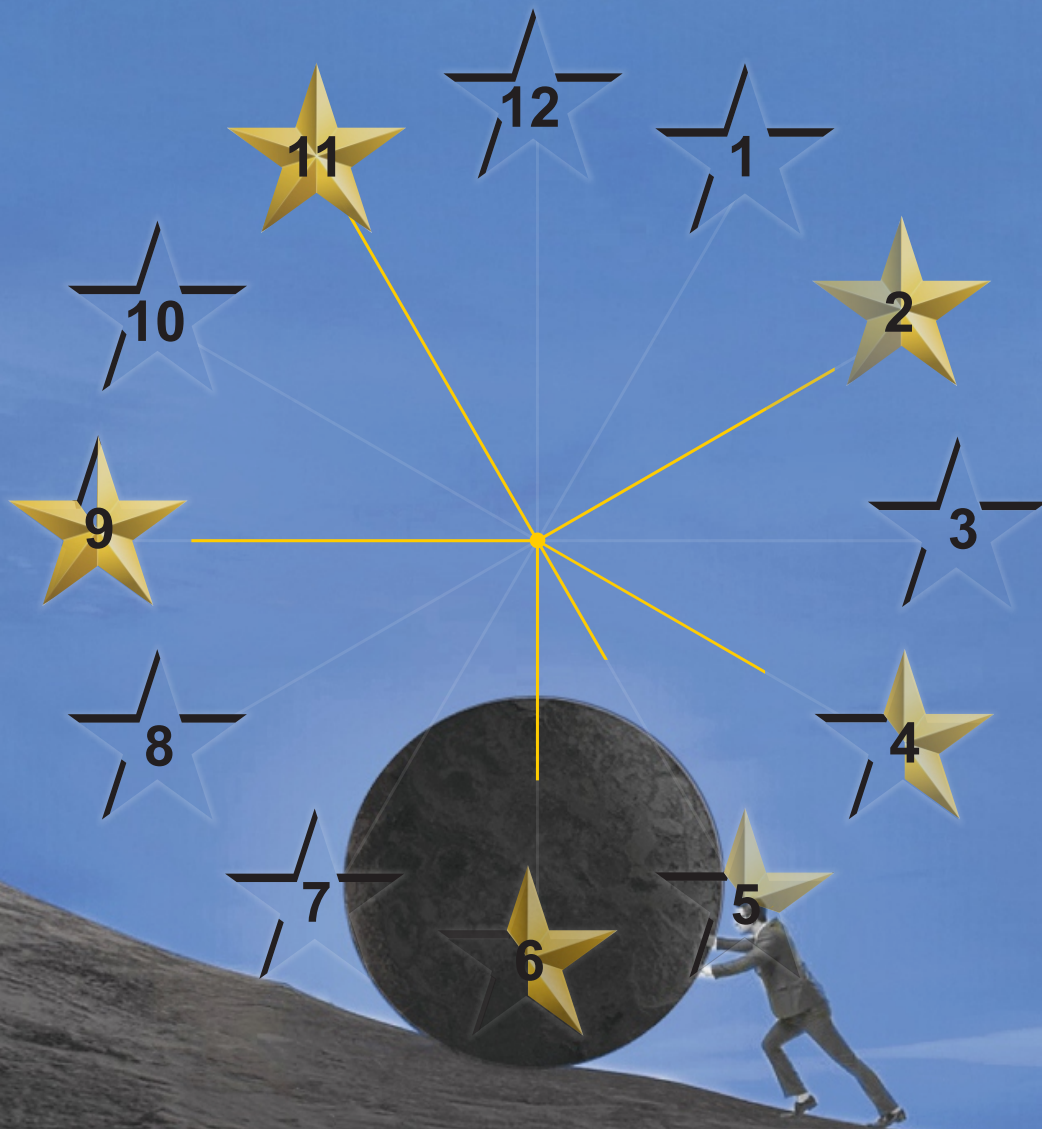


# ASSESSMENT OF THE IMPLEMENTATION OF 12 PRIORITIES OF THE EUROPEAN COMMISSION



**SUMMARY REPORT**  
**(AS OF 10 MARCH 2023)**

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## INTRODUCTION

Besides providing a general overview of the developments related to implementing the 12 priorities of the European Commission, this report also assesses the extent to which the 12-point plan presented by the governing political force is being fulfilled, and analyzes the relevancy of which the measures taken by the authorities to the EU priorities.

On June 23, 2022, the European Council approved the European Commission's 17 June 2022 decision, instructing Georgia to work on fulfilling the 12 priorities as a precondition for awarding the EU candidacy. The European Council's decision sets the minimum priorities for strengthening democratic processes in Georgia. The European Union singles out Georgia's politically polarized environment as its chief challenge.

On July 1, 2022, Georgian Dream unveiled the governing party plan – which they drafted without involving the opposition - for implementing the 12 priorities.<sup>1</sup> Georgian Dream did not consider the recommendations of public organizations either and proceeded alone in implementing its own plan.

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<sup>1</sup> civil.ge (website), *Georgian Dream submitted a plan to implement the recommendations of the European Commission*, 01.07.2022, accessible at: <https://civil.ge/ka/archives/499106>

Some in the parliamentary opposition refused to participate in the implementation of the plan proposed by the governing party, due to what they termed a “simulation of a process” and evaluating the Georgian Dream Plan as their maneuver to waste everyone’s time.<sup>2</sup> Accordingly, some members of the opposition formed alternative Working Groups. In turn, the authorities saw this action of the opposition as a non-fulfillment of the first point of the European Commission (depolarization).<sup>3</sup>

At first glance, at the beginning of the process, the governing political force was working actively, which was manifested in creating Working Groups in the Parliament of Georgia and legislative changes, however, it was also accompanied by the continued, increasingly intense anti-Western narratives.

The biggest threat to the ongoing work to implement the recommendations of the European Commission was posed by the bills started by the parliamentary majority ("On transparency of foreign influence" and "On registration of foreign agents"). These initiatives resulted in mass protests. Despite applying disproportionate force, the government was not able to quell the massive protests. The Georgian Dream was forced to drop one of the two draft laws during the second reading, and withdraw the other from the Parliament.

The content analysis and in-depth observation of the process led the Democracy Research Institute to identify several acute issues:

- **DEEPENING POLARIZATION** - the government has intensified attacks not only on the opposition but has attacked almost an entire segment of the Georgian civil society.
- **A DEMONSTRATED LACK OF UNWILLINGNESS TO CONSTRUCTIVELY COOPERATE WITH NON-GOVERNMENTAL ORGANIZATIONS.**
- **THE FORMAL NATURE OF THE DRAFT LAWS** - some of the draft laws initiated to fulfill the priorities of the European Union, do not correspond, in spirit, with the priorities of the European Commission.

Although the governing party speaks about the successful fulfillment of the conditions set by the European Commission, in the view of the Democracy Research Institute, significant efforts are still required to fulfill the 12 priorities of the European Commission.

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<sup>2</sup> netgazeti.ge (website), *what is the position of the parties on the proposed plan of Georgian Dream*, 04.07.2022, accessible at: <https://netgazeti.ge/news/619527/>

<sup>3</sup> bm.ge (website), *5 Working Groups were created in the Parliament to fulfill the 12 conditions of the European Union*, 04.08.2022, accessible at: <https://bit.ly/41Zn9qu>

## METHODOLOGY

The report covers the period from October 5, 2022, to March 10, 2023, however, depending on the importance and relevance of the respective event, it may still be included even if it occurred prior to October 5, 2022.

**DESK RESEARCH** - this report is based on the analysis of public information published on the website of the Parliament of Georgia as well as the results of media monitoring. In addition, the Democracy Research Institute reviewed the opinion published by the European Commission on Georgia's application for membership in the European Union.

**ANALYSIS OF LEGISLATION** - The Democracy Research Institute analyzed draft laws and relevant legislative acts prepared to fulfill the 12 priorities of the European Commission.

**DESCRIPTIVE STATISTICAL ANALYSIS:** The following public information from the Parliament of Georgia was requested, analyzed, and included in the report by the Democracy Research Institute:

- Relevant decisions of the parliamentary committees on the creation of Working Groups (composition of Working Groups, objectives, and terms of work)
- Copies of the meeting minutes of Working Groups created with parliamentary committees
- Names of members of Working Groups
- Draft laws and explanatory notes proposed that have resulted from the creation of the Parliamentary Working Groups.

In addition, in order to fulfill the 12 priorities of the European Commission, in relation to the points of the work plan presented by Georgian Dream, which did not include the creation of a Working Group, the Democracy Research Institute requested information on the progress and the methodology applied to implementing the recommendations.

# EVALUATION OF THE GEORGIAN DREAM'S PLAN TO IMPLEMENT THE EUROPEAN COMMISSION'S 12 PRIORITIES

## PRIORITY 1. OVERCOMING POLITICAL POLARIZATION

### RECOMMENDATION OF THE EUROPEAN COMMISSION

In the spirit of the April 19 agreement, to resolve the issue of political polarization through cooperation between political parties.<sup>4</sup>



### GEORGIAN DREAM'S PLAN

To promote depolarization, a polarization monitoring group will be created at the Parliament of Georgia. It will involve all parliamentary parties, and the representatives of civil society and international partners. The group will perform permanent monitoring and submit a weekly report to the public. Relevant recommendations will be reflected in the monitoring report. The composition and working format of the monitoring group will be specified in consultation with the parliamentary political parties and representatives of civil society. In terms of depolarization, the position of international partners and their fair and healthy attitude towards polarizing actions will be of particular importance.



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

The opinion of the European Commission on Georgia's application for membership of the European Union (hereinafter "the opinion of the European Commission," "opinion" or "document") elucidates and adds context to the content of all 12 priorities given to Georgia by the European Commission. In the document, political polarization is called out as the principal cause of the political crisis in Georgia. This is further attested by the fact that ending political polarization was named as the first recommendation out of 12 priorities of the European Commission and it was no accident.

The opinion emphasizes that not all parliamentary procedures of control and accountability function properly in the Parliament of Georgia. Chiefly, this is caused by the acute controversy between the two political parties and the polarization of the political dialogue. The opinion focuses on the April 19, 2021 agreement as a missed opportunity to reduce polarization by the Georgian political elite.<sup>5</sup>

Based on the opinion of the European Commission, it is clear that the joint work of political parties and civil society organizations via multiple thematic Working Groups could be considered as steps

<sup>4</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, 17.06.2022, Accessible at: [Georgia opinion and Annex.pdf \(europa.eu\)](#)

<sup>5</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, p. 5, 17.06.2022, Accessible at: [Georgia opinion and Annex.pdf \(europa.eu\)](#)

taken to reduce polarization. The European Commission does not focus on the creation of a special mechanism to reduce polarization.



## HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

The polarization monitoring group envisaged by the Georgian Dream Plan has not been created.

In response to our letter asking the Parliament of Georgia for information on the creation of a polarization monitoring group, the Parliament replied: *"The Chairperson of the Parliament of Georgia held a meeting with the representatives of the parliamentary opposition, where the mechanisms of reducing polarization and improving the media environment were discussed. The Chairperson of the Parliament of Georgia proposed to the meeting participants to create a Working Group that would monitor statements containing hate speech. However, the participants ignored it<sup>7</sup>. Despite this, the Department of Public Relations and Information of the Parliament of Georgia started monitoring statements containing hate speech in August of this year, which is still ongoing. The Chairperson of the Parliament of Georgia plans to hold another meeting with the representatives of the opposition and society on this subject."*

According to additional information requested from the Parliament of Georgia, the Department of Public Relations and Information of the Parliament Apparatus monitors materials in print, television media, and social networks that "go beyond the *common norms recognized for political criticism/opposition and violate the personal, non-property rights of the addressee/group of persons, contains discriminatory elements and creates/incites elements of hatred in the society.*"<sup>6</sup> The Chairperson of the Parliament of Georgia plans to meet with representatives of various political groups and civil society before the end of 2022 to get acquainted with the results of the observation.

The Democracy Research Institute does not know if the said meeting occurred. Hence, the **Georgian Dream's plan to implement the first priority was flawed and was not fulfilled.**



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

From the very start, the Georgian Dream Plan to implement the first priority of the European Commission missed the spirit and content of the recommendation of the European Commission. Instead of cooperating with the opposition on key issues to overcome political polarization, the Georgian Dream Plan envisaged the creation of a polarization monitoring group, which meant permanent observation of politicians' statements, studying them, and preparing weekly reports. If created, the activities of the monitoring group could additionally become a basis for deepening polarization and restricting freedom of speech and expression. Actually, this part of the governing party's plan was not implemented.

The Georgian Dream and some from the opposition political spectrum have not taken effective steps to overcome polarization. On July 1, 2022, when the chairperson of the Georgian Dream party presented a plan to fulfill the priorities set by the European Commission, he noted that the reduction of political polarization was "a certain basis" for the effective fulfillment of the remaining 11 points. However, instead of effective measures, the persecution of civil rights activists, media owners, members of the student movement, and opposition politicians continued in Tbilisi and the regions of Georgia.<sup>7</sup>

<sup>6</sup> Letter of the Office of the Parliament of Georgia N10628/2-7/22. 04-11-2022

<sup>7</sup> [interpressnews.ge](https://interpressnews.ge), (website), accessible at: <https://bit.ly/40arrKO>, on this issue, see the statement of the Institute for Democracy Research, 02.07.2022, accessible at: <https://www.democracyresearch.org/geo/1020/>



Political polarization remains the most important challenge in the way of fulfilling the recommendations of the European Commission: some from the parliamentary opposition did not take part in the Working Groups; The participation of civil society in the work of Working Groups was restricted;<sup>8</sup> The governing political force ignored the draft laws initiated by the opposition parties; Instead of trying to agree on consensus versions, the government<sup>9</sup> and the opposition<sup>10</sup> presented alternative plans to implement the recommendations of the European Commission.<sup>11</sup>

According to the Democracy Research Institute, the election of the non-judge members of the Supreme Council of Justice and the chairperson and members of the Central Election Commission based on consensus with the opposition would serve as another opportunity to fulfill the first priority of the European Commission. However, the polarization could not be overcome in this case as well.

The deepening of political polarization was facilitated by the decision of the Tbilisi City Court, which rejected the petition for the release/postponement of the sentence on health grounds of the former President of Georgia, Mikheil Saakashvili.<sup>12</sup> The decision was followed by a protest from the opposition parties: "Strategy Aghmashenebeli" and "United National Movement" MPs went into boycott mode and paused their parliamentary activities, although they kept their mandates.<sup>13</sup> The opposition returned to parliamentary activity during the discussion of the law "On transparency of foreign influence."

On February 8, 2023, at the opening of the 2023 Spring Session of the Parliament of Georgia, the Chairperson of the Parliament of Georgia reviewed the state of implementation of the 12 priorities of the European Commission. According to the chairperson of the parliament, the problem of Georgian politics was not polarization, but radicalization. According to Shalva Papuashvili, the only way out of the situation is "de-radicalization, i.e. recognition of democratic institutions by radical groups and rejection of radical agenda."<sup>14</sup> With this statement, the governing party completely rejected its own share of responsibility for fulfilling the first priority of the European Commission.

Although on March 7, 2023, the Parliament of Georgia elected the new Public Defender of Georgia with 96 votes, with the support of the representatives of the parliamentary opposition, considering the problematic time selected for the election of the Public Defender,<sup>15</sup> this cannot be considered a step towards reducing polarization.

**Therefore, at this stage, the first recommendation of the European Commission, which involves solving the issue of political polarization between the parties, is not fulfilled. The lack of progress in this direction is a serious obstacle to the European integration process and prevents the full implementation of other points of the European Commission.**

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<sup>8</sup> radiotavisupleba.ge (website), "Georgian Dream" is against ISFED being a member of the group working on election issues, 18.08.2022, accessible at: <https://www.radiotavisupleba.ge/a/31994261.html>

<sup>9</sup> A clear example of this is the draft law initiated by the Lelo party, which, according to the Democracy Research Institute, was the most relevant response to today's challenges in terms of corruption. Accessible at: <https://parliament.ge/legislation/22209>

<sup>10</sup> civil.ge (website), Part of the parliamentary opposition submitted a plan to implement the recommendations of the European Commission, 21.09.2022, Accessible at: <https://civil.ge/ka/archives/508822>

<sup>11</sup> civil.ge (website), Georgian Dream has submitted a plan to implement the recommendations of the European Commission, 01.07. 2022, accessible at: <https://civil.ge/ka/archives/499106>

<sup>12</sup> mtavari.tv (website), Judge Giorgi Arevadze did not postpone the sentence of Mikheil Saakashvili, 06.02.2023, accessible at: <https://mtavari.tv/news/112039-mosamartle-giorgi-arevadzem-mikheil-saakashvils>

<sup>13</sup> radiotavisupleba.ge (website), "Strategy Aghmashenebeli" ceases its parliamentary activities, 07.02.2023, accessible at: <https://www.radiotavisupleba.ge/a/32259784.html>

<sup>14</sup> parliament.ge (website), Shalva Papuashvili - Parliament of Georgia has made significant progress in implementing EU recommendations, 08.02.2023, accessible at: <https://bit.ly/4178p8D>

<sup>15</sup> The Parliament elected Levan Ioseliani as the Public Defender of Georgia with 96 votes on March 7, 2023, on the day when the so-called Discussion of the Russian draft law "On transparency of foreign influence." Accessible at: <https://parliament.ge/media/news/parlamentma-sakhalkho-damtsvelis-postze-levan-ioselianis-kandidaturas-mkhari-dauchira>

## PRIORITY 2.1.

### CIVIL SERVICE SYSTEM INDEPENDENCE AND ENSURE ITS EFFECTIVE SUPERVISION

#### RECOMMENDATION OF THE EUROPEAN COMMISSION

Guarantee the full functioning of all state institutions, strengthen their independence and effective accountability, as well as their democratic oversight functions.<sup>16</sup>



#### GEORGIAN DREAM'S PLAN

A Working Group with the participation of representatives of all parliamentary parties and the civil sector will be created at the Procedural Issues and Rules Committee of the Parliament of Georgia, which will provide a comprehensive assessment of implementing the Parliament's regulations in parliamentary supervision and will prepare a legislative initiative to correct the identified gaps. The relevant bill will be sponsored and submitted to the Parliament of Georgia no later than September 21 and will be adopted no later than November 1.<sup>17</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

Regarding the first part of the second priority, the document states that not all parliamentary procedures of control and accountability function properly in the Parliament of Georgia, chiefly attributed to the fierce conflict between the two political parties. Accordingly, accentuated the document, " More needs to be done to... improve oversight and control of the Parliament over the government and effective scrutiny of legislative developments by Parliament." In addition, the document emphasizes the need for effective oversight of law enforcement agencies.



#### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

Regarding parliamentary oversight: a Working Group under the Procedural Issues and Rules Committee of the Parliament of Georgia was established on August 2.<sup>18</sup> The group held 4 meetings in total.<sup>19</sup> The Procedural Issues and Rules Committee followed (with a slight delay) the deadlines set by it for the development and adoption of the draft law: the Working Group "Draft of the Law on Amendments to the Rules of Procedure of the Parliament of Georgia" was submitted to the Parliament on September 19. The Parliament adopted the legislative package passed the third reading on November 2, 2022, a day later than planned.

**Although the Georgian Dream's plan to ensure the independence of the civil service system and apply effective oversight did not fully comply with the spirit of the European Commission's recommendation, the Georgian Dream still proceeded and implemented its own plan.**

<sup>16</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, 17.06.2022. Accessible at: [Georgia opinion and Annex.pdf \(europa.eu\)](https://ec.europa.eu/europa/press_corner/doc/20220617_opinion_on_georgia_en.pdf)

<sup>17</sup> civil.ge (website), *Georgian Dream submitted a plan to implement the recommendations of the European Commission*, 01.07.2022, Accessible at: <https://civil.ge/ka/archives/499106>

<sup>18</sup> parliament.ge (website), *A Working Group related to the strengthening of parliamentary control mechanisms was established in the Committee on Procedural Issues and Rules*, 02.08.2022, Accessible at: <https://bit.ly/3kXPAny>

<sup>19</sup> Letter from the Office of the Parliament of Georgia, N10168/2-7/22, 28. 10. 2022.



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

The European Commission's statement cited above is mainly addressed to the Parliament of Georgia. Therefore, it can be said that the plan of Georgian Dream to create a Working Group with the Procedural Issues and Rules Committee of the Parliament of Georgia was a step towards fulfilling the recommendation of the European Commission.

Unlike almost all other Working Groups, the group under the Procedural Issues and Rules Committee of the Parliament of Georgia ensured inclusiveness. Almost all willing public and international organizations were given the opportunity to take part in the Working Group and submit their recommendations.

The Working Group took several opinions of public and international organizations into consideration, including the recommendations of the Democracy Research Institute: to reduce the time allotted for answering a question sent by a member of parliament from 15 to 10 days, and in case of failure of mandatory appearance of officials at the parliamentary hearing, to allow the Committee on Procedural Issues and Rules to investigate such failures and equip them with response mechanisms, as well as the recommendation to mandate the Head of the State Security Service to be physically present in the Parliament when presenting the Agency's annual report.

In addition, several changes were made to the Parliament's regulations, which, if properly implemented in practice, will help strengthen parliamentary oversight. In particular: the possibility of using the interpellation mechanism has increased; Before the announcement in the Parliament in the format of "Minister's Hour," the Minister is now mandated to submit a written report 5 days prior to the scheduled appearance; The Chairperson of the Committee now must send the Committee's or the Faction's summon for the session to the relevant accountable official within three days at the latest; The obligation to post the information about the request to attend the Committee session and the letter sent by the Committee Chairperson to the relevant official and the publishing the corresponding audio recording of the session on the website of the Parliament of Georgia was also instituted; The term of the thematic research was defined as 3 months, with the possibility of extension for a maximum period of 2 months, etc.

Nevertheless, the Working Group did not review the proposals of civil society organizations related to the strengthening of the oversight of the security sector, on the grounds that the Working Group created under the Defense and Security Committee of the Parliament would work on these issues. However, the Working Group created under the Defense and Security Committee did not work to strengthen the oversight of law enforcement agencies. Consequently, numerous issues remain to be fulfilled to strengthen parliamentary oversight. Among them: granting more mechanisms of parliamentary oversight to the parliamentary opposition (today, implementing the oversight mechanisms depends on the consent of the Parliamentary Majority); regulating the issues related to the recruitment and accountability of the Trust Group; On the part of the responsible official, implementing measures of responsibility for non-fulfillment of the requirements stipulated by the regulations, etc.

**According to the assessment of the Democracy Research Institute, despite the positive changes, there are still several shortcomings in terms of parliamentary oversight; without correcting them, it would be difficult to speak about improved parliamentary oversight and the full implementation of this priority of the European Commission.**

**IMPROVEMENT OF THE ELECTORAL LEGISLATIVE FRAMEWORK****RECOMMENDATION OF THE EUROPEAN COMMISSION**

To further improve the electoral legislative framework, to eliminate all the deficiencies identified by the OSCE/ODIHR and the Council of Europe/Venice Commission during these processes.<sup>20</sup>

**GEORGIAN DREAM'S PLAN**

A Working Group for the revision of the election code will be created at the Legal Issues Committee of the Parliament of Georgia, which will be represented by parliamentarians from all parliamentary political parties, as well as representatives of the Central Election Commission, the State Audit Service and the civil sector. Amendments to the Election Code of Georgia will be prepared, in which the recommendations of the OSCE-ODIHR and the Venice Commission will be properly reflected. The relevant bill will be submitted to the Parliament of Georgia through initiative no later than September 21 and will be adopted by the Parliament no later than December 13. Before passing the second reading, the draft law will be sent to the Venice Commission and the OSCE-ODIHR for a conclusion.

**THE EUROPEAN COMMISSION'S OPINION ON THE EUROPEAN UNION MEMBERSHIP APPLICATION BY GEORGIA**

According to the document of the European Commission, the electoral framework complies with international standards. With the 2020 constitutional amendments, the 2020 parliamentary elections were held with a mixed system (120 proportional and 30 majoritarian mandates in the parliament, with a 1% threshold). It speaks positively of the promise that the 2024 elections will be held with a proportional system. However, special emphasis is placed on the April 19 agreement and the importance of its implementation.

The document accentuates the problematic nature of pressuring voters, bribing them, the problematic nature of financing election campaigns and political parties, the need to fight against the abuse of administrative resources, and the faulty system of election dispute resolutions. The main recommendations of the European Commission in this field are:

- The agreement of April 19 should be fulfilled.
- Full implementation of the recommendations issued by OSCE-ODIHR in 2020 and 2021.<sup>21</sup>

**HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN**

The first working meeting of the Election Code Revision Working Group was held on August 18.<sup>22</sup> After 3 working meetings, relevant draft laws were initiated in the Parliament of Georgia. The governing party did not implement the part of its plan to include the non-governmental sector in the Working Group and refused to allow the "Fair Elections" (ISFED) into the Working Group at all. Most of the non-governmental organizations saw this as discriminatory and left Working Groups in protest. Consequently, the electoral reform implementation process was non-inclusive.

<sup>20</sup> ec.europa.eu (website), *Opinion on the EU membership application by Georgia*, 17.06.2022, accessible at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>21</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, 17.06.2022, p. 5, accessible at: [Georgia opinion and Annex.pdf \(europa.eu\)](#)

<sup>22</sup> parliament.ge (website), 18.08.2022, accessible at: <https://bit.ly/3icXt8g>

The draft law prepared by the committee was sponsored on September 21, 2022, in the Parliament of Georgia. On December 6, 2022, based on the joint opinions of the Venice Commission and the OSCE Office of Democratic Institutions and Human Rights, the drafts were amended. In the end, the Parliament adopted the legislative amendments passed the third reading on December 22.

**Regarding the timelines of the work process, the governing party fulfilled its plan almost completely - it slightly violated the deadline for the final adoption of the draft law (according to the plan, the draft law was to be adopted no later than December 13). However, the section of the plan on including the civil sector representatives, was not fulfilled.**



### **THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION**

The main recommendation of the European Commission, when implementing any priority, is the inclusiveness of the process. The work of the Working Group on election issues did not satisfy this prerequisite.

The members of the Working Group on election issues created under the Legal Issues Committee were the representatives of the Georgian Dream, "European Socialists," "Girchi," "Citizens" and the party "For Georgia."<sup>23</sup> Besides the fact that "United National Movement," political group "Lelo - Partnership for Georgia" and "Reforms Group" did not take part in the Working Group, the government itself blocked the public organization "Fair Elections" (ISFED) with ample experience of election issues. After this decision, most non-governmental organizations stopped working in Working Groups.<sup>24</sup> Consequently, the work of the Working Group on election issues was less representative.

Charles Michel's April 19 agreement provided for the lowering of the electoral threshold to 2% in the parliamentary elections. The legislative initiative was sponsored by the governing party on June 29, 2021, shortly after signing the agreement. The draft constitutional law was adopted by the Parliament with one reading, but after that, the process was stalled. On August 24, 2022, the Chairperson of the Georgian Dream said: "If we see that the radical opposition wants to reduce polarization, our interest in lowering the electoral threshold will increase." In this field, there was no progress in the process.<sup>25</sup>

The governing party initiated the prepared draft law in the parliament on September 21, 2022.<sup>26</sup> The main change of the draft law was related to electronic elections (at least 70%). The Chairperson of the Parliament of Georgia forwarded the draft law to the Venice Commission and the Office of Democratic Institutions and Human Rights of the OSCE and asked them for a joint opinion. The draft joint opinion of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights is dated December 2, 2022.<sup>27</sup> Based on the opinion, the Parliament of Georgia amended the draft law and adopted it passed the third reading on December 22, 2022. The Central Election Commission has approved precincts where approximately 90% of voters will vote electronically.

There are supporters of electronic elections in the opposition (for example, "Citizens" and "Girchi"). However, some of them consider this change incomplete and state that electronic elections should be

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<sup>23</sup> parliament.ge (website), *Givi Mikanadze: the goal of the electoral code revision Working Group is to revise the election code of Georgia based on the recommendations of the OSCE/ODIHR and the Venice Commission*, 18.08.2022, accessible at: <https://bit.ly/40cvjel>

<sup>24</sup> democracyresearch.org (website), *the governing party should ensure the involvement of ISFED in the Working Group working on electoral issues*, 20.08.2022, accessible at: <https://www.democracyresearch.org/geo/1058/>

<sup>25</sup> 1 tv.ge ( website ), *Irakli Kobakhidze - if we see that the radical opposition wants to reduce the degree of polarization, our interest in lowering the electoral threshold will increase*, 24.08.22, accessible at: <https://bit.ly/3n4JgvK>

<sup>26</sup> parliament.ge (website), Draft Law of Georgia "On Amendments to the Organic Law of Georgia "Election Code of Georgia," 21.09.2022, accessible at: <https://parliament.ge/legislation/24699>

<sup>27</sup> parliament.ge (website), Draft Joint Opinion of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights, 06.12.2022, accessible at: <https://bit.ly/3S9T3w4>

held in all election precincts because if this rule is implemented only in 70% of the precincts, there is a danger that the governing party will select the locations of its own choosing.<sup>28</sup>

Regarding the draft law prepared by the governing party, the joint recommendations of the OSCE/ODIHR and the Venice Commission addressed the following issues:

- Develop a regulation for the application of new voting technologies consistent with international best practices and understandable to voters.
- Establishing clear and comprehensive criteria for recounting election results.
- The legal criteria define at which polling stations electronic means will be used.
- At least for the transition period, maintaining the maximum number of voters for precincts where electronic means will be used.
- Maintaining conventional means (such as the use of a control sheet in the ballot box and the marking of the voter who used the ballot) to build public confidence in new voting technologies.

In the document, special attention is focused on the appeal procedure. The opinion states that it is important to revise the complaint and appeals submissions and review deadlines under Article 77(2) of the Election Code in accordance with international standards.

The December 2022 election changes have been evaluated by several, elections focused civil society organizations. Despite the positive assessment of the reform, the organizations spoke about a number of problematic records, including the too broad authority of the CEC and the regulation, which prohibits members of the commission appointed by the parties from performing the function of voter registrar at the polling station.<sup>29</sup> Once again, they called on the Georgian authorities that it is necessary to:

- During the election reform, the findings of the Venice Commission and the OSCE/ODIHR written on separate draft laws, as well as the recommendations presented by the election observation missions at different times, should be considered as much as possible.
- The regulations stipulated by the political agreement of April 19, 2021, should be restored.
- The unjust rule of confiscation of budgetary funding for a political party, which may result from certain actions of its members in the parliament, etc., should be abolished.

The Chairperson of the Parliament of Georgia stated that "with broad multi-party participation and almost complete consensus, the Parliament adopted the draft of amendments to the Election Code. . . . Based on the amendment adopted by the Parliament recently, the CEC approved the polling stations where the 2024 parliamentary elections will be held using electronic counters. As a result, 90% of the voters will vote in such precincts, which is a decision of historical importance."<sup>30</sup>

The Democracy Research Institute welcomes the conduct of elections by electronic means. However, the vague nature of the law may give the governing party unwanted room for maneuver. In particular, it is unclear what criteria the CEC used to select the election precincts; How should voters be registered at polling stations (in this section, the legislation gives the Central Election Commission broad and virtually uncontrollable powers). It is unfortunate that the governing party did not consider several recommendations of the OSCE/ODIHR and the Venice Commission (for example, regarding the rule of appeal, the rule of assigning the maximum number of voters at the polling stations, and other issues) and, in fact, ignored the Charles Michel agreement, which meant to reduce the electoral threshold to 2%. **In addition, it is noteworthy that the adopted changes did not regulate the issues of voter bribing and intimidation. In addition, gaps remained in terms of prevention of abuse of administrative resources, including abuse of office powers. Until now, the Parliament has not ensured the consensus-based election of the CEC chairperson and professional members.**

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<sup>28</sup> civil.ge (website), *The opposition Responded to the governing party's initiative on electronic elections*, 13.09.2022, accessible at: <https://civil.ge/ka/archives/508059>

<sup>29</sup> isfed.ge (website), *Evaluation of changes made in the electoral legislation*, 31.01.2023, accessible at: <https://bit.ly/3KmzSx4>

<sup>30</sup> parliament.ge (website), *Shalva Papuashvili - Parliament of Georgia has made significant progress in implementing EU recommendations*, 08.02.2023, accessible at: <https://bit.ly/4178p8D>

## PRIORITY 3. 1. JUSTICE REFORM

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Adopt and implement a transparent and effective judicial reform strategy and action plan post-2021 based on a broad, inclusive, and cross-party consultation process

Ensure a judiciary that is fully and truly independent, accountable, and impartial along the entire judicial institutional chain, also safeguard the separation of powers; notably, ensure the proper functioning and integrity of all judicial and prosecutorial institutions, in particular, the Supreme Court and address any shortcomings identified including the nomination of judges at all levels and of the Prosecutor-General.

Undertake a thorough reform of the High Council of Justice and appoint the High Council's remaining members. All these measures need to be fully in line with European standards and the recommendations of the Venice Commission.<sup>31</sup>



### GEORGIAN DREAM'S PLAN

In the coming days, the judicial reform Working Group created under the Legal Issues Committee of the Parliament of Georgia will actively resume its work and, based on an in-depth analysis of the current situation in the judicial system, will prepare a judicial reform strategy and action plan, as well as a package of relevant bills. The judicial reform strategy and action plan will be prepared and published by October 1<sup>st</sup>, based on which legislative amendments will be prepared and submitted to the Parliament of Georgia by November 1<sup>st</sup>. As soon as the draft law is initiated, it will be sent to the Venice Commission and OSCE-ODIHR for a conclusion. The consideration of the draft law in the parliament will begin as soon as the findings from the Venice Commission and the OSCE-ODIHR are received.

The Parliament of Georgia will announce the competition for the selection of non-judge members of the Supreme Council of Justice no later than September 30, and the voting for the election of members of the Council will be held no later than November 15.



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

According to the opinion of the European Commission prepared on Georgia's application for membership in the European Union,<sup>32</sup> within the framework of the four-wave reform implemented in recent years, the legal framework related to the functioning of the court and the capabilities of the Georgian judicial system have been improved. According to the document according to the constitutional and legal framework, the independence of the courts and specific guarantees of the independence of judges is ensured; There is a system for verifying property declarations of judges, but there are steps to be taken in the terms of their enforcement and practical implementation.

<sup>31</sup> ec.europa.eu (website), 17.06.22, *Opinion on the EU membership application by Georgia*, 17.06.2022, Accessible at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800)

<sup>32</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, Brussels, p. 8, 17.06.2022, available at <https://bit.ly/3Zllla5>

Nevertheless, the opinion points it out that at the given stage, the progress regarding the reformation of justice has been halted and some setbacks are also observed. Public perception of judicial independence has deteriorated and Georgia has yet to adopt a strategic framework for justice reform beyond 2020.

The European Commission pays special attention to issues related to the need to reform the Supreme Council of Justice. In particular, according to the document, it is a priority to substantially reform the Supreme Council of Justice, considering the recommendations of the Venice Commission and the OSCE/ODIHR, in order to increase the transparency, integrity and accountability of the Council's activities.

In the section on existing challenges, the European Commission emphasizes that

- Contrary to the requirement of the law, 5 non-judge members of the Supreme Council of Justice have not been elected so far.
- The quality of justification of the decisions of the Supreme Council of Justice needs to be improved.
- Measures should be taken to reduce exceptions to the electronic case allocation rule to avoid interfering with the allocation of high-profile cases.
- The legislation regarding the appointment of Supreme Court justices should be improved, considering the recommendations of the Venice Commission and the OSCE/ODIHR.
- The number of judges does not correspond to the European standard for determining the number of judges based on the population (9 judges/100,000 people).

In addition, the opinion states that the legislation does not fully ensure the full availability of reasoned court decisions in compliance with the data protection rules.



## HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

The governing party has slightly violated its own plan regarding the deadlines - "The Draft Law on Common Courts" in the Parliament of Georgia in 2022 was registered on November 9. However, the part of the plan, according to which the Parliament of Georgia had to elect 5 non-judge members of the Supreme Council of Justice by November 15, 2022, was not fulfilled.

In December 2022, a competition was held in the Parliament to elect non-judge members of the Supreme Council of Justice. Despite the absence of a legal obligation, an open interview was held with the candidates in the Legal Issues Committee, thus the Parliament repeated its established good practice of conducting the process transparently. 32 candidates took part in the competition. However, the consultations of the majority and the opposition regarding the selection ended in vain. According to the leader of the majority, the negotiation between the majority and the opposition could not occur, due to which the discussion of the issue was postponed for the next session.<sup>33</sup>

Therefore, despite the prerequisite set by the European Commission, **the Supreme Council of Justice continues its activities with an incomplete composition.**

The Speaker of the Parliament confirmed the lack of progress regarding the appointment of the Supreme Council of Justice members: "Unfortunately, the issue of electing 5 non-judge members of the Supreme Council of Justice remains open. Although the committee hearing of 31 candidates was

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<sup>33</sup> radiotavisupleba.ge (website), *The voting of candidates for non-judge membership of the Council of Justice will be formal*, 21.12.2022, accessible at: <https://www.radiotavisupleba.ge/a/32187697.html>



held in the Parliament, the political parties could not agree on a compromise candidate. The dialogue on this issue will continue again in the Spring Session of 2023."<sup>34</sup>

**The development of the draft law and strategy document by the Working Group under the Legal Issues Committee of the Parliament is formally in line with the plan presented by Georgian Dream, however, in terms of content, it does not meet the recommendation of the European Commission, which leaves the impression that Georgian Dream had no interest in fulfilling the recommendation of the European Commission. Also, although the process was formally inclusive, the governing party did not allow the involvement of interested civil society organizations in the Working Group.**



### **THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION**

Georgian Dream has not presented a concrete plan on the issues of reforming the courts. Implementing the recommendations in this direction was fully entrusted to the Legal Issues Committee of the Parliament and the Working Group created under it.

On August 4, 2022, a judicial reform Working Group comprising 21 members was established under the Legal Issues Committee to work on judicial reforms. Seven public organizations expressed their desire to join the Working Group, but not all applicants were given the opportunity to join the group. The Committee on Legal Issues allowed only two organizations - the Georgian Young Lawyers Association and the Social Justice Center - into the Working Group.

On October 3, 2022, the Legal Issues Committee<sup>35</sup> presented the judicial reform strategy and action plan, which, according to Anri Okhanashvili, was prepared in the Working Group.<sup>36</sup> **The document is a point-by-point list and does not consider the content, deadlines, responsible persons, or monitoring mechanisms of the measures to be performed under the action plan, which is not only a problem related to the structure of the document but also makes it impossible to determine its specific content and evaluate its effectiveness.** The document envisages the expansion of the jury institute, taking the pressure off of the courts through the strengthening of alternative dispute resolution mechanisms, the strengthening of social security guarantees for judges, the improvement of services, etc. These are positive steps but **do not respond to the EU's recommendation to ensure the independence of the entire chain of justice and a large-scale reform of the Council of Justice. The document says nothing about this.**

The draft law prepared by the Legal Issues Committee improves the transparency standard of appointing judges of the lower instance courts, however, it does not at all respond to the important recommendations presented in the OSCE/ODIHR report, which the recommendations of the European Commission directly<sup>37</sup> mandate the state to take into consideration.

The changes to be implemented in the Law "On Common Courts" provide for **the rule of publishing the text of the decisions of the common courts** - it is this rule stipulated by the Charles Michel Agreement, which partially complies with the requirements of the Constitutional Court decision as well. The draft law provides an opportunity to preserve the balance between the publicity of the

<sup>34</sup> parliament.ge (website), Shalva Papuashvili - Parliament of Georgia has made significant progress in implementing EU recommendations, 08.02.2023, accessible at: <https://bit.ly/4178p8D>

<sup>35</sup> parliament.ge (website), accessible at: <https://bit.ly/3k0MbnQ>

<sup>36</sup> radiotavisupleba.ge (website), Okhanashvili presented the strategy and action plan for judicial reform, October 3, 2022, accessible at: <https://bit.ly/3HqkCMu>

<sup>37</sup> osce.org (website), Fourth Report on the Nomination and Appointment of Supreme Court Judges in Georgia, 2021, August, accessible at: <https://www.osce.org/files/f/documents/3/4/496273.pdf>

decision and the personal data when issuing judicial acts in accordance with the standard and definitions established by the Constitutional Court. However, the draft law does not satisfy the decision of the Constitutional Court, to introduce a flexible mechanism that will facilitate timely public access to judicial acts.<sup>38</sup> The proposed regulation unjustifiably limits the court's decision-making for a long time. For example, it is not allowed to issue a depersonalized text of the judicial act until May 1, 2025. The decision itself, which resolves the issue of disclosure as public information, enters into force after 1 year, which leaves the issue of availability of the full text of the decision unclear.

The draft law provides for the solution of the issue of depersonalization of the text when delivering the final judgment and considers it permissible to issue only legally binding decisions in the form of public information. This record limits timely access to interim decisions (subpoenas, search, seizure, injunction, etc.).

Under the plan presented by Georgian Dream, after one hearing, the draft law (package) prepared by the Working Group was sent to the Venice Commission and the Office of Democratic Institutions and Human Rights of the OSCE for evaluation.<sup>39</sup>

**Considering that the judicial reform strategy and action plan, as well as the legislative amendments adopted by the Parliament in one reading, do not respond to the EU recommendation on ensuring the independence of the entire chain of justice and the large-scale reform of the Council of Justice, the above recommendation cannot be considered fulfilled.**

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<sup>38</sup> Decision of the Constitutional Court No. 1/4/693,857, June 7, 2019, paragraph § 67

<sup>39</sup> parliament.ge (website), *the Parliament sent draft laws prepared within the framework of justice reform to the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights for a joint legal opinion*, 22.11.2022, accessible at: <https://bit.ly/3YJc4rF>

## PRIORITY 3.2.

### NOMINATING THE PROSECUTOR-GENERAL

#### RECOMMENDATION OF THE EUROPEAN COMMISSION

Address all shortcomings identified, including... the nomination of the Prosecutor General.<sup>40</sup>



#### GEORGIAN DREAM'S PLAN

The draft constitutional law on the procedure for electing the Prosecutor-General will be initiated in the Parliament of Georgia by September 1, and it will be adopted by the Parliament no later than November 29.<sup>41</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

As part of the reform of the justice system, the 3<sup>rd</sup> recommendation of the European Commission includes a change in the procedure for electing the Prosecutor-General. In relation to this issue, the European Commission emphasized unambiguously,<sup>42</sup> that within the framework of the Association Agenda of Georgia, the Parliament has undertaken to elect the Prosecutor-General with a qualified majority. Accordingly, in the opinion of the European Commission, this rule of the election of the Prosecutor-General further ensures the independence of the Prosecutor's Office.



#### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

Georgian Dream developed a constitutional draft law,<sup>43</sup> according to which the support of a qualified (3/5 of the full composition of the Parliament) majority is needed to elect the Prosecutor-General. According to the website of the Parliament of Georgia, the bill was submitted to the Parliament on September 5, 2022 (4 days later than the deadline set by Georgian Dream in its own plan). The parliamentary majority and the opposition changed the procedure for electing the Prosecutor-General in the first reading, jointly on October 18, 2022. But despite the plan of Georgian Dream, the procedure for electing the Prosecutor-General, set to be changed by November 29, 2022, was halted.

The rule adopted by the Parliament in the first reading will apply only to electing the Prosecutor-General by the Parliament of the next two convocations. The amendment also provided for a solution if no candidate could get the support of 3/5 of the full body. Should the Parliament cannot elect the Prosecutor-General twice with a three-fifths majority of the full composition, the Parliament elects

<sup>40</sup> ec.europa.eu (website), *Opinion on the EU membership application by Georgia*, 17.06.2022, accessible at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800)

<sup>41</sup> civil.ge (website), *the Georgian dream presented plan for fulfilling the recommendations of the European Commission*, 01.07.2022, accessible at: <https://civil.ge/ka/archives/499106>

<sup>42</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, 17.06.2022, accessible at: <https://bit.ly/3lR9HnT>

<sup>43</sup> parliament.ge (website), *On Amending the Constitution of Georgia – the Constitutional Law of Georgia "On Amending the Constitution of Georgia,"* 08.10.2022, accessible at: <https://web-api.parliament.ge/storage/files/8/08.10.2022.pdf>

the Prosecutor-General with a majority of the full composition. The term of office of the General-Prosecutor elected by the majority of the full composition will be one year.

**Thus, the governing party's plan to change the procedure for electing the Prosecutor-General has not yet been implemented.**



### **THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION**

The draft constitutional law developed under the plan of the Georgian Dream is in line with the recommendation of the European Commission, although the explanatory note of draft<sup>44</sup> includes criticism of the new rule for electing the Prosecutor-General. In the explanatory note, the sponsors emphasize that the qualified election of officials by the Parliament is rarely found in European legislation, and specifically for the election of the Prosecutor-General, a similar rule is observed only in Hungary. In the explanatory card, it is indicated that Georgian Dream was opposed to such a change in the procedure for electing the Prosecutor-General for this very reason, and although it did not hear proper arguments from the opposition for the necessity of these changes, it still proposes the draft of the constitutional law. In the explanation card, the draft is explained by the fact that the requirement of a qualified majority for the election of the Prosecutor-General by the Parliament of Georgia was first reflected in the "EU-Georgia Association Agenda for 2021-2027" as one of the obligations to be fulfilled by Georgia, and then in the decision of the European Council of June 23, 2022, as one of the conditions for granting membership candidacy to Georgia.

Thus, according to Georgian Dream, it supported a legally unacceptable legislative change to get the candidate status for the EU membership. Criticism of the change in the procedure for electing the Prosecutor-General continued even later when Georgian Dream started considering amending the draft constitutional law for the second reading.<sup>45</sup>

**Therefore, at this stage, it is difficult to say that the Georgian Dream is finally consenting to the initiative approved passed the first reading. However, the current version of the draft constitutional law complies with the European Commission's recommendation.**

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<sup>44</sup> *ibid.*

<sup>45</sup> radiotavisupleba.ge (website), *Is the European Union forcing us to do "bad things" or is it necessary? - What does the new rule for electing the Prosecutor General change*, 20.10.2022, accessible at: <https://www.radiotavisupleba.ge/a/32091966.html>

## PRIORITY 4.1. ANTI-CORRUPTION REFORM

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Strengthen the independence of the anti-corruption entity, which will integrate all key anti-corruption functions, and will especially handle high-level corruption cases thoroughly.<sup>46</sup>



### GEORGIAN DREAM'S PLAN

Creation of a Working Group under the Legal Issues Committee of the Parliament of Georgia, in order to prepare the concept of consolidation of anti-corruption functions. Ensuring the participation of the Members of Parliament from all parliamentary parties, as well as representatives of government administration, Prosecutor's office, State Security Service, and civil society in the Working Group. The draft law will be submitted to the Parliament no later than October 19, and the Parliament shall adopt it by December 1.



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

In the opinion of the European Commission on Georgia's application for membership of the European Union, the anti-corruption reforms performed in Georgia are positively assessed, however, the problem of the absence of an anti-corruption agency that would independently study cases of conflict of interest, verify declared income, audit the expenses of political parties and ensure the protection of whistleblowers is highlighted.

The European Commission is of the view that to effectively deal with corruption, it is necessary to:

- Expand the scope of the law related to the submission of property declarations of officials.
- Monitoring the fulfillment of the obligation to submit property declarations should be improved.
- The whistleblower protection mechanism should be strengthened.
- Strengthen the administrative capacity for party financing and control of finances related to the election campaign.

The evaluation document of the European Commission emphasizes the problematic nature of the Anti-Corruption Agency of the State Security Service and the absence of a new national anti-corruption policy and action plan for 2021-2022, which is negatively affected by the fact that the National Anti-corruption Council has not met since 2019.

The European Commission notes at the end of the definition of the recommendation on the fight against corruption that the state should do more to fight high-level corruption.<sup>47</sup>

<sup>46</sup> ec.europa.eu (website), *Opinion on the EU membership application by Georgia*, 17.06.2022, Accessible at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800)

<sup>47</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, 17.06.2022, p. 8, accessible at: <https://bit.ly/3lR9HnT>



## HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

Under the plan, the Working Group created under the Legal Issues Committee of the Parliament of Georgia to consolidate anti-corruption functions<sup>48</sup> held its first session on August 9, 2022.<sup>49</sup> In accordance with the plan, representatives of the State Security Service and the Prosecutor's Office were invited as part of the Working Group. The Parliament of Georgia allowed the Georgian National Platform of the Eastern Partnership Civil Society Forum to nominate only two civil society organizations. Therefore, despite its desire, the Democracy Research Institute could not join the group.<sup>50</sup>

According to the information received from the Parliament of Georgia, the Working Group held 2 sessions.<sup>51</sup> The draft law prepared at the workshops was registered by the Legal Issues Committee on October 26, instead of October 19. The draft amendments were adopted by the Parliament passed the third reading on November 30, 2022.

**Accordingly, the governing party formally fulfilled its plan, however, it did not allow the participation of all interested civil society organizations in the work process.**



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

Under the plan of Georgian Dream, the draft law initially initiated by the Working Group created under the Legal Issues Committee did not even formally address the issue of property declarations of officials, protection of whistleblowers, and strengthening of administrative capabilities for monitoring party financing and election campaign finances. The initiative also did not consider giving the Anti-Corruption Bureau an investigative mandate, which was the main goal of the European Commission's recommendation.

To support the creation of an independent Anti-Corruption Agency (which would bring together all key anti-corruption functions and be a specialized investigative institute responsible for the fight against corruption), the Democracy Research Institute presented recommendations to parliamentary factions and committees.<sup>52</sup> It should be considered an achievement of the non-governmental sector that the Legal Issues Committee took into consideration part of their recommendations during the second reading of the draft law.<sup>53</sup>

The amendments implemented by the Parliament in the Law "On Conflict of Interests and Corruption in Public Institutions," besides defining the general policy of combating corruption, provide for transferring the following functions to the Bureau: monitoring of the declaration of the property status of an official, whistleblower protection measures, financial monitoring - of political associations of citizens (political parties), of an electoral subject and of a person with electoral goals - under the law.

<sup>48</sup> Letter of the Parliament of Georgia N 10196/2-7/22 , 28.10. 2022

<sup>49</sup> parliament.ge (website), 09.98.2022, available at <https://parliament.ge/media/news/antikoruftsili-ghonisdziebebis-samushao-jgufma-gafartoebul-formatshi-pirveli-skhdoma-gamarta>, 09.98.2022

<sup>50</sup> Letter of the Parliament of Georgia 2-12264/22, 18.08.2022, Decision of the Legal Issues Committee on the establishment of the committee's Working Group

<sup>51</sup> ibid.

<sup>52</sup> democracyresearch.org (website), *Amendments to Georgia's law on corruption do not meet the requirements of the EU 12-point plan*, 17.11.2022, <https://www.democracyresearch.org/geo/1083/>, 17.11.2022

<sup>53</sup> parliament.ge (website), Draft Law "On Amendments to the Law of Georgia on Conflict of Interest and Corruption in Public Institutions," available at: <https://parliament.ge/legislation/24960>

Despite amendments, several challenges remain, and neglecting them endangers the implementation of the 4<sup>th</sup> recommendation of the European Commission. Among these:

### ***Insufficient Independence Guarantees***

According to the recommendations and established standards of international organizations, the anti-corruption agency should be independent, apolitical, and have high accountability, transparency, and openness.<sup>54</sup> The newly created Bureau is institutionally and functionally dependent on the government. A specially formed competition commission (the composition of which is approved by the head of the government of Georgia)<sup>55</sup> will present no less than 2 and no more than 5 candidates to the Prime Minister of Georgia. The Prime Minister of Georgia makes the final decision on the appointment of the Head of the Bureau.

### ***Limited Mandate***

In its assessment, the European Commission speaks about the high rate of elite corruption and the inefficient investigative system instituted in the country. Since the newly created Anti-Corruption Bureau will not have an investigative mandate, the problems related to the investigation of high-level corruption is not resolved.

### ***Weakness and Ambiguity of Oversight***

According to the change in the law, the Anti-Corruption Bureau is accountable to the government and the Inter-Agency Anti-Corruption Council.<sup>56</sup> Equipping the Inter-Agency Anti-Corruption Council with a supervisory function, when this body has only formally existed for years, will be ineffective.

According to order N289 of the Prime Minister of Georgia dated December 22, 2022, a competition commission was created to select a candidate for the lead of the Anti-Corruption Bureau, and the composition of the competition commission was determined by order N304 dated December 30, 2022.<sup>57</sup> The commission presented 3 out of 8 candidates to the Prime Minister of Georgia for leading the newly created agency - Zurab Aznaurashvili, Razden Kuprashvili, and Elguja Makalatia. The Prime Minister chose the former director of the State Legal Aid Service, Rajden Kuprashvili.<sup>58</sup>

In a statement of February 8, the Chairperson of the Parliament of Georgia positively assessed the implementation of the 4<sup>th</sup> recommendation: "We have created an Anti-Corruption Bureau, the main task of which will be to strengthen the fight against and prevent corruption. At the same time, in contrast to the original draft, the functions of the Bureau were significantly expanded with the active involvement of the opposition."

**According to the Democracy Research Institute, the Working Group on Anti-Corruption Measures created under the Legal Issues Committee did not make adequate efforts (few meetings, lack of political will) to implement the recommendation of the European Commission. Despite taking into consideration some comments of the non-governmental organizations (improving the protection of whistleblowers, checking the property declarations of officials, monitoring the financing of political parties) after the first reading in the Parliament of Georgia, the European Commission's recommendation on an anti-corruption agency, which would combine all key anti-corruption functions, especially, carefully solve high-level corruption cases - cannot be considered fully completed at this stage.**

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<sup>54</sup> For example, OECD (2022), *Anti-Corruption Reforms in Georgia: Pilot 5th Round of Monitoring under the OECD Istanbul Anti-Corruption Action Plan*, 03.08.2022, available at: <https://doi.org/10.1787/d709c349-en>,

<sup>55</sup> "On Conflict of Interests and Corruption in a Public Institution, Law of Georgia, Article 20<sup>16</sup> Paragraph 4, accessible at: <https://parliament.ge/legislation/24960>, 26.10.2022

<sup>56</sup> *ibid.* Article 20<sup>22</sup>

<sup>57</sup> *interpressnews.ge* (website), *The competition for selecting the head of the anti-corruption bureau will be announced tomorrow*, 10.01.2023, accessible at: <https://bit.ly/3YYpdN8>

<sup>58</sup> *interpressnews.ge* (website), *Anti-corruption bureau will be headed by Razden Kuprashvili*, 10.02.2023, accessible at: <https://www.radiotavisupleba.ge/a/32265167.html>

## PRIORITY 4.2.

# THE SPECIAL INVESTIGATIVE SERVICE AND STRENGTHENING THE PERSONAL DATA PROTECTION SERVICE

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Equip the new Special Investigative Service and Personal Data Protection Service with resources commensurate to their mandates and ensure their institutional independence.<sup>59</sup>



### GEORGIAN DREAM'S PLAN

The Working Group working on anti-corruption measures established under the Legal Issues Committee of the Parliament of Georgia will also prepare proposals to ensure that the Special Investigative Service and the Personal Data Protection Service are further strengthened. The deadline for submission of the draft law to the Parliament is no later than October 19, and it will be accepted by the Parliament by 1 December.



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

In contrast to the fight against corruption, in the document of the European Commission, the priority of strengthening the Special Investigation Service and the Personal Data Protection Service is given more space and is of a more general nature. According to the document, control of personal data processing and supervision of the special investigative service should be strengthened, as well as their independence and equipping them with appropriate resources.<sup>60</sup>



### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

Part of the agenda of the Working Group on Anti-Corruption Reforms created under the Legal Issues Committee of the Parliament was the implementation of recommendations regarding the strengthening of the Special Investigation Service and the Personal Data Protection Service. The draft law, according to the plan presented by the governing political force, was initiated on October 19, 2022. The projects were passed by the third reading on November 30, 2022.

Law of Georgia "On the Special Investigation Service," increased the investigation mandate of the Service and its mandate was broadened to include the crimes provided for in Articles 153-159 of the Criminal Code (infringement of freedom of speech; illegal obstruction of a journalist's professional activity; unlawful obstruction religious rituals; persecution; tampering with personal information or

<sup>59</sup> ec.europa.eu (website), *Opinion on the EU membership application by Georgia*, 17.06.2022, accessible at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800)

<sup>60</sup> ec.europa.eu (website), *Commission Opinion on Georgia's application for membership of the European Union*, p. 5, 17.06.2022, p. 10. Accessible at: [Georgia opinion and Annex.pdf \(europa.eu\)](#)



personal data; invasion of privacy; breach of privacy of private communication; breach of privacy of private correspondence, telephone conversation or other communication;). The investigative mandate of the service was also extended to the crime provided for by the relevant article of the Criminal Code of Georgia, which is related to the fact of violation of the Convention on the Protection of Human Rights and Fundamental Freedoms or its additional protocol established by the legally binding decision of the European Court of Human Rights. The service will investigate the facts of obstructing the exercise of the will in the election, referendum, or plebiscite, obstructing the work of the election or referendum commission, influencing the voter's will, and/or violating the secrecy of the electoral vote if the crime is committed by a representative of the law enforcement body. Deliberate illegal detention or arrest and specific articles of official crimes will be investigated by the agency if it is revealed during the investigation of alleged crimes under its authority.

In order to comply with the recommendations of the European Commission, amendments were made to the Law of Georgia "On Personal Data Protection" and social security guarantees for the employees of the Personal Data Protection Service were increased: it became possible to grant a special rank to all employees (except those employed under an employment contract). Also, it became possible to extend the statute of limitations for administrative offenses.

In order to increase the effectiveness of supervision over the agencies, the Regulations of the Parliament of Georgia were amended to include: "At the request of the Head of the Special Investigation Service and the Head of the Personal Data Protection Service, within the framework of the hearing, the heads of these services shall submit to the Committee, among others: list of measures to be taken for curing faults; b) opinions about the measures to be taken to increase the effectiveness of the Service activity."

According to the answer received from the Parliament of Georgia, the Working Group of Anti-Corruption measures held 2 meetings.<sup>61</sup> According to the minutes of the Working Group received from the Parliament, this Working Group also developed a package related to the Special Investigation Service and the Personal Data Protection Service. It is difficult to imagine how 2 meetings would be enough to implement such measures. Also, according to the protocols of the Working Group received from the Parliament, the representatives of the Special Investigation Service and the Personal Data Protection Service were not involved in the Working Groups.

**Georgian Dream implemented its own plan to strengthen the special investigative service and personal data protection service.**

### THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

As a result of the implemented changes, the investigative mandate of the Special Investigation Service is further expanded. The Head of the Service, Koka Katsitadze, at the presentation of the agency's 6-month activity report, repeatedly emphasized the lack of resources (including offices), which made it difficult to quickly and efficiently fulfill the mandate. In February 2023, 2 new divisions of the service were opened, which will contribute to implementing the agency's activities.

Granting the authority to investigate official crimes (Articles 332, 333, 341) to the Special Investigation Service is unlikely to be in line with the 4<sup>th</sup> priority of the European Commission, which indicates the consolidation of powers to fight corruption in the hands of one body. Granting powers to the Special

<sup>61</sup> Letter of the Office of the Parliament of Georgia N 10196/2-7/22, Appendix N2 , 28-10-2022

Investigation Service to investigate crimes previously investigated by another investigative body may lead to duplication of powers and irrational spending of resources. Against this background, it is even more important to ensure the independence of the Special Investigation Service and effective oversight.

The change in the legislation regulating the Personal Data Protection Service is, more or less, compliant with the recommendations of the European Commission, which was expressed in the provision of social security guarantees for the persons employed in the service.

In order to increase the efficiency of supervision over the agencies, the amendments made to the Regulations of the Parliament of Georgia are formal, as the Reglament is already mandated to conduct a hearing upon the request of the person accountable to the Parliament.

According to the Organization's assessment, along with equipping the agencies with appropriate resources, in order to fulfill the recommendation of the European Commission, it is important to actively use the existing oversight mechanisms and free these services from political influence. **Therefore, to be able to conclude whether the priority of the European Commission in this regard was fulfilled, a long observation of their activities is required.**

## PRIORITY 5. DE-OLIGARCHISATION

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Implement the commitment to “de-oligarchisation” by eliminating the excessive influence of vested interests in economic, political and public life.<sup>62</sup>



### GEORGIAN DREAM’S PLAN

A working group will be set up under the Legal Issues Committee of the Parliament of Georgia, which will include representatives of all parliamentary parties and representatives of civil sector. The working group will work on the de-oligarchisation draft law, which will be initiated in the Parliament of Georgia no later than 5 October 2022 and will be passed by the Parliament no later than 29 November 2022.<sup>63</sup>



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

The recommendation of the European Commission on de-oligarchisation has become the subject of interpretations in Georgia. De-oligarchisation was set as a priority by the European Commission not only for Georgia but also for Ukraine (in terms of effective implementation of the already adopted law) and Moldova. Discussions about de-oligarchisation have led to additional political disagreement in Georgia.

The issue remained ambiguous despite clarifications made by various representatives of the European Union at different times. On the one hand, European Commissioner for Neighbourhood and Enlargement Olivér Várhelyi proposed to submit the law of Georgia on De-Oligarchisation to the Venice Commission and commented, “The EU does not choose which oligarchs are good and which are bad.”<sup>64</sup> On the other hand, the European Parliament directly referred<sup>65</sup> to Bidzina Ivanishvili and expressed its concern over the destructive role played by Bidzina Ivanishvili in Georgia’s politics.



### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

On 4 August 2022, the working group held its first meeting in the Legal Issues Committee to develop a Draft Law on De-Oligarchisation. In total, only two working meetings were held,<sup>66</sup> which cannot be considered sufficient for this type of legislation.

<sup>62</sup> Ec.europa.eu (website), *Opinion on the EU Membership Application by Georgia*, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>63</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission’s Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>64</sup> Netgazeti.ge (website), *The EU Proposes to Georgia to Send the Law of De-oligarchisation to the Venice Commission*, 15.11.2022, available at: <https://netgazeti.ge/news/640926/>.

<sup>65</sup> Europa.eu (website), P9\_TA(2022)0239, *Violations of Media Freedom and Safety of Journalists in Georgia*, European Parliament Resolution of 9 June 2022 on Violations of Media Freedom and the Safety of Journalists in Georgia, (2022/2702[RSP]), available at: <https://bit.ly/3Kklq8K>.

<sup>66</sup> Letter no. 10196/2-7/22 of the Office of the Parliament of Georgia, dated 28.10.2022.

The working group included members of the following political parties – Georgian Dream, Girchi, For Georgia, European Socialists as well as representatives of the government administration, the Central Election Commission, the State Audit Service, the National Communications Commission and the National Competition Agency.

The draft law, which is similar to the so-called Oligarchs Law – the Law of Ukraine on Preventing Threats to National Security Associated with Excessive Influence by Persons who Wield Significant Economic and Political Weight in Public Life (Oligarchs), was initiated on 5 October 2022. As of 20 February 2023, the draft law has passed its two readings. Before making a final decision, the Parliament of Georgia is waiting for the opinion of the Venice Commission.

According to the draft law, a person is considered an oligarch if:

- a) He/she participates in political life,
- b) He/she exerts a significant influence on mass media,
- c) He/she is the final beneficiary of an entrepreneurial legal entity that, after the entry into force of this article, has a dominant position in the market in accordance with the Law of Georgia on Competition, and maintains or improves this position for one year, and
- d) The confirmed amount of assets owned by him/her and those entrepreneurial legal entities where he/she is a beneficiary, as of 1 January of a calendar year, exceeds 1,000,000 times the subsistence minimum established for persons without a disability.

Under the original version of the draft law, the oligarchs' register was maintained by the Parliament of Georgia. However, during the second reading of the draft law at the plenary session, based on the proposal of Anri Okhanashvili, the draft law was modified and the Government of Georgia was determined as the body in charge of maintaining the register of oligarchs.<sup>67</sup>

**The ruling party only formally implemented its own plan regarding the development of the Draft Law on De-Oligarchisation – having translated the Law of Ukraine regarding the so-called Oligarchs, without taking into account the Georgian political and social context.**

## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

Regarding the action plan for the implementation of the European Commission's 12 priorities, civil society pointed out that the fulfilment of all other recommendations on the list is a prerequisite for the implementation of the de-oligarchisation recommendation, which, in their opinion, would automatically lead to the reduction of oligarchic influence on democratic institutions.<sup>68</sup> Accordingly, civil society has not identified the setting up of a legislative framework in terms of the implementation of the de-oligarchisation recommendation.

Right at the beginning of the process, the authorities openly declared that de-oligarchisation and the respective draft law would not concern Bidzina Ivanishvili.<sup>69</sup> Statements were made that the Law of Georgia on De-oligarchisation would actually harm the opposition since, according to the president of Georgian Dream, the oligarchs – Davit Kezerashvili, Avtandil Tsereteli (“Chuta”), Mamuka Khazaradze,

<sup>67</sup> Parliament.ge (website), *the Parliament Passed the Second Reading of the Draft Law on De-Oligarchisation*, 15.11.22, available at: <https://bit.ly/3JbDNuB>.

<sup>68</sup> Osgf.ge, *12 Steps towards EU Candidacy*, Step 5, p.9, available at: [https://osgf.ge/wp-json/wi/validate/v1/file?wifile=wp-content/uploads/2022/07/evropisken\\_08.pdf](https://osgf.ge/wp-json/wi/validate/v1/file?wifile=wp-content/uploads/2022/07/evropisken_08.pdf).

<sup>69</sup> Bm.ge (website), *Ivanishvili Is Not an Oligarch, He Is a Philanthropist, – Prime Minister Explains the Concept of an Oligarch*, 24.06.2022, available at: <https://bit.ly/3EnJpQJ>.

Badri Japaridze and Mikheil Saakashvili – “were on the side of the opposition”.<sup>70</sup> At the same time, the opposition claims that Bidzina Ivanishvili is the only oligarch in Georgia.<sup>71</sup> Accordingly, the de-oligarchisation discourse did not go beyond finger-pointing and labelling certain individuals as oligarchs. There was no substantive discussion about what was meant by the “excessive influence of vested interests in economic, political, and public life”, which the EU referred to, and how this influence could be eradicated.

According to the explanatory memorandum of the draft law on de-oligarchisation, “the draft law has been developed modelled on the Ukrainian law that has similar content and repeats the provision of that law.”<sup>72</sup> **It is significant that the Ukrainian Law on so-called oligarchs drew backlash from Ukrainian civil society organisations.**<sup>73</sup>

Georgian Dream tried to reduce the issue of de-oligarchisation to a legal case-study. The ruling party initially refused to send the draft law on de-oligarchisation to the Venice Commission because they had drafted an absolute analogue of the Ukrainian draft law and were ready to take into account the Venice Commission's legal comments on the Ukrainian law.<sup>74</sup>

On 21 November 2022, when the draft law had already been passed its two readings, the European Commission Delegation to Georgia called on the authorities to seek and implement the opinion of the Venice Commission before adopting the Law on De-Oligarchisation.<sup>75</sup> On 1 December 2022, the Georgian Parliament submitted the draft law to the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights for a joint legal opinion.

**The Democracy Research Institute maintains that the ruling party did not make adequate efforts to comply with Paragraph 5 of the European Commission’s recommendations. In particular, Democracy Research Institute believes that the ruling party failed to discuss in a substantive manner the problems the draft law would solve, the political reality in the country in this regard, and the authorities failed to discuss, among other things, the provisions of the Law of Ukraine. Based on the statements made by the representatives of the ruling party, there is a danger that the draft law, if passed, will be used against political opponents. Therefore, it cannot be considered that the steps taken by the authorities correspond to the spirit of the European Commission's recommendation.**

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<sup>70</sup> TV Formula Report, available at: <https://www.facebook.com/watch/?v=5524974344224706>.

<sup>71</sup> Interpressnews.ge (website), *Ana Natsvlisvili to Georgian Dream: they did not say that you should compile a register and announce a “witch hunt”. Even if you enter 150 people in the register of oligarchs in Georgia, the European Union has entered one oligarch*, 31.10.2022, available at: <https://bit.ly/3l6F1Xq>.

<sup>72</sup> Parliament.ge (website), *Explanatory Memorandum on the Draft Law of Georgia on De-Oligarchisation*, 05.10.2022, available at: <https://info.parliament.ge/file/1/BillReviewContent/307846>.

<sup>73</sup> Institute of Legislative Ideas, *Закон про олігархів чи популістична ширма для ручного управління країною*, available at: <https://izi.institute/en/zakon-pro-oligarhiv-chy-populistychna-shyrma-dlya-ruchnogo-upravlinnya-krayinoyu/>.

<sup>74</sup> Netgazeti.ge (website), *The Parliament Passed the De-Oligarchisation Draft Law by Its Second Reading*, 16.11.2022, available at: <https://netgazeti.ge/news/641363/>.

<sup>75</sup> Tabula.ge (website), *EU: Before Adopting the De-Oligarchisation Law, Seek and Implement the Venice Commission’s Opinion*, 21.11.22, available at: <https://tabula.ge/ge/news/693927-eu-deoligarkizatsiis-kanonis-mighebamde>.

## PRIORITY 6.

# ORGANISED CRIME AND OVERSIGHT OF LAW-ENFORCEMENT AGENCIES

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Strengthen the fight against organised crime based on detailed threat assessments, notably by ensuring rigorous investigations, prosecutions and a credible track record of prosecutions and convictions; guarantee accountability and oversight of law-enforcement agencies.<sup>76</sup>



#### GEORGIAN DREAM'S PLAN

Setting up a working group under the Defence and Security Committee of the Parliament with the participation of members of the parliament from all parliamentary parties as well as representatives of the Prosecutor's Office, the High Council of Justice, the Ministry of Internal Affairs, the Ministry of Justice, the State Security Service and civil sector.

By 1 November 2022, the working group will prepare an in-depth assessment of the current situation and develop proposals for redeeming shortcomings and further enhancing the fight against organised crime.<sup>77</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

In the document, an extensive subsection is devoted to the issue of organised crime and it is noted that Georgia has ratified the UN Convention against Transnational Organised Crime as well the Protocols thereto. According to the document, the Criminal Code (including the section on money laundering, and proceeds from criminal activities) is partially in line with the EU *acquis*. However, the practical implementation and enforcement of relevant provisions are problematic.<sup>78</sup> The document of the European Commission mentions that, in September 2021, Georgia approved the 2021-2024 national strategy for combating organised crime and adopted the 2021-2022 action plan.

The number of organised crime convictions remains relatively low compared to the estimated value of the criminal market. The number of finalised criminal proceedings on alleged crimes committed by organised crime groups has slowly increased in recent years but remains relatively low. There are very few finalised investigations of trafficking in human beings.<sup>79</sup>

Therefore, for approximation with the European Union, it is necessary to establish a comprehensive framework for the fight against financial crime and money laundering and ensure its effective implementation. Furthermore:

<sup>76</sup> Ec.europa.eu (website), *Opinion on the EU Membership Application by Georgia*, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>77</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>78</sup> Ec.europa.eu (website), *Commission Opinion on Georgia's Application for Membership of the European Union*, Brussels, available at: <https://bit.ly/3FBDzLr>, p. 8, 17.6.2022.

<sup>79</sup> *Ibid.*, p. 9.

- Strengthen the fight against organised crime based on detailed threat assessments, notably by ensuring rigorous investigations, prosecutions and a credible track record of prosecutions and convictions;<sup>80</sup> and
- Guarantee accountability and oversight of law enforcement agencies.<sup>81</sup>



## HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

Georgian Dream's plan did not envisage activities in terms of enhancing oversight of law-enforcement agencies. On 28 July 2022, the Defence and Security Committee of the Parliament of Georgia decided to set up a working group to deal with the issues of combating organised crime. The working group held eight meetings. The working group planned to work in terms of the fight against:<sup>82</sup>

- Organised crime (including the so-called thieves in law, members of the criminal underworld and their supporters);
- Cybercrime;
- Trafficking of human beings;
- Money laundering and funding terrorism; and
- Drug-related crimes.

In addition to the representatives of state bodies, three non-governmental organisations were involved in the work of the group (Georgian Institute for Geostrategic and Euro-Atlantic Integration Studies, Georgian Young Lawyers' Association (GYLA) and Institute for Development of Freedom of Information [IDFI]). However, GYLA and IDFI suspended their work in the group due to the discriminatory decision made by the Georgian Dream parliamentary majority regarding International Society for Fair Elections and Democracy (ISFED).

The minutes of the meetings of the working group were not published. It was explained by the specificity of the discussed topics. According to the letter received from the Parliament of Georgia, "*as for the meetings of the working group, we inform you that . . . considering the specific nature of the discussed topics, it was decided to close the meetings of the working group to the public. Accordingly, taking into account the 6<sup>th</sup> paragraph of the same article of the Rules of Parliament of Georgia, the minutes of these meetings are not published.*"

As per the plan, the group worked until 1 November 2022. In accordance with the concrete directions envisaged in the plan, the working group put forward dozens of proposals about activities to be carried out. There are state agencies envisaged as responsible for the implementation of each cluster of activities. The document developed by the working group deals with the activities to be carried out by the law-enforcement agencies in a rather detailed manner.<sup>83</sup>

On 31 October 2022, information on the results of the work of the working group was published on the website of the Parliament of Georgia. The published document presents proposals/next steps, which include the activities to be implemented in terms of the above-mentioned directions, the responsible agency/agencies and the timeframes determined for the implementation.<sup>84</sup>

**Accordingly, Georgian Dream formally implemented its plan, which did not fully meet the priority of the European Commission.**

<sup>80</sup> *Ibid.*, p. 17.

<sup>81</sup> *Idem.*

<sup>82</sup> Parliament.ge, Proposals/Next Steps to Strengthen the Fight Against Organised Crime, 31.10.2022, available at: <https://info.parliament.ge/file/1/BillReviewContent/309867>.

<sup>83</sup> *Idem.*

<sup>84</sup> Parliament.ge, Results of the Activities of the Working Group Set up under the Defence and Security Committee: Proposals/Next Steps to Strengthen the Fight Against Organised Crime, available at: <https://info.parliament.ge/file/1/BillReviewContent/309867>, 02.11.2022.



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

While recommendation no. 6 of the European Commission, apart from improving the legal framework in the field of organised crime and the effective implementation of the legislation, was also concerned with enhancing oversight of law-enforcement agencies, this issue was not included in the agenda of the working group set up under the Defence and Security Committee. However, the working group set up under the Procedural Issues and Rules Committee did not consider this issue as the working group set up under the Defence and Security Committee would work on these issues.<sup>85</sup>

Based on the analysis of the information published on the website of the Parliament of Georgia<sup>86</sup> and the communication received from the Parliament,<sup>87</sup> it is evident that the working group was focused only on organised crime, while recommendation no. 6 of the European Commission, in addition to improving the situation in the field of organised crime, also concerns enhancing the oversight of law-enforcement agencies.

According to the President of the Parliament, “in the Defence and Security Committee of the Parliament, an interdepartmental working group for enhancing the fight against organised crime was set up, which prepared an in-depth assessment of the identified gaps and, based on it, developed a plan for 2023-2024, which includes 76 activities. The committee has already started monitoring the implementation of this plan.” The President of the Parliament did not pay attention to the part of recommendation no. 6 of the European Commission that refers to enhancing parliamentary oversight of security sector.

**Therefore, from this point of view, the part of the priority, which meant enhancing the oversight of law-enforcement agencies, cannot be considered fulfilled at this stage.**

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<sup>85</sup> Therefore, the Democracy Research Institute presented recommendations to the working group set up under the Defence and Security Committee, available at: <https://bit.ly/3G0mfkj>, 18.10.2022.

<sup>86</sup> Parliament.ge (website), see <https://parliament.ge/legislation/25016>, 31.10.2022.

<sup>87</sup> Letter no. 10194/2-7/22 of the Office of the Parliament of Georgia, dated 28.10.2022.



## PRIORITY 7.

# GUARANTEEING A PROFESSIONAL, PLURALISTIC AND INDEPENDENT MEDIA ENVIRONMENT

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Undertake stronger efforts to guarantee a free, professional, pluralistic and independent media environment, notably by ensuring that criminal procedures brought against media owners fulfil the highest legal standards, and by launching impartial, effective and timely investigations in cases of threats against the safety of journalists and other media professionals.<sup>88</sup>



#### GEORGIAN DREAM'S PLAN

The Human Rights and Civil Integration Committee of the Parliament, in cooperation with the Prosecutor's Office of Georgia and the Ministry of Internal Affairs, ensures the publicity of information about the investigation of all relevant cases.<sup>89</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

The European Commission's opinion on the EU membership application of Georgia emphasises that, while the media environment in the country is largely pluralistic, intimidation and physical and verbal attacks on media professionals have increasingly taken place, especially in the context of demonstrations and election rallies, and investigations are lacklustre. Court proceedings and investigations against opposition media owners have become frequent. Verdicts have a chilling effect on critical media reporting. Further alignment of the legislation on the media regulator with European standards is needed.<sup>90</sup>



#### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

The part of Georgian Dream's plan related to media freedom was particularly vague. The authorities failed to determine the period for the implementation of the plan. There is no reference to any particular activities except for the duty to impart information on "relevant cases".

The Democracy Research Institute asked the Human Rights and Civil Integration Committee of the Parliament of Georgia concerning the work that had been done to implement recommendation no. 7 of the European Commission.

On 3 November 2022, the Human Rights and Civil Integration Committee informed us that no special work format had been set up in the committee for complying with the European Commission's recommendation no. 7. "As you may know, it was not planned to set up any particular working format (thematic study, working group, etc.) for this issue. We would also like to inform you that more specific

<sup>88</sup> Ec.europa.eu (website), *Opinion on the EU Membership Application by Georgia*, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>89</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>90</sup> Ec.europa.eu (website), *Commission Opinion on Georgia's Application for Membership of the European Union*, Brussels, available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf>, p. 10, 17.06.2022.

information will be provided after the work continues in a public format, which is expected in the near future.”<sup>91</sup>

After the letter received from the parliament, there was no information circulated about the work done in a public format by the authorities to fulfil recommendation no. 7 of the European Commission. However, around the same time, the Tbilisi Court of Appeals imposed a heavy sentence on Nika Gvaramia, the director of the TV Company *Mtavari*, while his criminal case has been under close observation of the EU structures.

**Accordingly, during the period of the monitoring carried out by the Democracy Research Institute, Georgian Dream failed to ensure the implementation of its own plan regarding an independent media environment.**

## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

The only progress within the framework of the implementation of the recommendation cited by the President of the Parliament of Georgia<sup>92</sup> is the amendments made to the Law of Georgia on Broadcasting.<sup>93</sup> It should be noted that these amendments were not initially included in Georgian Dream's plan, developed to fulfil the recommendations of the European Commission.

The amendments were criticised by the organisations working on media freedom because of the hasty process that did not involve consultations with civil society and for the gaps in the content.

The Media Advocacy Coalition believed that Georgia was required not to make legislative amendments that are formally compatible with the requirements of the European Directive but to achieve the goal of the directive as much as possible by ensuring a favourable media environment.<sup>94</sup> Under the amendments, the procedure for resolving disputes related to making an incorrect statement was changed and the “right to reply” was added to the Law on Broadcasting (Article 52<sup>1</sup>). The mentioned provision allows the person concerned, who believes that his/her legal interests have been violated by an incorrect statement in a broadcast programme, if the broadcaster refuses to correct or withdraw it, to file a complaint directly with the Communications Commission or the court. Under the amendment, the appeal of the Commission's decisions to the court will no longer result in the suspension of the Commission's legal act (Article 8.7).

If adopted, the draft laws known as Russian Laws supported by the parliamentary majority,<sup>95</sup> which aimed at labelling some journalists as agents of foreign influence, would have a devastating effect on independent media outlets.

During the reporting period, Georgian Dream did not make any effort to address the challenges in terms of media independence. On the contrary, the imposition of a heavier sentence on Nika Gvaramia by the Tbilisi Court of Appeal on 2 November 2022 gave rise to additional questions. The case of Nika Gvaramia is also mentioned in the resolution of the European Parliament,<sup>96</sup> according to which, “[the

<sup>91</sup> Letter no. 10380/2-7/22 of the Office of the Parliament of Georgia, dated 3 November 2022.

<sup>92</sup> Parliament.ge (website), *Shalva Papuashvili – Parliament of Georgia Has Made Significant Progress in Implementing the Recommendations of the European Union*, 08.02.2023, available at: <https://bit.ly/41h5hqX>.

<sup>93</sup> Parliament.ge (website), *Regarding Amendments to the Law of Georgia on Broadcasting*, 07.09.2022, available at: <https://parliament.ge/legislation/24615>.

<sup>94</sup> Civil.ge (website), *Parliament Approved Amendments to the Law on Broadcasting*, 22.12.2022, available at: <https://civil.ge/ka/archives/519785>.

<sup>95</sup> Radiotavisupleba.ge (website), *Who Will Have to Register as an Agent of Foreign Influence – the People Power's Draft Law*, 14.02.2023, available at: <https://bit.ly/3lh8jCl>.

<sup>96</sup> Europarl.europa.eu (website), *Annual Implementing Report on the EU Association Agreement With Georgia*, European Parliament Resolution of 14 December 2022 on the Implementation of the EU Association Agreement With Georgia, P9\_TA(2022)0442.

European Parliament] calls on the Georgian authorities to stop politically motivated criminal cases and to review the ongoing criminal cases against media workers, owners of media outlets critical of the government, and their close family members; [the European Parliament] recalls, in this regard, the case of Nika Gvaramia, director of Mtavari TV, and those of the directors and founders of other media outlets, such as Formula TV and Pirveli TV, expresses its deep concern about the fact that, on 2 November 2022, the Tbilisi Court of Appeals upheld the sentencing of Nika Gvaramia on dubious charges despite the significant questions raised about the case, in particular its timing and charges.”<sup>97</sup>

It should be noted that the examination of the case of Davit Kezerashvili, the owner of Formula TV, was resumed in the appeals court. The first-instance court had already ordered Kezerashvili to pay 5 million Euros in favour of the Ministry of Defence and there is a reason to believe that Kezerashvili's Formula TV will be seized in order to enforce the court's final judgment.<sup>98</sup>

The resolution of the European Parliament strongly criticizes the inaction of the Georgian authorities regarding the violence of 5 July 2021, which resulted in inflicting injuries on journalists. According to the resolution, “[the European Parliament] strongly denounces the lack of diligent investigations or prosecutions of those responsible for organising the violence.”<sup>99</sup>

The above resolution of the European Parliament was preceded by another resolution on the violations of media freedom and the safety of journalists in Georgia,<sup>100</sup> adopted on 9 June 2022. This resolution condemns the current situation in terms of media freedom in Georgia. The resolution calls for a review of Nika Gvaramia’s conviction; it calls on the Georgian authorities to uphold resolutely the highest standards of democracy, the rule of law and fundamental freedoms such as media freedom. It calls on Georgia to restrict the use of strategic lawsuits against public participation that target human rights defenders and media representatives, which serve to inhibit their critical and independent work. It reiterates its call on the Georgian authorities to refrain from interfering in media freedom or pursuing politically motivated judicial cases against media owners or representatives. It strongly denounces the persistent lack of diligent investigations or prosecutions of those responsible for the violence against journalists and peaceful demonstrators at the Tbilisi Pride march on 5 July 2021 when one journalist died as a result of a violent assault. The resolution calls on the Council and democratic partners to consider imposing sanctions on the oligarch, Bidzina Ivanishvili, for his links to the Kremlin and the control he exerts over the government and its decisions, including those on the politically motivated persecution of journalists and political opponents.

Amendments to be made to the Law of Georgia on Broadcasting that were initiated in order to harmonise the law with the European Union legislation are also noteworthy. However, the amendments were criticised due to their flawed content and the non-inclusive review procedure.<sup>101</sup>

**In order to assess the extent to which Recommendation no. 7 of the European Commission has been fulfilled, the European Commission, together with the evaluation of the legislative amendments, will probably take into account the extent to which the ongoing criminal cases against media owners and managers comply with the standards required by the European Union. Unfortunately, there has been no progress in this regard.**

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<sup>97</sup> *Ibid.*, para. 24.

<sup>98</sup> Formulanews.ge (website), *Appeal Court Postponed Davit Kezerashvili's Hearing until 24 January*, 21.12.2022, available at: <https://formulanews.ge/News/81451>.

<sup>99</sup> Europarl.europa.eu (website), Annual Implementing Report on the EU Association Agreement With Georgia, European Parliament Resolution of 14 December 2022 on the Implementation of the EU Association Agreement With Georgia, P9\_TA(2022)0442.

<sup>100</sup> Europarl.europa.eu (website), European Parliament Resolution of 9 June 2022 on Violations of Media Freedom and the Safety of Journalists in Georgia, (2022/2702(RSP)), available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0239\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0239_EN.html), 09.06.2022.

<sup>101</sup> Facebook.com (website), *Evaluation of the Media Advocacy Coalition Regarding Amendments to be Made to the Law on Broadcasting*, 21.12.2022, available at: <https://bit.ly/3IHpsHh>.

## PRIORITY 8.

# PROTECTION OF THE RIGHTS OF VULNERABLE GROUPS; EFFECTIVE RESPONSE TO VIOLENCE

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Move swiftly to strengthen the protection of human rights of vulnerable groups, including by bringing perpetrators and instigators of violence to justice more effectively.<sup>102</sup>



#### GEORGIAN DREAM'S PLAN

The Human Rights and Civil Integration Committee of the Parliament, in cooperation with the Prosecutor's Office of Georgia and the Ministry of Internal Affairs, ensures imparting information about the investigation of all relevant cases.<sup>103</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

The European Commission deems that the country's legal framework on non-discrimination and hate crimes is largely in line with the EU *acquis* but not sufficiently enforced.<sup>104</sup> The document highlights the issues of surveillance of journalists and civil society activists, ineffective investigation of leaking tapes of private life and the protection of the rights of lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ) persons in Georgia, particularly in light of the July 2021 events.<sup>105</sup>



#### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

In order to obtain information about the progress of the implementation of recommendation no. 8 of the European Commission, the Democracy Research Institute requested the Human Rights and Civil Integration Committee of the Parliament of Georgia to provide public information. To our question about the criteria used and the criminal cases selected for the implementation of recommendation no. 8 of the European Commission and the measures envisaged by Georgian Dream's plan, the Human Rights and Civil Integration Committee of the Parliament gave the following answer: *"The Human Rights and Civil Integration Committee works actively in accordance with the plan developed by the parliamentary majority. As you may know, it was not planned to set up any particular working format (thematic study, working group, etc.) for this issue. We would also like to inform you that more specific*

<sup>102</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>103</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>104</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>105</sup> *Idem*.

*information will be provided after the work continues in a public format, which is expected in the near future.”<sup>106</sup>*

There is no information in publicly available sources about the continuation of the work of the Human Rights and Civil Integration Committee in the “public format” in terms of the implementation of recommendation no. 8 of the European Commission.

**Accordingly, during the reporting period, Georgian Dream failed to implement its own plan regarding recommendation no. 8 of the European Commission.**

The ruling party implied the draft of the National Human Rights Protection Strategy for 2022-2030 as a part of the implementation of priority no. 8 of the European Commission.<sup>107</sup> However, the strategy had not been mentioned in the implementation plan of the recommendations that Georgian Dream initially presented. This document should have been approved long before the recommendations of the European Commission were made.<sup>108</sup>



### **THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION**

While recommendation no. 8 of the European Commission points out in express terms the need to identify and bring to justice the organisers of planned violence against vulnerable groups, Georgian Dream's plan was limited to the duty to impart information “about the investigation of all relevant cases”.

In the statement made after the 7<sup>th</sup> Association Council meeting between Georgia and the European Union held on 7 September 2022, the European Union welcomed the peaceful environment in which Tbilisi Pride events had been held in 2022. However, it was pointed out that the organisers of the violence of 5 July 2021 had to be held accountable. The violence that had occurred in the context of Pride had to be investigated timely and effectively, and preventive measures had to be strengthened.<sup>109</sup>

**Accordingly, the European Commission's recommendation mainly focuses on holding the organisers of hate crimes accountable, conducting an effective investigation of these crimes and carrying out preventive measures. Instead, Georgian Dream's plan focuses only on the disclosure of information about pending investigations, which narrows the scope of recommendation no. 8 of the European Commission and does not fully reflect its spirit and content.**

<sup>106</sup> Letter no. 10380/2-7/22 of the Office of the Parliament of Georgia, dated 3 November 2022.

<sup>107</sup> Parliament.ge (website), *Shalva Papuashvili – Parliament of Georgia has Made Significant Progress in Implementing the Recommendations of the European Union*, 08.02.2023, available at: <https://bit.ly/41h5hqX>.

<sup>108</sup> Democracyresearch.org (website), *DRI Opinions on Human Rights Strategy*, 13.12.2022, available at: <https://www.democracyresearch.org/geo/1086/>.

<sup>109</sup> Eeas.europa.eu (website), Joint press statement following the 7<sup>th</sup> Association Council meeting between the EU and Georgia, available at: [https://www.eeas.europa.eu/delegations/georgia/joint-press-statement-following-7th-association-council-meeting-between-eu-and\\_en?s=221](https://www.eeas.europa.eu/delegations/georgia/joint-press-statement-following-7th-association-council-meeting-between-eu-and_en?s=221).

## ENHANCING GENDER EQUALITY AND RIGHT VIOLENCE AGAINST WOMEN

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Notably consolidate efforts to enhance gender equality and fight violence against women.<sup>110</sup>



#### GEORGIAN DREAM'S PLAN

To implement the recommendation, the Human Rights and Civil Integration Committee of the Parliament of Georgia and the Gender Equality Council will prepare legislative proposals to promote gender equality and ensure an even more effective fight against violence against women. According to the plan, the package of relevant draft laws will be initiated in the parliament no later than 5 October 2022 and it will be passed by the parliament no later than 15 November 2022.<sup>111</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

According to the document, overall, the country's legal framework on non-discrimination and gender equality is largely in line with the EU acquis but not sufficiently enforced. The document also discusses continued efforts to raise awareness on gender equality to address persisting inequalities preventing women from fully exercising their equal rights. The scale of gender-based violence, including domestic violence and femicide, remains a major concern and women continue to face inequality in the labour market. The document places a particular emphasis on the Istanbul Convention. According to the document, further engagement, including on increasing public awareness, is needed. More needs to be done to protect the rights of lesbian, gay, bisexual, transgender, intersex or queer (LGBTIQ) persons in Georgia, particularly in light of the July 2021 events.<sup>112</sup>



#### HOW THE GOVERNING PARTY ENFORCED ITS OWN PLAN

At the initiative of the Standing Council for Gender Equality of the Parliament of Georgia and the Human Rights and Civil Integration Committee, a systematic study into femicide was announced on 8 September 2022.<sup>113</sup> It is for this purpose that a working group was set up in the parliament. The working group initiated relevant draft laws (Draft Law on Gender Equality, Draft Rules of Parliament of Georgia),<sup>114</sup> a number of thematic research groups were set up and reports were developed.

The relevant draft laws should have been initiated in the parliament no later than 5 October 2022 and the draft laws should have been passed by the parliament by 15 November 2022. The Parliament of Georgia, with one month's delay, passed the draft laws by 15 December 2022. Thus, the parliament, **albeit with a delay, fulfilled its own plan.**

<sup>110</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>111</sup> Civil.ge (website), 01.07.2022, *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, available at: <https://civil.ge/ka/archives/499106>.

<sup>112</sup> Ec.europa.eu (website), Commission Opinion on Georgia's Application for Membership of the European Union, Communication from the Commission to the European Parliament, the European Council and the Council, Brussels, 17.6.2022, pp. 10-11, available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf>.

<sup>113</sup> Parliament.ge (website), At the Initiative of the Gender Equality Council of the Parliament of Georgia and the Human Rights and Civil Integration Committee, a Systematic Study Into Femicide Is Being Launched, 08.09.2022, available at: <https://bit.ly/3xGdTK4>.

<sup>114</sup> Parliament.ge (website), Regarding Amending the Law of Georgia on Gender Equality, 05.10.2022, available at: <https://parliament.ge/legislation/24780>.



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

Under the draft laws developed within the framework of the implementation of the gender equality priority,<sup>115</sup>

- When presenting all legislative initiatives, their presenters will be obliged to assess in advance these initiatives in terms of the expected impact on gender equality;
- Relevant legislative provisions were introduced in order to establish substantive equality between women and men and eliminate inequality; and
- Amendments will provide for additional regulation of crimes such as forcing an abortion, using the services of an underage person engaged in prostitution etc.

Furthermore, the Parliament of Georgia adopted a resolution on the approval of the Georgian State Concept of Gender Equality and the State Concept of Women's Economic Empowerment.<sup>116</sup> The aforementioned draft laws and documents formed a basis for claims by the President of the Parliament of Georgia that recommendation no. 9 of the European Commission had been implemented.<sup>117</sup>

It is noteworthy that during 2022 several thematic study groups were set up in the Parliament of Georgia, mainly tasked with respect for women's rights and their improvement.<sup>118</sup> Furthermore, on 5 December 2022, the Standing Parliamentary Council for Gender Equality presented findings of the thematic study group on the thematic study "Access to Infrastructure (roads, transport, Internet and water) for women and girls."<sup>119</sup>

The Human Rights and Civil Integration Committee has launched a thematic study to identify concrete issues and measures to be implemented to ensure the harmonisation of the substantive criminal law of Georgia with the Council of Europe Convention on the Prevention and Suppression of Violence Against Women and Domestic Violence.<sup>120</sup> Public organisations requested to bring the section on sex crimes, including rape, into compliance with the Istanbul Convention in the implementation of priority no. 9 of the European Commission.<sup>121</sup> According to non-governmental organisations, the existing wording of the crime of rape in the Code of Criminal Law is problematic because, the code punishes only acts accompanied by violence. Therefore, an act is not considered rape when the victim does not and cannot resist the attacker although the victim does not agree to the act.<sup>122</sup> **The opposition parties positively evaluate the implementation of recommendation no. 9 due to the inclusiveness and transparency of the process. However, because the rape provision has not been amended so far, they have no confidence that the recommendation will be fulfilled.**<sup>123</sup> **Representatives of the ruling political party say that the work on the legislative amendments is still ongoing and draft laws will be gradually initiated in the parliament. Therefore, at this stage, the recommendation can be considered partially implemented.**

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<sup>115</sup> Parliament.ge (website), 2022 Report of the Human Rights and Civil Integration Committee, available at: [t.ly/1hOL](https://t.ly/1hOL)

<sup>116</sup> *Idem*.

<sup>117</sup> Parliament.ge (website), Shalva Papuashvili – Parliament of Georgia has Made Significant Progress in Implementing the Recommendations of the European Union, 08.02.2023, available at: [bit.ly/3yQlCpn](https://bit.ly/3yQlCpn)

<sup>118</sup> For example, the thematic study group on Women's Access to Financial Resources. available at: <https://t.ly/7Tu9>

<sup>119</sup> Parliament.ge (website), The Conclusion of the Thematic Study Group Set Up by the Standing Parliamentary Council for Gender Equality, Presented by the Member of the Standing Parliamentary Council for Gender Equality, the Keynote Speaker of the Thematic Study Group, Baia Kvitsiani, on the thematic study Access to Infrastructure (Roads, Transport, Internet and Water) for Women and Girls, available at: <https://parliament.ge/legislation/25340>.

<sup>120</sup> Parliament.ge (website), 2022 Report of the Human Rights and Civil Integration Committee, available at: [t.ly/1hOL](https://t.ly/1hOL)

<sup>121</sup> Osgf.ge (website), 12 Steps Towards EU Candidacy, Step 5, p. 11, available at: <https://osgf.ge/>

<sup>122</sup> Radiotavisupleba.ge (website), March Against Sexual Violence - Women Demand a Change in the Rape Article, 25.11.2022, available at: <https://www.radiotavisupleba.ge/a/32149118.html>.

<sup>123</sup> Netgazeti.ge (website), How the "Most Innocuous" Reform of the EU's 12-point Plan is (not) Being Implemented, 10.09.2022, available at: <https://netgazeti.ge/life/634338/>.

## INCREASING THE INVOLVEMENT OF CIVIL SOCIETY

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Ensure the involvement of civil society in decision-making processes at all levels.<sup>124</sup>



#### GEORGIAN DREAM'S PLAN

The President of the Parliament of Georgia will coordinate the effective involvement of civil society representatives in all processes related to the fulfilment of EU recommendations. In addition, it will be ensured that effective mechanisms of engagement will be maintained even after the completion of the work on EU recommendations.<sup>125</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

It is emphasised in the European Commission's opinion that civil society in Georgia is well-developed, diverse, and vibrant and enjoys the freedom to operate. The country's legal framework provides an enabling environment for an active civil society. Freedom of association is protected and specific rules for non-profit sector, including a differentiated tax regime, are in place. Mechanisms for consultation with the public in policymaking and law-making exist and are used. Recently, some civil society organisations have been excluded from policy consultation; this needs to be corrected.<sup>126</sup>



#### THE RULING PARTY FOLLOWING ITS OWN PLAN

According to the President of the Parliament of Georgia, from the very beginning, the parliament ensured the involvement of representatives of the Eastern Partnership Civil Society Forum - National Platform of Georgia in all parliamentary working groups and fruitful cooperation took place in this regard.<sup>127</sup>

The Democracy Research Institute observes that despite the relative transparency of the process at the initial stage (the inclusion of two organisations nominated by the National Platform in the working groups; the publicity of the talks with the Public Defender of Georgia), overall, in the process of fulfilling the 12 priorities of the European Union, the ruling party was not focused on cooperation with public organisations. This was clearly confirmed by refusing the International Society for Fair Elections and Democracy (ISFED) to be admitted to the working group and later by the parliamentary majority's initiation of the Russian Draft Laws, which aimed at harassing independent organisations and media outlets and labelling them as agents of foreign influence. The parliament revoked passes previously issued to attend draft law deliberation sessions, created physical obstacles in terms of entering the committee sessions and/or did not allow a large part of public organisations and independent media to enter the parliament building. **Accordingly, Georgian Dream failed to fulfil its plan regarding the effective involvement of civil society representatives in all processes related to the implementation of EU priorities.**

<sup>124</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: <https://t.ly/z2wy>

<sup>125</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>126</sup> Ec.europa.eu (website), Commission Opinion on Georgia's Application for Membership of the European Union, Communication from the Commission to the European Parliament, the European Council and the Council, Brussels, 17.6.2022, p. 6, available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf>.

<sup>127</sup> Parliament.ge (website), Shalva Papuashvili – Parliament of Georgia Has Made Significant Progress in Implementing the Recommendations of the European Union, 08.02.2023, available at: [t.ly/ZdAh](https://t.ly/ZdAh).





## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

On 12 July 2022, five public organisations publicly confirmed their readiness to participate in the implementation of the 12-point plan of the European Commission and asked the President of the Parliament to organise a workshop with public organisations “as soon as possible” in order to exchange further opinions on the format and work procedures of civil society involvement in the implementation of the priorities determined by the European Commission.<sup>128</sup>

In response, the Parliament of Georgia authorised the Georgian National Platform of the Eastern Partnership Civil Society Forum to nominate civil society organisations. However, the number of public organisations in working groups was limited to two. Therefore, while seven civil society organisations expressed their wish to be involved in the working group, not all applicants were given the opportunity to work in the group. The Legal Issues Committee of the parliament allowed only two civil society organisations in the working group. Within the same period, the ruling party refused the International Society for Fair Elections and Democracy (ISFED) to be involved in the working group in charge of revising the Election Code. The majority of the non-governmental organisations considered this a discriminatory decision and suspended their work in the group.<sup>129</sup>

In order to assess the implementation of priority no. 10, it is important to determine the extent to which the ruling party took into account the recommendations of non-governmental sector in the decision-making process. Public organisations, including the Democracy Research Institute, submitted a number of recommendations to the Parliament of Georgia. While the parliament took into account some recommendations of public organisations, most of the recommendations related to judicial reform, media independence, an independent anti-corruption agency equipped with investigative tasks, and enhancement of parliamentary oversight of security sector were beyond the interest of the ruling political party.

Another factor that determines the effectiveness of civil society involvement in the decision-making process is access to the issues under consideration during the deliberations of draft laws at committee sessions. As observed by the Democracy Research Institute, draft laws and information about scheduled sessions are not published on the website of the Parliament of Georgia on time.

In terms of civil society involvement, the situation was radically changed by the Russian Draft Laws<sup>130</sup> initiated and supported by members of the parliamentary majority, which aimed to label civil society and independent media as agents of foreign influence. Against the backdrop of serious public opposition, Georgian Dream withdrew the draft laws.<sup>131</sup> However, the initiation of draft laws and the non-admission of a large part of civil sector to committee deliberations have shown that the avenue for cooperation between the government and civil society is extremely narrow.

**The European Commission's spokesperson Peter Stano stated that Georgia infringed two of the twelve priorities by advancing the “foreign influence” draft law.<sup>132</sup> The Democracy Research Institute shares this opinion.**

<sup>128</sup> Democracyresearch.org (website), The Signatory Organisations Reiterate their Readiness to Participate in a Timely and Comprehensive Implementation of the European Commission's Recommendations, 12.07.2022, available at: <https://www.democracyresearch.org/geo/1038/>.

<sup>129</sup> Democracyresearch.org (website), Ruling Party Must Ensure the Involvement of International Society for Fair Elections and Democracy (ISFED) in the Working Group on Election Issues, 20.08.2022, available at: <https://www.democracyresearch.org/geo/1058/>.

<sup>130</sup> Radiotavisupleba.ge (website), *Who Will Have to Register as an Agent of Foreign Influence – People Power's Draft Law*, 14.02.2023, available at: <https://bit.ly/3xBpPNf>.

<sup>131</sup> Netgazeti.ge (website), *Parliament Dropped the Russian Law*, 10.03.2023, available at: <https://netgazeti.ge/life/659642/>.

<sup>132</sup> Netgazeti.ge (website), *Stano: The “Foreign Influence” Law Infringed Two of Twelve Priorities*, 13.03.2023, available at: <https://netgazeti.ge/opinion/660059/>.

## PRIORITY 11.

# TAKING INTO ACCOUNT CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS IN COURT JUDGMENTS

### RECOMMENDATION OF THE EUROPEAN COMMISSION

Adopt legislation so that Georgian courts proactively take into account the European Court of Human Rights' judgments in their deliberations.<sup>133</sup>



#### GEORGIAN DREAM'S PLAN

The Human Rights and Civil Integration Committee of the Parliament, taking into account the execution procedures of the Committee of Ministers of the Council of Europe, will prepare the relevant draft law and initiate it in the Parliament by September 2022. The parliament will consider and adopt the draft law no later than 18 October 2022.<sup>134</sup>



#### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

The document points out the problematic nature of the execution of judgments of the European Court of Human Rights. According to the assessment, judgments concern the respect for fundamental rights such as the right to life, prohibition of ill-treatment, prohibition of the use of excessive force, abuse of pre-trial detention, protection from homophobic attacks and police inaction related to domestic violence.<sup>135</sup>



#### THE RULING PARTY FOLLOWING ITS OWN PLAN

**The ruling party implemented recommendation no. 11 of the European Commission according to its own plan. The President of the Parliament of Georgia noted that the work on this issue was carried out with the wide involvement of both the Public Defender and non-governmental organisations, and these changes were adopted having reached full consensus.<sup>136</sup> The Democracy Research Institute shares this assessment.**

<sup>133</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>134</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>135</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>136</sup> Parliament.ge (website), Shalva Papuashvili – Parliament of Georgia Has Made Significant Progress in Implementing the Recommendations of the European Union, 08.02.2023, available at: <https://parliament.ge/media/news/shalva-papuashvili-sakartvelos-parlamentma-miaghtsia-mnishvnelovan-progress-evrokavshiris-rekomendatsiebis-gankhortsielebashi>.



## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

On 18 October 2022, the Parliament passed the draft amendments to the Law on General Courts of Georgia by the third reading.

According to the information of the Parliament of Georgia, the amendment implies the obligation to ensure the functioning of a structural unit analysing the judgments and decisions of the European Court of Human Rights at the Supreme Court of Georgia and Appeal Courts, tasked to facilitate access to the case-law of the European Court of Human Rights for judges, to carry out periodic analysis of the European Court's case-law and awareness raising activities in this regard.<sup>137</sup>

**The draft law was adopted by the Parliament with 101 votes. Thus, recommendation no. 11 of the European Commission can be considered fulfilled.**

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<sup>137</sup> Bm.ge (website), *The Draft Law, which Implements the 11<sup>th</sup> Point of the EU Recommendations, was Adopted Today*, 18.10.2022, available at: <https://bm.ge/ka/article/quotkanonproeqti-romlitac-eu-s-rekomendaciebis-me-11-punqti-sruldeba-dges-iqna-migebuliquot/118779>.

## PRIORITY 12.

# TRANSPARENT SELECTION OF THE PUBLIC DEFENDER AND INSTITUTIONAL INDEPENDENCE OF THE OFFICE

### RECOMMENDATION OF THE EUROPEAN COMMISSION

- Ensure that an independent person is given preference in the process of nominating a new Public Defender (Ombudsperson) and that this process is conducted in a transparent manner; and
- Ensure the Office's effective institutional independence.<sup>138</sup>



### GEORGIAN DREAM'S PLAN

The parliamentary majority will propose to the parliamentary opposition an inclusive procedure for the selection of candidates to the office of the Public Defender before 1 September 2022, which should ensure the nomination of such a person to the office of the Public Defender who will be equally acceptable to the majority and the opposition and, therefore, will be elected with high legitimacy. Voting to elect the Public Defender will be held no later than 1 December 2022.<sup>139</sup>



### THE EUROPEAN COMMISSION'S OPINION ON THE EU MEMBERSHIP APPLICATION BY GEORGIA

In relation to the application of Georgia, the opinion prepared by the European Commission positively evaluates the current situation in terms of the degree of independence of the Public Defender. However, it is also noted that more steps should be taken to enhance the independence of the Office of the Public Defender and the independence of the Public Defender.<sup>140</sup>



### THE RULING PARTY FOLLOWING ITS OWN PLAN

**Georgian Dream fulfilled its plan - the President of the Parliament, by his order, resolved all the issues outlined in the plan. However, the goal sought by the plan, regarding the inclusiveness of the process and the selection of an independent Public Defender, could not be achieved.** Furthermore, according to the plan, the Public Defender should have been elected no later than 1 December 2022. However, the voting was held with a delay, on 22 December 2022, and even then, the Public Defender could not be elected.

<sup>138</sup> Ec.europa.eu (website), Opinion on the EU Membership Application by Georgia, 17.06.2022, available at: [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_22\\_3800](https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800).

<sup>139</sup> Civil.ge (website), *Georgian Dream Presented a Plan to Implement the European Commission's Recommendations*, 01.07.2022, available at: <https://civil.ge/ka/archives/499106>.

<sup>140</sup> Ec.europa.eu (website), *Commission Opinion on the EU Membership Application by Georgia*, p. 10, available at: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Georgia%20opinion%20and%20Annex.pdf>.

On 28 February 2023, Citizens nominated Levan Ioseliani as the candidate to the office of the Public Defender.<sup>141</sup> The Human Rights Committee endorsed the candidate. Later, Georgian Dream decided to vote for Levan Ioseliani without hearing at the plenary session of the Parliament of Georgia.<sup>142</sup> The parliament elected Levan Ioseliani as the Public Defender on 7 March 2023, the day when the parliament unexpectedly started deliberations on the Draft Law on Transparency of Foreign Influence two days earlier than planned.

## THE COMPATIBILITY OF THE ACTIVITIES CARRIED OUT WITHIN THE FRAMEWORK OF IMPLEMENTATION OF THE PRIORITY WITH THE EUROPEAN COMMISSION'S RECOMMENDATION

Under the Rules of Parliament, a parliamentary group or a group of no less than seven members who are not members of any parliamentary groups have the right to nominate a candidate to the office of the Public Defender. In order to elect the Public Defender, the votes of 90 members of the parliament are required. Hence, a consensus must be reached among the parliamentary parties.

In order to fulfil the recommendation, the Parliament of Georgia adopted the temporary rule for the selection of the Public Defender with 83 votes.<sup>143</sup> According to the temporary rule, candidates to the office of the Public Defender were nominated to the Parliament of Georgia in accordance with the order of the President of the Parliament of Georgia. The order of the President of the Parliament determined the setting up of a special evaluation group composed of nine representatives of civil society.<sup>144</sup> Before being nominated for election to the parliament, the members of the working group evaluated the candidates according to the criteria such as integrity, good reputation, impartiality and independence, appropriate professional knowledge (qualification, academic degree, academic achievements, etc.), practical experience in the field of human rights and fundamental freedoms.<sup>145</sup> The evaluation group assessed the candidates on a score-based system.<sup>146</sup>

The process started in civil sector to select the Public Defender preceded the evaluation of the candidates by the Evaluation Commission set up in the parliament. Due to the importance of the issue, non-governmental organisations jointly developed rules and criteria for the nomination of candidates to the office of the Public Defender and three candidates, Nazi Janezashvili, Giorgi Burjanadze and Ana Abashidze, were nominated.<sup>147</sup> It is noteworthy that the Evaluation Commission set up in the parliament gave Nazi Janezashvili, Giorgi Burjanadze, Ana Abashidze and Nugzar Kokhreidze the highest scores.

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<sup>141</sup> Netgazeti.ge (website), *Levan Ioseliani will be Citizens' Candidate to the Office of the Public Defender*, 28.02.2023, available at: <https://netgazeti.ge/news/657214/>.

<sup>142</sup> Tabula.ge (website), *Ioseliani's Candidacy to the Office of the Public Defender Will Go to the Plenary Vote Without Deliberations*, 06.03.2023, available at: <https://tabula.ge/ge/news/698181-ombudsmenobaze-ioselianis-kandidatura-plenarulis>

<sup>143</sup> Parliament.ge (website), *With the change to be introduced in the Rules of Parliament, the Parliament supported the temporary rule for the election of the Public Defender in the third reading with 83 votes*, 09.09.2022, available at: <https://bit.ly/3D9vWLB>.

<sup>144</sup> Parliament.ge (website), *2022 Order of the President of the Parliament of Georgia, on Setting up a Working Group for Evaluating Persons Wishing to be Nominated as Candidates to the office of the Public Defender of Georgia*, 28.09.2022, 1/435/22, available at: <https://web-api.parliament.ge/storage/files/8/chairman/brdzaneba-2020-X/1-435-22.pdf>.

<sup>145</sup> Parliament.ge (website), *By Amending the Rules of Parliament, a Temporary Rule for the Election of the Public Defender is Established*, 06.09.2022, available at: <https://parliament.ge/media/news/parlamentis-reglamentshi-shesatani-tsvlilebit-sakhalkho-damtsvelis-archevis-droebiti-tsesi-dgindeba>.

<sup>146</sup> Radiotavisupleba.ge (website), *Candidates to the office of the Public Defender of Georgia were Evaluated – What Will Happen Now?* 14.10.2022, available at: <https://www.radiotavisupleba.ge/a/32082229.html>.

<sup>147</sup> Radiotavisupleba.ge (website), *Non-Governmental Organisations Nominate 3 Candidates to the office of the Public Defender*, 29.09.2022, available at: <https://www.radiotavisupleba.ge/a/32053051.html>.

With the implemented temporary changes, a parliamentary group or a group of no less than seven members who are not members of any parliamentary groups were vested with the authority to nominate one or more candidates to the Parliament of Georgia from among those who wished to become the Public Defender. In the parliament, the process would start if the number of nominated candidates were not less than seven. At one glance, with the temporary changes put in place, the ruling party offered a flexible environment to all parties involved in the process and laid foundation for the implementation of the recommendation.

The political group Citizens submitted to the Parliament of Georgia all the candidates who expressed their desire to take the office of the Public Defender.<sup>148</sup> This approach rendered the activities of the evaluation commission and the nomination of candidates from non-governmental sector a formality. In this regard, the change implemented by the initiative of Levan Ioseliani, regarding the selection of candidates to the office of the Public Defender by open voting, is commendable. However, this did not have a positive impact on the current processes.

From 25 October 2022 to 4 November 2022, during the interviews with candidates to the office of the Public Defender in the Legal Issues Committee of the Parliament of Georgia, members of the parliament took more or less biased positions. In relation to some candidates, the content of the questions was more critical (in relation to the persons named by non-governmental sector) and related, among other things, to the candidates' previous Facebook posts that were critical of the ruling party.

For example, the President of the Legal Issues Committee, Mikheil Sarjveladze said that Georgian Dream looked at the candidates' Facebook pages to get to know the candidates better and "establish their impartiality".<sup>149</sup> It is noteworthy that Nazi Janezashvili did not appear before the parliament for her committee interview, citing the biased approach of the ruling party as the main reason for her absence.

The President of the Human Rights and Civil Integration Committee stated that all (19) candidates submitted to the parliament would be voted for at the plenary session of the parliament to the office of the Public Defender. However, the parliamentary majority party held consultations with the opposition regarding only eight candidates.<sup>150</sup>

Despite the fact that the ruling party introduced an inclusive and transparent process for the selection of the Public Defender, namely, it did not nominate its own candidate and set up an evaluation commission, interviews were held with candidates, candidates ran for office through open voting, the goal of the 12<sup>th</sup> priority was still not achieved. During the voting, members of the parliament did not take into account the scores given by the Evaluation Commission, set up for this purpose. Finally, on 22 December 2022, at the plenary session of the parliament, a consensus could not be reached and the Public Defender could not be selected.<sup>151</sup>

The term of office of the former Public Defender Nino Lomjaria expired on 8 December 2022. Due to the failure to reach an agreement, from December 2022, the First Deputy Public Defender performed the duties of the Public Defender for three months.

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<sup>148</sup> Interpressnews.ge (website), *Citizens Will Nominate All 19 Candidates to the Parliament to the Office of the Public Defender*, 19.10.2022, available at: <https://bit.ly/3RgDUbO>.

<sup>149</sup> Radiotavisupleba.ge (website), *Parliament Heard the First Three Candidates of the Public Defender – Q&A*, 25.10.2022, available at: <https://bit.ly/3XUchY9>.

<sup>150</sup> Radiotavisupleba.ge (website), *Majority Will Continue Consulting With Opposition on 8 Candidates to the Office of the Public Defender*, 28.22.2022, available at: <https://bit.ly/3wkwRpO>.

<sup>151</sup> Radiotavisupleba.ge (website), *Parliament Could Not Elect the Public Defender*, 22.12.2022, available at: <https://www.radiotavisupleba.ge/a/32188833.html>.

As soon as Citizens nominated Levan Ioseliani, announcements were made that it would be possible to reach an agreement on his candidacy. Levan Ioseliani's candidacy was positively evaluated by the President of the Parliament of Georgia<sup>152</sup> and several members of the parliament from the parliamentary opposition.<sup>153</sup> The election of Levan Ioseliani received backlash from public organisations because the process of selecting a new candidate “was conducted behind closed doors” and “electing a politician to the main human rights position of the country”.<sup>154</sup>

The inclusiveness of the process was negatively affected by the fact that the Parliament of Georgia heard the candidate only once at the session of the Human Rights and Civil Integration Committee on 6 March 2023.<sup>155</sup> The next day, on 7 March 2023, the Parliament elected Levan Ioseliani as the Public Defender at the plenary session without any further deliberations.<sup>156</sup> The election of the Public Defender appeared problematic also due to the simultaneous mass protests taking place in the country in relation to the initiation of the Draft Law on Transparency of Foreign Influence. In the critical political situation, Georgian Dream hastily supported the candidate to the office of the Public Defender. While the Public Defender was not elected by a single party and was supported by 96 members of the parliament, including opposition members of the parliament from the political groups of Citizens, Girchi and European Socialists, as well as several non-partisan members of the parliament, the process was not inclusive and sufficiently transparent.

**Although the process of electing Levan Ioseliani to the office of the Public Defender was not inclusive and transparent, at this stage, the Recommendation of the European Commission can be considered formally fulfilled. To assess the extent to which the new ombudsperson will guarantee the institutional independence of the Public Defender's Office, it is important to observe the process.**

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<sup>152</sup> Interpressnews.ge (website), *Shalva Papuashvili – Difficult to Say Anything Negative About Levan Ioseliani as a Professional – Majority Will Discuss and Reach Decision*, 01.03.2023, available at: <https://www.interpressnews.ge/ka/article/746806-shalva-papuashvili-levan-ioselianis-rogorc-propesionalis-mimart-rtulia-rame-aradadebiti-tkva-umravlesoba-imsjelebs-da-mivigebt-gadacqvetelebas/>.

<sup>153</sup> Interpressnews.ge (website), *Khatuna Samnidze – Levan Ioseliani as the Public Defender Will Have My Vote – We Were Told Many Times the Public Defender Should Not Be a Political Figure, but a Compromise Is Needed for Consensus*, 02.03.2023, available at: <https://www.interpressnews.ge/ka/article/746914-xatuna-samnize-saxalxo-damcvelad-levan-ioselianis-kandidaturas-chemi-xma-ekneba-bevrjer-gvitkvams-rom-ombudsmeni-politikuri-pigura-ar-unda-iqos-magram-konsensusistvis-sachiroa-kompromisi/>; see also, 1tv.ge (website), *Tamar Kordzaia – Levan Ioseliani Will Have My Vote, Considering the Political Context, He Is the Most Acceptable Candidate*, 28.02.2023, available at: <https://1tv.ge/news/tamar-kordzaia-levan-ioselians-chemi-khma-eqneba-radgan-politikuri-konteqstis-gatvaliswinebit-velaze-misaghebi-kandidatia/>.

<sup>154</sup> Jam-news.net (website), *Non-Governmental Organisations Do Not Agree With Electing Levan Ioseliani to the Office of the Public Defender*, 07.03.2023, available at: <https://jam-news.net/ge/arasamtavroebis-sakhalkho-damcvelis-postze-levan-ioselianis-archevis-process-ar-etankhmebian/>.

<sup>155</sup> Parliament.ge (website), *Human Rights and Civil Integration Committee Heard Levan Ioseliani, a Candidate to the Office of the Public Defender*, 06.03.2023, available at: <https://parliament.ge/media/news/adamianis-uflebata-datsvisa-da-samokalako-integratsiis-komitetma-sakhalkho-damtsvelobis-kandidats-levan-ioselians-mousmina>.

<sup>156</sup> Parliament.ge (website), *Parliament Supported Levan Ioseliani to the Office of the Public Defender*, 07.03.2023, available at: <https://parliament.ge/media/news/parlamentma-sakhalkho-damtsvelis-postze-levan-ioselianis-kandidaturas-mkhari-dauchira>.

## KEY FINDINGS

- The ruling party's political decisions and anti-European rhetoric form an obstacle to European integration;
  - By initiating the draft laws on Transparency of Foreign Influence and Registration of Foreign Agents, the ruling party seriously damaged the process of European integration and deepened the polarisation between the authorities and civil sector;
  - Right at the beginning, the ruling political party started implementing the recommendations of the European Commission only according to its own plan;
  - The parliamentary opposition set up separate working groups to implement the priorities determined by the European Commission. This caused the duplication of the process and was counterproductive;
  - The positions of representatives of non-governmental sector and opposition political parties were not taken into account by the working groups;
  - Not all civil society organisations concerned were given the opportunity to participate in the working groups set up in the parliament;
  - The ruling party considers non-implementation of the recommendations, which can only be achieved by political consensus, to be the political responsibility of the opposition;
  - The process of implementing the 12-point recommendations of the European Commission is superficial on the part of political actors and less inclusive; and
- The ruling party did not make any efforts to fulfil the first, seventh and eighth priorities.

## RECOMMENDATIONS

### TO THE RULING PARTY

- Put an end to political decisions and statements that harm the perspective of the country's European integration; and
- Start substantive discussions and take decisive steps to implement the 12 priorities determined by the European Commission in good faith, avoiding taking pretentious steps and initiatives.

### TO THE OPPOSITION PARTIES:

- Resume active parliamentary activity in order to achieve the goal sought by the 12 priorities determined by the European Commission.