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ASSOCIATION**

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

NEWSLETTER №2
November 1 - December 1, 2019

TBILISI, 2019

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This newsletter was made possible by the generous support of the American People through the United States Agency for International Development (USAID). The contents of this newsletter are the sole responsibility of “Georgian Young Lawyers’ Association” (GYLA) and do not necessarily reflect the views of USAID or the United States Government.



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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.

REJECTED BILL OF CONSTITUTIONAL AMENDMENTS

On June 24, 2019, the Chairperson of the ruling party announced the holding of the 2020 Parliamentary Elections in a fully proportional system, with a zero (natural) threshold.¹ GYLA positively assessed the proposed initiative and called on the authorities to bring the changes to a conclusion, after detailed discussions.²

On June 28, 2019, the Parliament of Georgia received a corresponding draft law "On Amendments to the Constitutional Law of Georgia" for reflecting corresponding changes on the main document of Georgia, which envisaged holding the 2020 Parliamentary Elections through a fully proportional system, with zero (natural) threshold.³

On 28 October, the Legal Issues Committee of the Georgian legislative body welcomed the proposed draft bill and considered that it was ready for the submission to the Parliament.⁴

A plenary session for the discussion of the draft constitutional law was held on November 12.⁵ The perception of the public regarding the consensus among the Members of the Parliament (MPs) of the majority proved to be wrong. Voting procedure was postponed twice. On November 13, GYLA issued a public statement urging lawmakers to support the transition to the fully proportional electoral system in 2020.⁶

Eventually, the voting was held on the plenary session on November 14.⁷ Out of 148⁸ acting MPs, 141 showed up for the authorization for the quorum. 101 MPs supported the proposed amendment, 3 went against. 37 MPs abstained from voting, all of them representing the ruling party (35 - majoritarian, 5 - proportional list). The ses-

¹ "The Zero Threshold for the Proportional Elections in 2020 - Ivanishvili", News Portal Netgazeti, 24.06.2019, available at: <https://netgazeti.ge/news/374865/>, updated on: 01.11.2019.

² "GYLA's Assessment of the Electoral System Proposed by the Ruling Party", the official website of the Georgian Young Lawyers' Association, 24.06.2019, available at: <https://gyla.ge/ge/post/saia-mmartveli-partiis-mier-shemotavazebul-saarchevno-sistemas-af-asebs#sthash.kRcZWbHz.rUwhycOm.dpbs>, updated on: 01.11.2019.

³ The draft law "On Amendments to the Constitution of Georgia" on the amendment to the constitutional law, the official website of the Parliament of Georgia, available at: <https://info.parliament.ge/#law-drafting/18526>, updated on: 01.11.2019.

⁴ The report by the Legal Issues Committee, the official website of the Parliament of Georgia, available at: <https://info.parliament.ge/file/1/BillPackageContent/21656>, updated 13.11.2019.

⁵ "The Plenary Session of the Parliament", the official website of the Parliament of Georgia, available at: http://parliament.ge/en/saparlamento-saqmianoba/plenaruli-sxdomebi/plenaruli-sxdomebi_news/parlamentis-plenaruli-sxdoma12112019.page, updated: 06.12.2019.

⁶ "GYLA Urges Lawmakers to Support Transition to Proportional Electoral System by 2020", the official website of the Georgian Young Lawyers' Association, available at: <https://gyla.ge/ge/post/saia-moutsodebs-deputatebs-mkhari-dauchiron-proporciul-saarchevno-sistemaze-2020-tslisvis-gadasvlas#sthash.qksHV0mC.dpbs>, updated: 06.12.2019.

⁷ Parliament Voting on Bill on Changes to Electoral System During Plenary Session." The official website of the Parliament of Georgia, available at: http://parliament.ge/ge/saparlamento-saqmianoba/plenaruli-sxdomebi/plenaruli-sxdomebi_news/parlamentis-plenaruli-sxdoma-saarchevno-cvilebastan-dakavshirebuli-kanonproeqtis-kenchisyra-gaimarta.page, updated: 06.12.2019.

⁸ Zakaria Kutsnashvili in June of this year and Ivane Zardiashvili in October left the mandates of the MP based on their own decisions.

sion was not attended by seven MPs from the Georgian Dream. According to the head of the faction Mamuka Mdinardze, three MPs had relevant reasons for the absence.

Thus, 113 votes needed for the amendments were failed to be collected.

On the same day, Civil Society Organizations (CSOs) made a joint statement once again urging the ruling party and its chairperson to comprehend the severe political crisis in which the above decision could drag the country into and take all measures to prevent it. According to the CSOs, the only and non-alternative way to achieve this is to have the fully proportional electoral system approved immediately by the Parliament.⁹ In addition, organizations and activists jointly appealed to the European Socialist Party,¹⁰ a Georgian Dream partner, and asked to monitor/respond to the ongoing process.¹¹

The opposition considered that the adoption of the “German electoral model” would be a way out of the crisis and proposed to the government to change the current legislation by introducing the amendment to the Election Code.¹² The government, for their part, considered the German model to be inconsistent with the current constitution.¹³

CIVIL PROTESTS, DISPERSAL OF PROTESTS, ARREST OF PROTESTERS (NOVEMBER 18, NOVEMBER 26)

The rejection of the bill on constitutional amendments was followed by public outrage and protest. The protest manifestation began in front of the Parliament building with the participation of opposition political parties, public organizations, and civil activists on November 14. The protesters demanded snap proportional elections. The Ministry of Internal Affairs (MIA) issued a statement urging citizens not to go beyond the scope of a peaceful assembly, comply with the demands of the police and ensure public order.¹⁴ On November 17, protesters went on to resort to a radical form of the protest - blocking of the Parliament building. On the same day, MIA again issued a statement announcing that the police would, within the scope of the law, promptly eliminate any violations, attempts to storm into or block the administrative body during the demonstration.¹⁵ The Public Defender noted that “blocking is certainly not lawful, yet the violations have been provoked by those MPs who refused to support the proportional system.”¹⁶

On November 18, GYLA addressed the ruling political party with a statement that although the legislation prohibits the above form of protest, the authorities should take into account the current context and should not restrict the protesters from expressing their discontent since the behavior of protesters was non-violent. GYLA called on the government to regulate the situation through a consensus and without using force.¹⁷

⁹ “Special Statement of NGOS;” The official website Georgian Young Lawyers’ Association; available at: <https://gyla.ge/ge/post/arasamtavrobo-organizaciata-sagangebo-ganckhadeba#sthash.qJtweHZU.dpbs>, Updated: 06.12.2019.

¹⁰ The Georgian Dream has been a member of the European Socialist Party since June 2015.

¹¹ “The Address of Georgian Civil Society Organizations and Civil Activists to the European Socialist Party (PES); The official website Georgian Young Lawyers’ Association; available at: <https://gyla.ge/ge/post/arasamtavrobo-organizaciebisa-da-samoqalaqo-aqtiv-istebis-mimartva-evropis-socialistur-partias#sthash.72S0Zi5O.dpbs>, Updated: 06.12.2019.

¹² “What does the German model mean? What would such a parliament look like?” News Portal Netgazeti, 14.11.2019, available at: <https://netgazeti.ge/news/405828/>, Updated: 01.11.2019.

¹³ “Kobakhidze explains why he opposes the so-called “German model of the Constitution”, Imedi TV, 18.11.2019, available at: <https://imedinews.ge/ge/saqartvelo/121584/kobakhidzem-ganmarta-ratom-etsinaagmdegeba-ets-germanuli-modeli-konstitutsias>, updated: 11.12.2019.

¹⁴ Statement of the Ministry of Internal Affairs; The official website of the Ministry of Internal Affairs of Georgia; available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/13127>, updated: 06.12.2019.

¹⁵ Statement of the Ministry of Internal Affairs; The official website of the Ministry of Internal Affairs of Georgia; available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/13132>, updated: 06.12.2019.

¹⁶ “Refusing the Proportional System is much Greater Unlawfulness than Blocking - Lomjaria”, News Portal Netgazeti, 18.11.2019, available at: <https://netgazeti.ge/news/406729/>, Updated: 11.12.2019.

¹⁷ “GYLA’s Statement Regarding the Ongoing Picketing of the Parliament”, The official website of Georgian Young Lawyers’ Association, available at: <https://gyla.ge/ge/post/saias-ganckhadeba-rustavelis-gamzirze-mimdinare-piketirebastian-dakavshirebit#sthash>.

Ultimately, law-enforcement bodies freed three entrances to the Parliament on November 18 using human force and water cannons.¹⁸ In total, 37 individuals were arrested during the rally. Four protest participants and two police officers were injured.¹⁹

The NGOs jointly assessed the course of court hearings and noted that the trials of detained demonstrators were conducted with serious violations:²⁰ the judge ignored the requirements of the law, was biased and restricted the rights of the detainees; all of the cases were considered by the same judge, which led to an unreasonable delay in the hearings and a gross violation of the rights of the detainees; defense counsels were given unreasonably short deadlines to review case materials and obtain evidence; in certain cases, only two minutes was allocated for the defense lawyers to present their positions; in almost all cases, the police failed to provide proper evidence; the grounds for the sanctions selected by the judge were obscure.

The Public Defender also issued a statement concerning the matter, noting that only one judge was dealing with the cases of administrative detention, which, of course, hampered the administration of prompt justice.²¹ The Ombudsman said that additional judges were needed to be involved in the process so that the detainees' procedural rights were not violated.²²

The protests continued. Demonstrators further applied the method of blocking. On November 26, at 5am, law enforcers freed the entrances of the Parliament building with the use of the same means.²³ According to MIA, 28 people were arrested and three citizens received various injuries.

According to the Human Rights Education and Monitoring Center (EMC), the state used disproportionate force on November 26.²⁴

SELECTION OF CEC MEMBERS

The office term of four members of the Central Election Commission of Georgia is being expired. According to a Presidential decree, an open competition was announced and a competition commission was set up,²⁵ composing of representatives of the President's Administration and other individuals.

On November 20, 2019, the sixteen-person list of candidates was published,²⁶ including those whose position

[Z2W9otIM.dpbs](#), updated: 06.12.2019.

¹⁸ "Traffic Movement Resumed on Rustaveli Avenue", News Portal Netgazeti, 18.11.2019, available at: <https://netgazeti.ge/news/407020/>, Updated: 06.12.2019.

¹⁹ Statement of the Ministry of Internal Affairs: The official website of the Ministry of Internal Affairs of Georgia; available at: <https://police.ge/ge/shinagan-saqmeta-saministros-informatsia-18-noembers-rustavelis-gamzirze-dakavebuli-da-dashavebuli-pirebis-she-sakheb/13138>, updated: 06.12.2019.

²⁰ "Trials of Detained Demonstrators were Held with Grave Violations; The official website of Georgian Young Lawyers' Association, available at: <https://gyla.ge/ge/post/dakavebuli-demonstrantebis-sasamartlo-procesebi-mdzime-darghvevebis-fonze-chatarda#sthash.jhQEz1q8.dpbs>, updated: 06.12.2019.

²¹ "Public Defender Responds to Trials of Persons Detained on 18 November 2019". 19.11.2019; The official website of the Public Defender's Office, available at: <http://www.ombudsman.ge/geo/akhali-ambebi/sakartvelos-sakhalkho-damtsveli-ekhmianeba-2019-tslis-18-noembers-dakavebul-pirta-sasamartlo-protsebebs>, updated: 11.12.2019.

²² Id.

²³ "Special Forces Again Disperse Protest near Parliament", News Portal NetGazeti, 26.11.2019, available at: <https://netgazeti.ge/news/409265/>, updated: 06.12.2019.

²⁴ "According to EMC, the State Used Disproportionate Force on November 26," the EMC website; 28.11.2019; available at: https://emc.org.ge/ka/products/emc-shefasebit-sakhelmtsifom-26-noembers-araproportsiuli-dzalagamoiqena?fbclid=IwAR3qU3Vjq5RO_i4Y2Cl53AlJf9WpXUz0nXI098KFUI3XW256pcP1IAgdAIM, updated: 12.12.2019.

²⁵ Presidential Decree №05/11/02 dated 5 November 2019, the official website of the Administration of the President of Georgia, available at: <https://www.president.gov.ge/getattachment/sajaro-informacia/samartlebrivi-aqtebi/saqartvelos-prezidentis-gankarguleba/11-05-centraluri-saarchevno-komisiis-sakonkurso-komisia.pdf.aspx>, updated: 06.12.2019.

²⁶ The list of the participants of the open competition announced for the membership of the Central Election Commission of Georgia announced under the Decree №05/11/02 dated 5 November 2019, 20.11.2019, the official website of the Administration of the Presi-

previously holding now vacant position.

The head of state, in accordance with the law, has submitted two candidates for one vacant place to the legislative body.²⁷

The following people received the support of the Legal Issues Committee: Dimitri Javakhadze, Giorgi Dzagania, Giorgi Javakhishvili, Giorgi Chikaberidze, and Vladimir Bozhadze.²⁸ The voting procedure of the candidates will be held at the upcoming plenary session.

PROTEST RALLIES IN THE REGIONS

In parallel with the protest in Tbilisi, demonstrations were held in the regions as well, being organized by representatives of the opposition political parties, mainly, European Georgia. Protesters symbolically attached locks on the offices of majoritarian MPs and posted the “stickers” with the inscription “Sealed.”²⁹ According to GYLA monitors, the protest manifestations were hampered by officials of the municipalities and their N(N)LPs as well as government supporters. They met rally participants with sweeping brooms and did not allow them to hold the protest. GYLA was observing the events closely, especially the involvement of employees of budget organizations in the developments. It seemed that the authorities were using administrative resources for the political confrontation. In addition, on November 19, 2019, the Civil Movement announced the launch of a protest campaign in the regions entitled “Unmask Feudal Majoritarian MPs.”³⁰ The protest was mainly held in public places adjacent to agrarian markets. The activists of the Civil Movement blamed local majoritarian MPs for corrupt deals.³¹ During one of the protest demonstrations, Signagi City Council members from the Georgian Dream and their supporters prevented the activists from meeting with the local population. As a representative of the Civil Movement noted, Ilia Baidoshvili, Chairman of the Legal Issues Committee of the City Council, physically assaulted protesters and tore off their banner.³² Following the interrogation of Nino Gogolashvili, the victim of assault, the investigation into the administrative violation has been reclassified and the is now in progress under Article 126 of the Criminal Code of Georgia.³³

According to the law, state institutions, public officials and citizens are not allowed to prevent protest assembly participants and demonstrators from expressing their views publicly.³⁴ The state is obliged to prevent any third parties from interfering with a protest demonstration.

dent of Georgia; available at: <https://www.president.gov.ge/geo/presssamsakhuri/siakhleebi/saqartvelos-prezidentis-2019-clis-5-noembris-N05-1.aspx>, updated: 06.12.2019.

²⁷ Article 12(8) of the Election Code of Georgia.

²⁸ “The Legal Issues Committee Voting Candidates for the membership of the Central Election Commission of Georgia”, Official website of the Parliament, available at: <http://parliament.ge/ge/saparlamento-saqmianoba/komitetebi/iuridiul-sakitxta-komiteti-146/axali-ambebi-iuridiuli/iuridiul-sakitxta-komitetma-centraluri-saarchevno-komisiis-wevrobis-vakantur-tanamdebobaze-asarchevad-warmodgenil-kandidaturebs-kenchi-uyara.page>, updated: 06.12.2019.

²⁹ “European Georgia Locks-Up Majoritarian MPs Offices in the Regions”, News Portal Netgazeti, 22.11.2019, available at: <https://netgazeti.ge/news/408235/>, updated: 12.12.2019.

³⁰ “Civil Movement Launches Campaign against Majoritarian MPs Feudals”, The official Facebook Page of Civil Movement, 19.11.2019, available at: <https://www.facebook.com/modzraoba.ge/videos/996011110749038/>, updated: 12.12.2019.

³¹ “Unmask Feudal MP Makrakhidze!”, the official Facebook page of the Civil Movement, available at: https://www.facebook.com/events/555637248346210/?active_tab=discussion, updated: 12.12.2019.

³² “The administrative Investigation on Incident at Bodbiskhevi Market”, the Georgian Public Broadcaster, 24.11.2019, available at: <https://1tv.ge/news/bodbiskhevis-bazarshi-incidenttan-dakavshirebit-gamodzieba-administraciuli-mukhlit-daiwyo/>, updated: 12.12.2019.

³³ “The investigation into Incident at Bodbiskhevi Market Resumed into Violence”, the Georgian Public Broadcaster, 27.11.2019, available at: https://1tv.ge/news/bodbiskhevis-bazarshi-momkhdar-incidentze-gamodzieba-dzaladobis-mukhlit-gagrzeldeba/?fbclid=IwAR0QAfiS2678NhN7aX9MgFmnV4Q-V_7piMseuS-pKOPz4njRL6ZeUhh2jwA, updated: 12.12.2019.

³⁴ Law of Georgia “On Assemblies and Manifestations,” Article 12, Legislative Herald of Georgia, available at: <https://matsne.gov.ge/ka/document/view/31678?publication=15>, updated: 12.12.2019.

GYLA considers that the state authorities failed to fulfill the above-mentioned obligation, as law enforcement agencies failed to guarantee the right to assemble for the representatives of the opposition. It is of note that violent confrontations of a similar nature and magnitude can significantly damage the political/electoral environment in the country.