

საია სენაკში ცესკოს მიერ დანიშნული შუალედური
არჩევნების გაუქმებას ითხოვს

GYLA appeals for the revocation of by-elections in Senaki Sakrebulo scheduled by CEC

On August 14, 2022, GYLA appealed to the Tbilisi City Court, challenging the Central Election Commission's decree of August 12, 2022, by which the election administration had scheduled by-elections in the 64.04 majoritarian district of Senaki Municipality.^[1] GYLA demands the revocation of the decree of the CEC. The court session will be held on August 15 at 4:00 pm.

In the contested decree, the CEC cited the early termination of the term of the majoritarian member of Senaki Sakrebulo, Vakhtang Tsurtsumia (of United National Movement) starting from May 31, 2022, as a precondition for scheduling the by-elections.

GYLA believes that the scheduling of by-elections of the Senaki City Sakrebulo is not in accordance with the law, since this Sakrebulo has not convened for more than six

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months, therefore, there is an unconditional basis for the termination of its powers and consequently, the conditions for the scheduling of extraordinary elections in the municipality are met.

According to the Code of Local Self-Government, the powers of the Sakrebulo are terminated prematurely if it fails to convene for six consecutive months.^[2] The early termination of the powers of the City Sakrebulo is the basis for the introduction of direct state governance in the municipality^[3], which is decided by the Government of Georgia.^[4] In this case, the mayor of the municipality exercises direct state governance.^[5]

The representative body of Senaki Municipality last convened on December 17, 2021.^[6] Since then, there were more than ten attempts to hold a sitting, but they failed due to the lack of a quorum.^[7] On February 9, 2022, sixteen deputies from Senaki City Sakrebulo belonging to the Gakharia`s party [ქართული ოცნებისთვის] Georgia A and the United National Movement gathered in the Sakrebulo assembly hall. Although they did not have a quorum to open the session (17 deputies were required to register for it), they considered that the quorum of December 3, 2021, was still valid and hence the session was authorized to make decisions. On this ground, the deputies recognized the powers of an additional member (alternate for proportionally elected Sakrebulo member from the Gakharia`s party [ქართული ოცნებისთვის] Georgia A) and elected a temporary vote-counter and mandate commission.^[8] The same composition was later used to elect the chairperson of the Sakrebulo on February 23.^[9] The [ქართული ოცნებისთვის] Dream A in the Senaki District Court challenged the above-given resolutions.^[10] At the plaintiff's request, the effect of these decisions was suspended by the court.^[11] Currently, the case is still under judicial review, and the Senaki City Sakerbulo did not attempt to convene after February 23.

Senaki City Sakrebulo was one of the six Sakrebulos in which, according to the election results, no party could independently win a majority, and due to the lack of consensus among the political parties represented there, it could not start functioning properly. As it turned out, among the parties represented in the Senaki City Sakrebulo no room could be found even for the initial consensus that was necessary for attending the sitting. In contrast to Batumi, in Senaki, the members of the [ქართული ოცნებისთვის] Dream A were boycotting the sessions, so that the other parties did not have a quorum to open the sitting.^[12] This situation was initially caused by the fact that one of the Sakrebulo members from the party [ქართული ოცნებისთვის] Georgia A resigned his mandate in December.

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As a result, even before the recognition of his alternate, the representation of the opposition in the Sakrebulo was reduced to the point that the session could not be opened. [11] Dream A took advantage of this situation and announced a boycott of the sessions. The last session attended by the deputies of [12] Dream A was held on December 17.

It is also worth mentioning that in May 2022, the Parliament made amendments to the Code of Local Self-Government. The transitional provision solved the problem of a quorum for the opening of the sittings of the Batumi and Senaki City Sakrebulo with the introduction of the provision that the terms of the City Sakrebulo members are automatically recognized by the legal act of the Election Commission.[14] Nevertheless, the Senaki City Sakrebulo was unable to convene because a few days after the legislative amendments, one of the majoritarian deputies of the City Sakrebulo, belonging to the United National Movement, resigned his mandate,[15] leaving the opposition wing of the Senaki Sakrebulo without the crucial member in whose presence the body could have convened and started functioning.

GYLA believes that the meetings on February 9 and February 23 were not lawful because a quorum was not present, and therefore the meeting of deputies could not be considered a sitting of the Sakrebulo.[16] Consequently, the powers of the Senaki City Sakrebulo should have been terminated on June 17, 2022 (six months after the last meeting of December 17). From that date, therefore, the grounds for the termination of the powers of the Sakrebulo automatically occurred, whereupon the government was obliged to issue a legal act on the introduction of direct state governance in that municipality. This condition, in turn, is the prerequisite for holding by-elections in this municipality, which, according to the law, are supposed to be held in April 2023.[17]

Thus, according to the organization, the failure of the Senaki City Sakrebulo to convene within six months is already an automatic basis for the termination of the powers of that Sakrebulo, and the appointment of by-elections by the CEC to fill the composition of an illegitimate body is not in accordance with the law.

[1] Decree N153/2022 of the Central Election Commission of Georgia, August 12,

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2022, [1] the scheduling of by-elections of the representative body of the Municipality Sakrebulo, to be held under the majoritarian voting system of the self-governing constituency Sakrebulo of Senaki Municipality October 2, 2021 A CEC website, available at: <https://bit.ly/3dtpoxn>, updated: 08/13/2022.

[2] Code of Local Self-Government, Article 142, Paragraph 1, Sub-paragraph "c".

[3] Ibid., Article 144, paragraph 3, subparagraph "b".

[4] Ibid., Paragraph 1 of Article 143.

[5] Ibid., Paragraph 2 of Article 144.

[6] Nino Kapanadze, [7] in the Majority, Procedural War and Post-Election Crisis in Sakrebulo, A The Georgian Young Lawyers' Association, pp. 19-20, available at: <https://bit.ly/3Al60M0>, updated: 08/13/2022.

[7] Ibid.

[8] [9] without a quorum? - What happened in Senaki Sakrebulo, A Information portal Liberty A February 10, 2022, available <https://www.radiotavisupleba.ge/a/31696415.html>, updated: 08/13/2022.

[9] [10] Elected Senaki Sakrebulo Chairperson amid in Procedural Dispute, A Information portal [11] A February 23, 2022, available <https://civil.ge/ka/archives/474544>, updated: 08/13/2022.

[10] [12] Dream appeals to the court - the dispute in Senaki City Sakrebulo continues, A Information portal [13] A February 23, 2022, available at: <https://netgazeti.ge/news/592988/>, updated: 08/13/2022.

[11] Decision N2/22-2022 of the District Court of Senaki of February 23, 2022 [14] the application of a provisional measure before filing a lawsuit".

[12] See [15] in the Majority, Procedural War and Post-Election Crisis in Sakrebulo," The Georgian Young Lawyers Association, pp. 19-21.

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[13] [REDACTED] member of Senaki Sakrebulo from [REDACTED] for Georgia A party has left the mandate of the deputy A Information portal [REDACTED] A available <https://bit.ly/3w194KV>, updated: 13.08.2022.

[14] [REDACTED] Amendments to the Organic Law of Georgia [REDACTED] of Local Self-Government A Law of Georgia (Journal of Laws of Georgia (www.matsne.gov.ge), 25.05.2022, registration code: 010250000.04.001.018029), Article 2.

[15] [REDACTED] City Sakrebulo member Vakhtang Tsurtsunia, who had been missing since the morning, according to UNM members, has resigned from his post A Informational portal Rustavi 2, May 30, 2022, available at: <https://rustavi2.ge/ka/news/230408>, updated: 08/13/2022.

[16] [REDACTED] in the Majority, Procedural War and Post-Election Crisis in Sakrebulo, A The Georgian Young Lawyers Association.

[17] Election Code of Georgia, Article 1541, Article 2.