 20.05.2021.

<sup>31</sup> Ibid.

<sup>32</sup> „Urging all parties in Georgia to seek prompt implementation of the agreement signed on April 19, 2021, and reaffirming the support of the Senate for Georgia, the territorial integrity of Georgia, and the aspirations of Georgians to join the Euro-Atlantic community”, 117<sup>TH</sup> Congress, 1<sup>ST</sup> Session S. RES. 176, U.S. Senate Official web-page, available: <https://bit.ly/3v6yxjp>, updated: 20.05.2021.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid., p. 5.

<sup>35</sup> „There is a difference of opinion in the opposition due to the signing of the EU compromise proposal”, *information portal „Civil.ge”*, April 23, 2021, available: <https://civil.ge/ka/archives/415423>, updated: 20.05.2021.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> „Georgian Dream and part of the opposition signed a compromise document of the European Union”, *information portal „Civil.ge”*, April 19, 2021, available: <https://civil.ge/ka/archives/414264>, updated: 20.05.2021.

<sup>40</sup> „Elene Khoshtaria is not going to use the mandate of an MP”, *information portal „Netgazeti”*, April 19, 2021, available: <https://netgazeti.ge/news/536404/>, updated: 20.05.2021.

<sup>41</sup> Ibid.

<sup>42</sup> „There is a difference of opinion in the opposition due to the signing of the EU compromise proposal”, *information portal „Civil.ge”*.

On April 27, the plenary session of the parliament was held with the participation of representatives of the opposition parties that signed the political agreement.<sup>43</sup> Although Giorgi Vashadze and Davit Bakradze signed the EU document, they have not attended the sitting.<sup>44</sup> The four parties involved in the talks, the United National Movement, European Georgia, the Alliance of Patriots and the Labor Party, did not join the document proposed by Charles Michel.<sup>45</sup>

On the same day, according to the EU Compromise Agreement, the President of Georgia Salome Zourabichvili signed an act of pardon for Giorgi Rurua and Rurua left the penitentiary.<sup>46</sup>

## THE CASE OF NIKA MELIA AND THE DRAFT AMNESTY LAW

On April 21, the leaders of the Lelo party - Mamuka Khazaradze, Badri Japaridze and Grigol Gegelia - paid a working visit to Brussels.<sup>47</sup> During the visit, they offered MEPs to take Nika Melia hostage in order to immediately change the measure of restraint and release Melia from custody.<sup>48</sup> The proposal was supported by opposition parties, but they doubted that the Georgian Dream would not accept it.<sup>49</sup> Georgian Dream Public Relations Secretary Shalva Papuashvili called Lelo's offer "unserious" because it undermined the spirit of the agreement.<sup>50</sup>

On April 26, Nika Melia, chairman of the United National Movement, said he would agree to a bail offer from MEPs if the government refused to register the amnesty draft law.<sup>51</sup> According to Melia, the ruling party under the amnesty law intended to release all those accused in the same case, including "guilty" law enforcers and "those who gave the orders".<sup>52</sup>

US Ambassador to Georgia Kelly Degnan noted that the amnesty law "did not exclude responsibility for the events of that time, but allowed the country to move forward".<sup>53</sup> In addition, she pointed out that the agreement included a mechanism for the release of Nika Melia, although, of course, only Melia could make a decision to leave the prison.<sup>54</sup>

According to Shalva Papuashvili, a member of the Georgian Dream, Nika Melia could have been released from prison at any time if the bail was paid by the European Union, however, it was up to him to refuse.<sup>55</sup> As for the amnesty law, it included not only Nika Melia, but also other cases related to June

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<sup>43</sup> „The plenary session of the Parliament was held with the participation of representatives of the opposition parties that signed the political agreement”, *Official Website of the Parliament of Georgia*, April 27, 2021, available: <https://bit.ly/3wqXKWI>, updated: 20.05.2021.

<sup>44</sup> „Part of the Opposition MPs entered the Parliament”, *information portal „Civil.ge”*, April 27, 2021, available: <https://civil.ge/ka/archives/416446>, updated: 20.05.2021.

<sup>45</sup> „The plenary session of the Parliament was held with the participation of representatives of the opposition parties that signed the political agreement,” *the official website of the Parliament of Georgia*.

<sup>46</sup> „Giorgi Rurua left the prison” *information portal „Interpressnews”*, April 27, 2021, available: <https://bit.ly/3fz1vBX>, updated: 20.05.2021.

<sup>47</sup> „Lelo for Georgia”, *Official Facebook Page*, April 22, available: <https://bit.ly/2QAMKq3>, updated: 20.05.2021.

<sup>48</sup> Ibid.

<sup>49</sup> „The agreement of April 19: the mechanisms of Melia's release became the subject of dispute”, *information portal „Civil.ge”*, April 23, 2021, available: <https://bit.ly/3v8wMSQ>, updated: 20.05.2021.

<sup>50</sup> Ibid.

<sup>51</sup> Nika Melia's statement, Nika Melia's official Facebook page, April 26, 2021, available: <https://www.facebook.com/Nika.Melia5/posts/3024667907768020>, updated: 20.05.2021.

<sup>52</sup> Melia is ready to agree to the EU bail if the amnesty draft law is revoked”, *information portal „Civil.ge”*, April 26, 2021, available: <https://civil.ge/ka/archives/417950>, updated: 20.05.2021.

<sup>53</sup> „Ambassador Kelly Degnan's Remarks to Media in Marneuli”, U.S. Embassy in Georgia, Official web-page, 22 April 2021, available: <https://bit.ly/3fz1rSJ>, updated: 20.05.2021.

<sup>54</sup> Ibid.

<sup>55</sup> „Shalva Papuashvili - one of the non-governmental organizations registered in the EU will pay the bail and Nika Melia can leave at any time - if he refuses, it is his decision to make”, *information portal „Interpressnews”*, April 20, 2021, available: <https://bit.ly/2Sc1mww>, updated: 20.05.2021.

20.<sup>56</sup> This was also confirmed by the Chairman of the Legal Affairs Committee, Anri Okhanashvili.<sup>57</sup> He also clarified that the amnesty would not apply to crimes such as torture, threats of torture, inhuman treatment and intentional grievous bodily harm.<sup>58</sup>

On April 21, GYLA called on the parties to implement the agreement proposed by the President of the European Council in accordance with the Constitution of Georgia and international standards.<sup>59</sup> In particular, the organization believes that amnesty/pardon is unacceptable for serious crimes against human rights committed by government officials, including inhuman/degrading treatment.<sup>60</sup>

Similar statements were made by the leaders of the opposition parties. They said it would be inadmissible to extend amnesty to individuals who intentionally inflicted grievous bodily harm on persons on June 20 and committed inhuman treatment.<sup>61</sup> In addition, the amnesty law had to take into account the interests of the victims.<sup>62</sup>

On April 28, two alternative draft amnesty laws, authored by the Georgian Dream and the opposition, were registered in parliament.<sup>63</sup> According to the opposition draft law, in June 20 cases, amnesty for extortionate police officers would be extended if the victims have consented to it.<sup>64</sup> However, according to the project, the consent of the police officers would not be required to apply amnesty to citizens.<sup>65</sup>

## MEETINGS OF THE INTERNATIONAL REPUBLICAN INSTITUTE IN SUPPORT OF ELECTORAL REFORM

At the initiative of the International Republican Institute (IRI), meetings were held in cooperation with opposition parties on electoral reform in Georgia, aimed at supporting electoral reform. The first meeting of the Electoral Dialogue was held on April 18-19, during which the participants discussed the working version of the electoral reform and alternative recommendations. The second meeting of the Election Dialogue was held on April 24-25, during which the issues of electronic voting, proposed versions and recommendations were discussed. The meetings were moderated by IRI Director John Dipiro and Director of the International Society for Fair Elections and Democracy (ISFED) Nino Dolidze. The meetings were attended by the following non-governmental organizations: ISFED, GYLA, Transparency International Georgia, Institute for Good Governance and Multinational Georgia. Meetings from the political parties were attended by: Citizens, United National Movement, European Georgia, Strategy Builder, Girchi,

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<sup>56</sup> Ibid.

<sup>57</sup> „Anri Okhanashvili explains what the amnesty draft law prepared by the Georgian Dream envisages”, *information portal „Interpressnews”*, April 27, 2021, available: <https://bit.ly/2QAcW45>, updated: 20.05.2021.

<sup>58</sup> Ibid.

<sup>59</sup> „GYLA calls on political parties not to allow the initiation of a draft law aimed at extending amnesty for crimes committed by law enforcement on June 20-21, 2019”, Georgian Young Lawyers' Association Website, April 21, 2021, available: <https://bit.ly/3u3Xbjx>, updated: 20.05.2021.

<sup>60</sup> Ibid.

<sup>61</sup> „Zurab Japaridze - Nobody is going to grant amnesty to the butchers”, *information portal „Interpressnews”*, April 25, 2021, available: <https://bit.ly/2Sbc1au>, updated: 20.05.2021; „Ana Natsvlishvili - the task is to fulfill the agreement, but we cannot and will not agree on anything that will violate the dignity and rights of the victim”, *information portal „Interpressnews”*, 2021 April 25, 2021, available: <https://bit.ly/3v6qK5d>, updated: 20.05.2021; „Badri Japaridze - Amnesty cannot and will not apply to persons who may have been behind intentional grievous bodily harm - the consent of the victim will be required in all cases”, *information portal „Interpressnews”*, April 25, 2021, available: <https://bit.ly/2Ry6xH1>, updated: 20.05.2021.

<sup>62</sup> „Ana Natsvlishvili - the task is to fulfill the agreement, but we cannot and will not agree on anything that will violate the dignity and rights of the victim”, *information portal „Interpressnews”*.

<sup>63</sup> „The Georgian Dream draft law on amnesty has already been registered in the parliament”, *information portal „Publica”*, April 28, 2021, available: <https://bit.ly/3f1TFBL>, updated: 20.05.2021; „The draft law on amnesty prepared by the opposition was registered in the parliament”, *information portal „Interpressnews”*, April 28, 2021, available: <https://bit.ly/2S8oEU2>, updated: 20.05.2021.

<sup>64</sup> „According to the opposition draft law on amnesty, which has already been registered in the parliament, amnesty will address the existing accusations”, *information portal „Interpressnews”*, April 28, 2021, available: <https://bit.ly/3wiz7eg>, updated: 20.05.2021.

<sup>65</sup> Ibid; „The content of the opposition ‘Amnesty Project’ is known”, *information portal „Interpressnews”*, April 28, 2021, available: <https://bit.ly/3oCF2YT>, updated: 20.05.2021.



Girchi - More Freedom, Labour Party, Republican Party and Lelo for Georgia. The organization plans to continue the series of meetings next month. GYLA presented its recommendations on electoral reform at the meetings.<sup>66</sup> Finally, it is determined to develop a document of recommendations on electoral reform.

## JOINT URGENT OPINION OF THE VENICE COMMISSION AND THE OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS ON AMENDMENTS TO THE ELECTORAL CODE

On 30 April, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) issued a joint urgent opinion on draft amendments to the election code.<sup>67</sup> The document includes an analysis of the draft law on electoral reform and relevant recommendations. There are separate chapters in the report on issues such as the legislative stability; staffing the election administration; prevention of the misuse of administrative resources; regulation of “agitation” on polling day; making changes to the summary protocols and recalculation of the results; complaints; local electoral system; electronic voting and counting.<sup>68</sup>

According to the report, this initiative was not the result of a thorough analysis of the legislation but rather aimed at overcoming the political stalemate that developed as a result of the October 31, 2020, parliamentary elections.<sup>69</sup>

The organizations emphasised the need for stability of electoral legislation, which is a prerequisite for public confidence in the electoral process.<sup>70</sup> In accordance with the conclusion, changes in the fundamental issues of electoral legislation should be made long before the next elections.<sup>71</sup> Frequent introduction of changes, such as in Georgia, jeopardizes the credibility of the electoral process and attempts to consolidate democracy.<sup>72</sup>

According to the report, in order to reach a broad consensus, it is recommended to introduce a qualified parliamentary majority (the so-called two-thirds) or a double majority (majority of ruling party MPs and opposition parties’ MPs) with an anti-deadlock mechanism when appointing both the chairperson and eight independent members to the CEC.<sup>73</sup> In addition, professionally appointed election commission members should have higher professional qualifications in order to increase public confidence in them.<sup>74</sup>

The report states that the provisions on the composition of the Supreme Electoral Authority do not comply with international best practices and standards.<sup>75</sup> In particular, Parliament should reject the norms according to which only those parties that receive budget funding and whose at least one member acts as an MP will have the authority to appoint the members of the commission.<sup>76</sup> According to the organizations, the given changes do not provide equal rights with regard to the membership of the commission, which puts the parties in a disproportionate position.<sup>77</sup>

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<sup>66</sup> See recommendations for details, Nanuka Kruashvili, *Newsletter №18, March 2021*, Georgian Young Lawyers’ Association, p. 7-8, Website of Georgian Young Lawyers’ Association, available: <https://bit.ly/2SbFoti>, updated: 20.05.2021.

<sup>67</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, CDL-PI (2021)005(Strasbourg: Council of Europe, 2021), available: <https://bit.ly/3hFOk4R>, updated: 20.05.2021.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid., para. 12.

<sup>70</sup> Ibid., paras. 10, 23-24.

<sup>71</sup> Ibid., paras. 10, 23-24.

<sup>72</sup> Ibid.

<sup>73</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, paras. 31, 34.

<sup>74</sup> Ibid., para. 33.

<sup>75</sup> Ibid., para. 35.

<sup>76</sup> Ibid., paras. 35, 38.

<sup>77</sup> Ibid., paras. 35-38.

Regarding the misuse of administrative resources, the report indicates that the draft law does not address the issue of the use of social media by public officials during working hours in the interests of the election campaign.<sup>78</sup> On the recommendation of the Venice Commission and the OSCE / ODIHR, more comprehensive and systematic regulation of the prevention of misuse of administrative resources is needed, which will impose disciplinary sanctions in the event of misconduct by public sector employees.<sup>79</sup>

The report positively assessed the ban on gatherings and polling of voters within a 100-meter radius of polling stations.<sup>80</sup> However, it noted that the amendment draft law does not impose any sanctions for this action, which hinders the effective implementation of the norm.<sup>81</sup> The report states that this regulation does not reflect the long-standing recommendations of the Venice Commission and the OSCE/ ODIHR to ban any type of agitation 24 hours before the elections.<sup>82</sup>

According to the document, the legislative ambiguity about the counting of votes and the annulment of the results threatens the transparency and efficiency of the post-election dispute resolution process.<sup>83</sup> In this regard, the recommendation of the Venice Commission and the OSCE/ODIHR is to adopt more comprehensive and clear legislation that will establish objective criteria for the counting of votes and the invalidity of the results.<sup>84</sup>

According to the conclusion, the draft law does not address the need for significant reform of the electoral dispute resolution process in order to resolve disputes in a timely, transparent and effective manner.<sup>85</sup> One of the report's recommendations concerns the possibility of filing complaints related to election disputes electronically in the courts.<sup>86</sup> However, although the Venice Commission and the OSCE /ODIHR welcomed the extension of the grievance deadline, they noted that it did not reflect best international practice.<sup>87</sup> According to international standards, it is recommended to take at least 3-5 days to file a complaint.<sup>88</sup>

With regard to the local electoral system, the document indicates that the proposed reform does not address the main recommendation of local self-government elections, according to which single-member constituencies should contain an equal or even number of voters.<sup>89</sup>

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<sup>78</sup> Ibid., para. 54.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, para. 55.

<sup>82</sup> Ibid.

<sup>83</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, para. 62.

<sup>84</sup> Ibid.

<sup>85</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, para. 64.

<sup>86</sup> Ibid., para. 65.

<sup>87</sup> Ibid., para. 67.

<sup>88</sup> Ibid.

<sup>89</sup> Venice Commission, OSCE/ODIHR, *Joint Urgent Opinion on Draft Amendments to the Election Code*, para. 74.