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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Georgia

Information note by the co-rapporteurs on their fact-finding visit to Tbilisi (1 to 3 June 2021)

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¹ Document declassified by the Monitoring Committee at its meeting on 13 September 2021.

1. Introduction

1. Our previous visit took place in March 2020 just before the global lockdown as a result of the Covid-19 pandemic. During that visit, the political agreement on the election system and conduct of the parliamentary elections that was reached between the ruling majority and opposition was key point of discussion. These parliamentary elections, and political crisis that erupted over their outcome have dominated the political developments in Georgia since our last visit.

2. We had originally intended to present a Monitoring report on Georgia to the Assembly in June 2020, but this became impossible due to the pandemic situation. We now intend to prepare a report on the Honouring of Obligations and Commitments by Georgia after the next local elections in autumn 2021 (see also below), but in time for its consideration by the Assembly during the April 2022 session.

3. Our current visit took place several weeks after a political agreement, mediated by European Council President Charles Michel, was reached between opposition and ruling majority which ended the political crisis that had erupted in the country after the elections. The discussions on the implementation of this political agreement, which touches on many of the issues that have been followed closely in the framework of the Monitoring Procedure with regard to Georgia, dominated the discussions during our visit. The statement we issued at the end of our visit is attached in Appendix 1.

4. During this visit, we met with, inter alia, the Prime Minister, the Speaker of the Parliament, the Foreign Affairs Minister, State Minister of Georgia for Reconciliation and Civic Equality, the Chief Prosecutor, the President and members of the High Council of Justice, the Head of the Georgian National Communications Commission, the Chairperson of the Central Election Commission, the first Deputy Public Defender, the Chairperson and members of the Legal Affairs Committee of the Parliament of Georgia, the Chairperson of the Committee on Education and Science Committee, the Chairperson of the Foreign Relations Committee, the Chairperson of the Sector Economy and Economic Policy Committee, the Chairperson and members of the Georgian Delegation to PACE, representatives of all parliamentary factions, representatives of non-parliamentary opposition parties, as well as members of the diplomatic community and representatives of civil society organisations in Georgia. The programme of our visit is attached to this note in Appendix 2.

5. We would like to thank the Georgian Parliament for the organisation of our programme and hospitality provided, and the Head of the Council of Europe Office and her staff for the support given to our delegation with the organisation of the programme.

2. Recent political developments and political environment

6. The political climate in Georgia remains very tense and polarised. These tensions initially subsided somewhat after the agreement between ruling majority and opposition of 8 March 2020 on the electoral system for parliamentary elections until 2024², but then flared-up again in the run-up and aftermath of the parliamentary elections of October 2020.

7. The first round of the parliamentary elections took place on 31 October 2020. These elections were held under a mixed proportional-majoritarian election system with 120 mandates being distributed based on the proportional elections in a single nationwide constituency and 30 mandates in majoritarian races in a similar number of constituencies. The second round of elections, for those majoritarian races where none of the candidates obtained the required majority of the votes, took place on 21 November 2020. These parliamentary elections were observed by an International Election Observation Mission - albeit in a more limited format due to the Covid-19 pandemic - of which a delegation of the Assembly was a part. These elections were also observed by a wide range of local observers and civil society organisations.

8. The International Election Observation Mission concluded that the elections were overall competitive with fundamental freedoms respected. Regrettably observers also noted a continuing trend of pervasive allegations of pressure and intimidation of voters and party activists, and, for the first time, international and domestic observers noted several inconsistencies in the summary (results) forms³. Even if these shortcomings and reports of electoral malpractice do not seem to have significantly affected the overall outcome of these elections, these tendencies are of serious concern, especially as they are increasingly becoming a recurrent trend in Georgia elections.

² According to the Georgian Constitution as from the regular parliamentary elections in 2024, all parliamentary elections will take place on the basis of a fully proportional election system.

³ [Doc. 15210](#).

9. The first round of the elections was won by Georgian Dream with 48,23% of the votes. At the same time the opposition parties also did very well in these elections, which will allow them to be a serious force and play a strong role in the new parliament. The UNM came in second place with 27.17% of the votes and confirmed its status as the main opposition party in Georgia. European Georgia obtained 3.8% of the votes and six other parties, all, but one, new parties, passed the 1% threshold with results varying from 3% to 1%. In addition, in the first round, GD won 14 of the 30 majoritarian races. These results were overall congruent with pre-election polls as well as the outcome of the parallel vote tabulation conducted by ISFED⁴.

10. However, the opposition, in unity, alleged that the elections were marred by widespread fraud. Despite repeated calls from the international community to the contrary, these parties decided to boycott the second round of the elections and refused to accept their mandates in the new parliament. The GD therefore ran unopposed in the second round of the majoritarian elections, winning all remaining 17 majoritarian seats. The GD obtained a parliamentary majority, albeit not a constitutional majority, of 90 seats, UNM obtained 36 seats, European Georgia 5 seats and the other parties between 4 and 1 mandates (19 mandates in total). As we will outline below, during the post electoral developments several members left the parties for which they were originally elected. As a result, GD currently holds 84 seats, the UNM led United opposition has 32 seats, while all EG members as well as several members from other smaller opposition parties joined other factions or entered the parliament as independent members.

11. Following the elections, we issued a statement, supported by the Committee, in which we called upon all political parties to take their seats in the new parliament, while at the same time also calling upon the authorities and newly elected parliament to fully investigate any reports of electoral misconduct, such as abuse of administrative resources and pressure on voters and party activists.

12. Regrettably, despite the calls of the international community, the opposition parties maintained their boycott of the parliament, demanding inter alia new snap elections, the release of all persons they consider political prisoners as well as further electoral reforms. In January 2021, four members of the Alliance of Patriots defied their party's stance and took up their parliamentary mandates. Two members of the Citizens Party entered parliament on the same day following an agreement with Georgian Dream on the release of two persons⁵ whose incarceration was considered politically motivated by the opposition and further electoral reforms including lowering the threshold for proportional elections. All other elected opposition MPs continued to refuse to enter parliament.

13. Efforts by the international community to mediate between opposition and Georgian Dream initially did not lead to any tangible results. The political crisis deepened on 23 February 2021 after the Georgian police entered the UNM HQ to arrest UNM leader Mr Nika Melia who had holed himself up there with supporters. Mr Melia was being prosecuted for his alleged role in the June 2019 protests and had been released on bail on the condition he wore an electronic bracelet. In November 2020 he took off this bracelet in an act of protest against the election results. His prosecution following the June 2019 events is controversial. While he may have broken the law in that context, there are serious questions regarding the grounds for his prosecution and the manner in which the judicial process against them has taken place. On 12 May 2021, Mr Melia filed a complaint with the ECHR, alleging, inter alia, politically motivated prosecution. Similarly, the decision to arrest Mr Melia in February 2021 was highly controversial. While he had indeed removed his electronic bracelet in protest, court proceedings in relation to this action had not been finalised while the risk of him absconding seemed to have been very small if existent at all. The decision to arrest Mr Melia was widely criticised inside Georgia as well as by the international community.

14. It should be highlighted that the decision to arrest Mr Melia was also controversial within the Ruling Party. Prime Minister Gakharia resigned on 18 February 2021 after the GD leadership took the decision to re-arrest Mr Melia. Mr Gakharia was subsequently replaced as Prime Minister by former PM Irakli Garibashvili.

15. Mediation efforts by the international community started to pick up when, during his visit to Georgia in the beginning of March 2021, European Council President Charles Michel announced that he would personally mediate between the government and opposition. He subsequently appointed a Special Representative (Swedish diplomat and EU representative in Stockholm Christian Danielsson) to continue his mediation efforts after his departure. A first proposal for an agreement was initially rejected by both opposition and ruling majority. Mr Danielsson subsequently published his draft proposal on 31 March 2021. The main obstacles for

⁴ [Updated Information on ISFED's PVT Results](#)

⁵ Natalia Ilichva and Iveri Melashvili

an agreement reportedly remained the demand for snap elections and the release of Mr Melia and Mr Giorgi Rurua⁶.

16. In a welcome development, on 16 April 2021, the ruling majority announced that they had formally signed the compromise proposal of Mr Danielsson and, in addition that they agreed to holding snap elections in the event the GD would obtain less than 40% of the votes in the next local elections which are scheduled for October 2021. On 19 April 2021, EU Council President Michel published an updated proposal for an agreement to address remaining hesitations among opposition parties. This proposal included an amnesty / pardon for both Mr Melia and Mr Rurua, as well as the organisation of snap elections in the course of 2022 if Georgian Dream would obtain less than 43% of the valid votes in the 2021 local elections. The ruling party, as well as most opposition parties signed this agreement. A copy of this agreement is attached (English only) as appendix 3.

17. Regrettably, the biggest opposition party UNM, as well as EG refused to sign the agreement. On 30 May, UNM announced that it would enter parliament, but that it would not sign, or be bound by, the agreement. This position is regrettable as it does not commit UNM to, nor makes it part of the negotiations regarding, the implementation of the agreement.

18. The long political standoff has had repercussion inside both ruling majority and opposition, and internal divisions increasingly became clear. With regard to the opposition, on 15 December 2020, Mr Grigol Vashadze, Chairman of the United National Movement and their candidate in the 2018 Presidential elections, step down from his leadership positions and left the party over disagreements regarding the tactics followed by the UNM. On 12 February 2021, Davit Bakradze and Gigi Ugulava, citing the need for renewal of the European Georgia party, announced that they would not seek re-election in the leadership of the party. On the same day, MP and former Ambassador of Georgia to the Council of Europe, Zurab Tchiaberashvili announced his decision to leave the EG party. Following the refusal to sign the 19 April agreement, several UNM MPs quit their party and joined the parliament, including their key negotiator on the agreement, Ms Salome Samadashvili, who joined the Lelo faction in parliament. All but one of the MPs elected for EG, who in the meanwhile had left the party, entered the parliament as independents or joined other factions. With regard to the ruling majority, on 14 April 2021, 6 Georgian Dream MPs left the GD faction to join the party announced by former PM Gakharia. We were informed that, as a consequence of a rule that is meant to prevent the formation of multiple technical factions by one and the same party to obtain extra parliamentary resources, these MPs would not be able to establish their own faction, despite having left the ruling party and having the minimum required number of members. We hope the parliament will resolve this issue in a democratic fashion without any undue delays. Following our return we have received several allegations harassment of activists and party officials from Mr Gakharia's "For Georgia" party, which have also received the attention⁷ of the Georgian Public Defender (Ombudsperson) and which would be of concern if proven true.

19. As a result of these developments, the political landscape in Georgia, as well as the political make-up of the parliament has changed considerably. While many interlocutors hoped that this changed landscape and party fragmentation would lead to increased dialogue and pluralism in the political environment, expectations were considerably lower given the lack of a culture of political coalitions in Georgia.

20. On 27 April 2021, 12 opposition MPs that signed the EU brokered agreement formally entered parliament. On 8 June, the UNM MPs entered the parliament, which now has its constitutional working majority.

21. With the opposition joining the parliament, a quick start was made with the implementation of the agreement. However, it was not clear how, and to what extend UNM would be involved in, and committed to, the implementation of the agreement as a result of their continued refusal to sign the agreement. This would turn out to be one of the factors in the later breakdown of the agreement.

22. It is important to note that many provisions of the 19 April agreement touch upon subjects that have been focal points in the ongoing monitoring procedure of the Assembly. Representatives of the international community, including the EU and US mediators, underscored the role and contribution by the monitoring

⁶ Mr Giorgi Rurua is the founder and shareholder of Mtavari Arkhi TV a television station that is critical of the government. He was arrested for illegal weapons position, the evidence for which he claims was fabricated. The opposition views his prosecution as politically motivated and demanded his release in the context of the March 2020 political agreement on the election system. He was the only of the four so-called political prisoners that was not released by the authorities, who consider him a common criminal.

⁷ [Public Defender's Statement on Dismissal of Individuals due to Political Views \(ombudsman.ge\)](https://ombudsman.ge/en/public-defender-statement-on-dismissal-of-individuals-due-to-political-views)

procedure, as well as the consistent statements of the Assembly and monitoring rapporteurs, in resolving the political crisis, as well as its continuing importance for the implementation of the agreement.

23. Priority for the implementation of the agreement was given to the release and amnesty of Mr Rurua and Mr Melia as well as the agreed electoral reforms, given the upcoming local elections. The electoral reform will be discussed in a next section. With regard to the release of the two above mentioned personalities, President Zurabishvili, on 27 April 2021, pardoned Mr Giorgi Rurua. In addition, parliament started its work on an Amnesty Law for crimes committed in the context of the 20 June 2019 protests and riots, which is needed to drop the charges against Mr Nika Melia. However, this law created controversy, as this amnesty would also apply to those police officers that were convicted for excessive use of force during these riots. The ruling majority agreed that anyone convicted human rights violations would be excluded from the amnesty but that anyone convicted on similar charges to those of Mr Melia, whether police or protesters, would be covered by the amnesty. While continuing to oppose the Amnesty law, Mr Melia accepted an offer by the EU to post his bail. His bail was posted on 8 May and Mr Melia was released on 10 May 2021. However, until an Amnesty law has been adopted the charges against him remain in place. During our visit the adoption of the Amnesty law was stalled as a result of the insistence of both ruling majority and opposition on, albeit different, conditionality clauses in the law. The ruling majority wished to make Mr Melia's amnesty conditional on him accepting it, while for their part the opposition insisted that police officers could only receive amnesty if their "victims" agreed. Both conditions seem to us unreasonable as they would effectively render the law unimplementable. We therefore urged both sides to adopt the amnesty law without these conditionalities. The bill was adopted by the Georgian parliament on 7 September 2021. The condition that a person to be amnestied has to agree with the amnesty has been maintained.

24. As mentioned, the agreement stipulates that pre-term elections will be organised in 2022 if the GD obtains less than 43% of support in the next local elections, effectively turning these local elections into a plebiscite on the ruling majority. This raises some concerns that this could lead to an extremely polarised political environment for the local elections, akin to what was seen before the last presidential elections. We therefore urged all political forces to ensure that these elections are conducted in a genuinely democratic manner, in line with both the letter and the spirit of the electoral legislation, as well as with international standards for democratic elections. In addition, we urged all stakeholders to ensure that, despite the heightened national political interest in these elections, their relevance for the strengthening of local government and democracy will not be overlooked.

25. Regrettably, the 19 April agreement did not end the considerable polarisation in the political environment in Georgia or lead to a renewed sense of constructive co-operation between opposition and ruling majority inside the parliament. This was clear from a number of developments that happened after the end of our visit.

26. On 12 July 2021, the ruling majority in the parliament appointed six new Supreme Court Judges, despite clear calls by the international community and domestic stakeholders to completely restart the selection process after the reform of the legal framework governing the selection process in the High Council of Justice. The appointment was strongly criticised by the international community with the European Union, as well as US representatives, publicly stating that these appointments were contrary to the 19 April agreement.

27. On 30 June 2021, Ms Tamar Zhvania, the Chairwoman of the Central Election Commission resigned to allow for the appointment of a new Chairperson as part of the 19 April agreement. However, parliament did not manage to gather the required two-third majority to appoint a new chairperson in the first two votes as the opposition did not back any of the candidates. In the end, in line with legal provisions, a new Chairperson was appointed by simple majority for a period of six months.

28. Unfortunately, after our visit the 19 April agreement broke down when, on 28 July 2021, Georgian Dream announced that they withdrew from the agreement as it had exhausted itself and was still not supported by the main opposition parties, including the largest opposition faction led by the UNM⁸. We deeply regret both the withdrawal from the agreement by the GD as well as the fact that the main opposition parties refused to sign the agreement. An analysis of these developments, which took place after our visit, is beyond the scope of this information note. The causes for this breakdown are complex and do not benefit from simplistic interpretations. We therefore intend to return to this issue during our next visit and subsequent information note, that should take place before the end of this year.

⁸ <https://civil.ge/archives/434256>.

3. Electoral Reform

29. On 17 December 2020, in what was seen as a knee-jerk reaction to the boycott of parliament by the opposition, the ruling majority proposed a series of amendments to the Electoral Code, Law on Political Association of Citizens, as well as the rules of procedure of the Georgian parliament. According to the proposed changes, parties that do not take up at least 50% of their mandates will lose state funding, and free airtime, during the next election campaign. In addition, if more than half of the members of a party would be absent without good reason for more than half of the plenary sessions that party or bloc would lose state funding for a period of 6 months. In the light of the criticism on these proposed changes the ruling majority agreed to send the proposed amendments to the Venice Commission for opinion and to wait with their consideration in second and third reading until this opinion was adopted.

30. The Venice Commission adopted its opinion⁹ at its plenary on 19 and 20 March 2021. In this opinion, while regretting the use of parliamentary boycotts, the Venice Commission noted that these were nevertheless legitimate options for a political party and protected under the principle of freedom of expression. Depriving a party of its state funding – which is based on its electoral support in the elections – for boycotting the parliament would be a disproportional sanction that would also negatively affect the pluralism of the political environment in Georgia as most political parties are dependent on state funding. In addition, the Venice Commission considered that it would be disproportional if a political party would lose its state funding for a period of time as a result of the majority of its members not participating in the plenary sessions without a valid reason. In that context the Venice Commission noted that the remuneration of individual members was already regulated in the rules of procedure of the parliament, which currently considers a boycott as a valid reason of absence. In addition, the remuneration of MPs is guaranteed in the Georgia Constitution, so while reducing their support could be legitimate, ending it altogether would probably be unconstitutional according to the Venice Commission. It therefore strongly recommended that the parliament would not adopt these proposed amendments. Nevertheless, the Georgian parliament passed this bill on 22 June 2021.

31. The ruling majority also tabled another set of amendments to the electoral code that would have as effect that any party whose party leader would not be eligible to vote in Georgia would lose its registration as a party and be disbanded. These amendments are clearly aimed at the UNM, whose leader, former President Saakashvili, lost his Georgian citizenship, in line with Georgian law, when he obtained Ukrainian citizenship. The Speaker of the Georgian parliament requested an opinion of the Venice Commission before they were formally included in the parliamentary agenda. These draft amendments to the electoral code are clearly an example of “*ad hominem*” legislation which, as noted by the Venice Commission in its opinion¹⁰, is on itself sufficient ground to recommend that these amendments be withdrawn. The Venice Commission also noted that, while restrictions can be placed on active and passive voting rights of non-citizens as well as on the possibility for them to establish parties, it would run counter European standards to extend such limitations to party membership or holding positions in political parties or movements. Moreover, the Venice Commission noted that the concept of party leader was not clearly defined in the amendments while the sanction of deregistration of a party, with its effects on pluralism in the political environment, was considered disproportionate. The Venice Commission therefore recommended to reconsider adopting these amendments.

32. As part of a memorandum of understanding signed with the opposition parties that had returned to the parliament in January 2021, the parliament adopted in first reading a set of draft amendments to the electoral legislation with the aim to address the shortcomings noted in the October 2020 elections. On 9 March 2021 the Speaker of the Georgian parliament requested the opinion of the Venice Commission on these amendments. On 30 April 2021, the Venice commission endorsed a joint urgent opinion¹¹ with the OSCE/ODIHR on these amendments.

33. In the 19 April agreement, the ruling majority and opposition parties that signed the agreement commit themselves to a number of “ambitious electoral reforms” to address shortcomings noted in previous elections including with regard to the composition of the electoral administration. The parties agreed, inter alia, to adopt the January amendments with several “complementary or modifying amendments”. On 18 May the opposition and ruling majority reached an agreement on changes to the electoral legislation as foreseen in the 19 April agreement. This agreement on the electoral code was hailed as a positive step by the opposition members in the electoral working group which noted the inclusive drafting process and a more open and flexible position of the ruling majority. The revised amendments were sent to the Venice Commission for opinion on 25 May

⁹ [CDL-AD\(2021\)008](#).

¹⁰ [CDL-AD\(2021\)009](#).

¹¹ [CDL-PI\(2021\)005](#).

34. 2021. The Venice Commission issued an urgent joint opinion¹² with OSCE/ODIHR on the revised amendments which was endorsed by the Venice Commission during its session on 2 and 3 July 2021. On 28 June 2021, the revised amendments were adopted by the Georgian parliament.

35. In its opinion, the Venice Commission underscored the importance of the stability of election legislation. It noted that in recent years, election legislation in Georgia had been frequently changed, often in the context of (the resolution of) a political crisis, which risks undermining the integrity of - and public trust in - the election process. However, these amendments and the process leading to their adoption was acceptable given the broad consensus on these changes. At the same time, the Venice commission underscored that these amendments addressed only a specific set of concerns that had been raised in the context of the 2020 elections and in the 19 April agreement. The Venice Commission emphasised that a comprehensive and holistic review of the complete legal framework for elections would be recommendable for Georgia.

36. The election administration in Georgia has a mixed composition of party representatives and nonpartisan members appointed by the parliament. The amendments maintain this mixed composition for the election commissions but increase their number of members to 17 from 12. The Venice Commission questioned the practicality if this increase on the level of the DEC¹³ and PEC¹⁴ and recommended to reconsider this increase for DEC¹³ and PEC¹⁴. For the CEC, 7 of its members, in addition to its Chairperson, are appointed by the parliament, on nomination by the President of Georgia, based on a 2/3 majority with an anti-deadlock mechanism¹⁵. The other 9 members are appointed by registered political parties that were assigned at least one mandate¹⁶ in the parliament¹⁷. The composition of the DEC¹³ and PEC¹⁴ follows the same model as that of the CEC with the non-partisan members being appointed by the CEC for the DEC and by their respective DEC¹³ for PEC¹⁴. The Chairpersons for these commissions are elected by the members on these commissions from among the nonpartisan commission members. The CEC will have two deputies, one selected by the opposition parties and one professional (nonpartisan) member.

37. While the Venice Commission welcomed the changes as ultimately adopted by the parliament, it highlighted the need for a transparent and merit-based selection process for the non-partisan members, which until now were often seen as ruling party loyalist, which lowers public trust in the election administration. In that respect the Venice Commission recommended that the selection process for members on the committee that selects the non-partisan members, as well as the manner in which this commission makes its decisions, are proscribed by law.

38. The Venice Commission welcomed the provisions to counter the abuse of administrative resources, as well as the restrictions on agitation close to polling stations during election day. However, the Venice Commission recommended to consider all together prohibiting campaigning on election day, as well as developing an overall regulatory framework for the prevention of the misuse of administrative resources.

39. The amendments significantly improve the regulations for drawing up the results protocols by the election commissions and for the organisation of recounts. In addition, they repeal the power of the PEC¹⁴ to correct or amend election protocols after the PEC has finalised its work on election day. To further strengthen this, the Venice Commission recommends that a comprehensive regulatory framework be put in place that provides clear legal criteria for recounts and the handling of election disputes.

40. The handling of election complaints and appeals by the election administration has been a point of concern during previous elections. Regrettably, the amendments do not yet ensure a fully transparent and effective dispute resolution process and neither do they ensure that all decisions of the election administration in response to election complaints can be appealed before the Court. In that respect the Venice Commission expressed concern that these amendments seem to reduce the number of persons and entities that have the required legal standing to file election complaints. The Venice Commission therefore recommends that a comprehensive election complaints resolution framework, with guaranteed access to the courts for all complainants, be developed by the new parliament.

41. Regarding the local elections, the amendments considerably increase the proportional representation in the city councils, while for majoritarian candidates for city councils the threshold to be considered elected was raised to 40%.

¹² [CDL-AD\(2021\)026](#).

¹³ District Election Commissions.

¹⁴ Precinct Election Commissions.

¹⁵ For the first two votes a candidate needs a 2/3 majority to be appointed, in case of a third vote a 3/5 majority is needed. A fourth vote will take place by simple majority. In that case the appointment is valid for only 6 months.

¹⁶ Irrespective of whether they take up this mandate.

¹⁷ In the event there are more than 9 eligible parties, those with the most mandates will have priority.

4. Media environment: Law on Electronic Communication and Law on Broadcasting

42. Georgia has a free and pluralist media environment, which, regrettably, also mirrors the polarisation found in the political environment, with reporting by media outlets often reflecting the political views of their owners. We have received reports of an increase of attacks on journalists, including by members of the clergy, that do not seem to be properly investigated and prosecuted, leading to a sense of impunity for such lamentable acts. Addressing this should be priority for the authorities¹⁸.

43. In November 2020, the Monitoring Committee requested an opinion of the Venice Commission on the amendments to the Law on Electronic Communications and Law on Broadcasting as adopted in the summer of 2020. Telecom companies as well as civil society organisations had expressed concerns about certain aspects of these amendments which they fear could lead to undue restrictions on media freedom in Georgia. These organisations also regretted that consultations between authorities and stakeholders were lacking before these changes were adopted. Civil Society Organisations and Telecom Companies are especially concerned about the provisions in the Law on Electronic Communications that gives the National Communication Commission of Georgia (GNCC) the right to appoint a special manager at telecommunications companies, in order to enforce decisions of the GNCC if that company refuses to do so voluntarily.

44. The appointment of a special manager by the GNCC is not a hypothetical issue. On 20 October 2020 the GNCC appointed a special manager to reverse the 2019 sale of Caucasus Online to the Azerbaijani company NEQSOL, which was deemed illegal¹⁹ and detrimental to Georgia's national security interests²⁰ by the GNCC.

45. In its opinion²¹, the Venice Commission notes that Article 1 of Protocol 1 of the ECHR allows the right to peaceful enjoyment of property to be restricted by a state *"to control the use of property in accordance with general interest or to secure the payment of taxes and other contributions or fees"*²². While the reversal of the sale of a telecommunications company can therefore be a legitimate objective, the appointment of a special manager, with all possible implications for the freedom of expression, may be disproportionate, especially given that this special manager does not have the legal right to change the ownership of the company or its assets.

46. The Venice Commission also questioned the provision in the Law on Electronic Communications that stipulated that any appeal to an appointment of a special manager by the GNCC will not result in the suspension of the appointment. Based on the above, the Venice Commission recommended, while recognising the sensitivity of the situation the legislator had to deal with, to re-examine the amendments based on the recommendations contained in the opinion. Namely by, inter alia: *"specify the scope of Art. 46 No. 1 by introducing legal definitions for "economic interest of the country", "critical infrastructure" and "security interests"; and to amend new Art. 46 No. 1 in such a manner as to clearly stipulate that the provision in no manner applies to the broadcasting operations of the electronic communications"*²³. In addition, the Venice Commission recommended to *"revoke the amendment to Art. 11 and return to the general principle of domestic administrative procedure law that appeals have suspensive effect for appointment decisions taken by the GNCC under Art. 46 No.1 [and to] stipulate clearly who, in the case of the appointment of a special manager under Art. 46 No. 1, has the right to appeal the appointment decision and extend the timeframe for lodging such an appeal..."*²⁴

47. With regard to the Law on Broadcasting the draft amendment that had raised concern stipulated that an acceptance by a Court to hear a claim against a decree of the GNCC would not result in the suspension of the decree when the court case is going on. To our satisfaction we were informed that this amendment was withdrawn following concerns raised by industry and civil society representatives.

¹⁸ According to the authorities: *"all of the cases concerning any kind of misconduct against journalists have been investigated or are under investigation. Penalties are in accordance with to Georgian law. The government remains committed to investigation and punishment of anyone perpetrating crimes of this nature."*

¹⁹ The sale had not been announced to the GNCC as required by law and was considered detrimental to the competitiveness of the media market.

²⁰ Caucasus Online owns the only fibreoptic internet cable linking Georgia to the Black Sea and rest of Europe.

²¹ [CDL-AD\(2021\)011](#).

²² Art.1 Protocol 1, §2.

²³ [CDL-AD\(2021\)011](#) § 70.

²⁴ Idem.

5. Judiciary

48. The strengthening the independence of the judiciary and the impartial and efficient administration of justice have remained key points of attention for the Monitoring procedure with regard to Georgia.

49. We welcome that, in the 19 April agreement the ruling majority and opposition have committed themselves to further the judicial reforms in Georgia, in particular with regard to the reform of the High Council of Justice and its functioning, including with regard to the appointment of judges, as well as the appointment of the Prosecutor General. The agreement also stresses the support for the implementation of the 3rd and 4th waves of reforms, which also has been a long-standing recommendation from our Committee.

50. A key obstacle for the independence of the judiciary has been the High Council of Justice and its functioning. The HCJ is a self-governing body of the judiciary whose members in majority are judges elected by their peers. However, due to deficiencies in its working methods, and a lack of transparency with regard to its decision making, the HCJ is in effect functioning as a corporative body where a small number of key judge-members, who mostly decide on the basis of corporatist self-interest, are able to control or influence the work of the HCJ and justice system as a whole. External dependence and interference have been replaced by internal dependence and interference. As a result, public trust in the HCJ is very low, which effects the overall trust in the judiciary.

51. The HCJ consists of judge and non-judge members. The judge members are elected by the conference of judges, while the non-judge members are appointed by the parliament with qualified 3/5 majority. The recent appointment of four judge members by the conference of judges was highly criticised as being non-transparent and mostly aimed at strengthening the position of the above-mentioned group of judges that are often referred to in Georgia as “the clan”.

52. The term of office for 5 out of 6 non-judge members in the High Council of Justice ended late June 2021 and the parliament will have to appoint their successors. The appointment of these non-judge members is of utmost importance as they could counteract the stronghold on the control over the judiciary by the “clan”. The manner in which these non-judge members are selected by the parliament is therefore crucial. It should be based on a transparent and merit-based selection process conducted in consultation with the relevant stakeholders, including civil society. In addition, the candidates should be selected based on consensus, or at least have considerable support of the opposition. During our visit we insisted that the non-judge members should only be selected by parliament after the much-needed reform of the High Council of Justice and on the basis of a transparent consensual and merit-based appointment procedure.

5.1. Appointment of Supreme Court Judges

53. Following the constitutional reform, Supreme Court judges are appointed for life and the minimum number of supreme court judges was increased to 28. On 13 December 2019 the Georgian parliament appointed 14 new Supreme Court Judges in a very controversial and politicised appointment process that undermined public trust in this important institution.

54. The law on the common courts stipulates two phased appointment process: the selection of candidates by the High Council of Justice and the appointment itself by the parliament. The Venice Commission had provided an opinion on the legal provisions for the appointment process. However, a series of crucial recommendations were not implemented, inter alia with regard to the recommended abolition of secret voting, and the need for decisions to be based on uniform and transparent selection criteria and be reasoned in writing. These recommendations, if implemented, would have helped ensure the transparency of the selection process and provide candidates the possibility to appeal decisions that were made by the High Council of Justice. This is especially important given the low level of public trust in the HCJ.

55. As a result of these recommendations not being implemented, the procedure was vulnerable to politicisation and arbitrary decision-making which impeded a transparent and merit-based selection process. In face of the widespread domestic and international criticism on the selection and appointment processes and their outcome, the Georgian Parliament agreed to wait with the appointment of new SC Judges to fill the remaining vacancies until after the parliamentary elections. As rapporteurs we repeatedly called upon the Georgian parliament not to appoint any new SC Judges until the law on the Common Courts - which governs the selection of Supreme Court Judges - was further amended with a view to addressing the deficiencies noted during the appointment process and, especially, to implement the remainder of the VC recommendations. This position was later reflected in the 19 April agreement.

56. In the summer of 2020, the outgoing parliament drafted amendments to the Law on the Common Courts. In September 2020, the Speaker of the Georgian parliament requested an opinion of the Venice Commission on these amendments which was prepared under urgent procedure.

57. In its opinion²⁵ on those amendments, the Venice Commission welcomed the more transparent and inclusive evaluation process outlined in the law and the obligation to provide written reasoning for each decision. However, the Venice Commission continued to question why a vote on the candidate list should take place at all, given that such a vote could alter the ranking of the candidates based on their interviews, as HCJ members are not obliged to vote in compliance with the evaluation scores. In addition, while the votes were no longer secret, the votes by the individual HCJ members were not to be published and revealing these votes by others could result in criminal liability for the person doing so. As a result, public scrutiny of the votes of individual HCJ members would be impossible. This would also render an appeal against a HCJ decision difficult if not impossible, especially on the grounds of alleged bias or discrimination. The Venice Commission therefore recommended that the law would explicitly allow for “*the disclosure, together with the votes and reasonings, of the identity of the members of the HJC who cast the relevant votes*”²⁶. In addition, the Venice Commission recommended that the law would allow for a second and final appeal against a HCJ decisions.

58. Regrettably, the Georgian parliament did not wait for the Venice Commission opinion before adopting the amendments, although it was aware that not all recommendations of the VC were addressed.

59. Further amendments to the appointment process of the Supreme Court Judges were adopted on 1 April 2021. Following concerns expressed by the EU and civil society about the hasty adoption process, the Speaker of the Georgian Parliament, on 8 April 2021, requested the opinion of the Venice Commission on these amendments. Given the importance of these amendments in the context of the April 19 agreement, the Venice Commission issued its opinion²⁷ under urgent procedure on 28 April 2021.

60. The Venice Commission welcomed the new amendments which address several concerns of the Commission. It welcomed that the law makes it explicit that only those candidates that have obtained the best results according to the evaluation process are shortlisted and that the provisions of non-disclosure of the vote of individual HCJ members have been removed. The law now explicitly states that the failure to provide the vote and its reasoning by an HCJ member upon request by the HCJ will disqualify this member from the entire selection procedure. Nevertheless, the vote on the final list to be sent to the parliament has been maintained, which seems contrary to a merit-based selection process even if many of the concerns of the Venice Commission expressed in previous opinions on this subject, have been mitigated by the new provisions.

61. Lastly the Venice Commission noted that the authorities wished to maintain the ongoing competition for SC judges, which would mean that candidates are treated on a mix of old and new rules, undermining the equality of treatment of the candidates. The Venice Commission therefore recommended that the ongoing selection process would be restarted from the beginning.

62. We strongly urged the Georgian authorities to restart the selection procedure from scratch, in line with the Venice Commission recommendation. However, the Georgian authorities indicated that they would only re-open, and not re-start the selection procedure, which in their view was in line with the 19 April agreement. It should be noted that the April agreement is silent on whether the procedure should be restarted or re-opened²⁸, the latter being in our view the most appropriate to ensure public trust in the appointment process.

63. On 17 June 2021, the High Council of Justice presented a list of nine candidates for Supreme Court Judges. This was decried by Georgian Civil Society Organisations for being in contradiction to both 19 April agreement and Venice Commission recommendations. On 19 June, one of the main mediators in the political crisis, US Ambassador Degan, expressed her “*extreme disappointment*” with the decision of the High Council of Justice to push through their nominations, which according to her “*was not in the spirit of the 19 April agreement*”²⁹. Nevertheless, as mentioned above and to our deep regret, on 12 July the Georgian parliament appointed 6 of the 9 High Council of Justice candidates to the Supreme Court of Georgia. This decision was widely decried by the international community as well as domestic stakeholders.

²⁵ [CDL-AD\(2020\)021](#).

²⁶ [CDL-AD\(2020\)021](#) § 24.

²⁷ [CDL-PI\(2021\)007](#).

²⁸ The agreement only mentions that the parties agree to “*refrain from making appointments to the Supreme Court under existing rules*”.

²⁹ <https://civil.ge/archives/428378>

64. On 24 August the OSCE/ODIHR published its fourth monitoring report on the nomination and appointment process of the Supreme Court Judges³⁰. In this report the OSCE/ODIHR concluded that, despite benefiting from improved transparency and accountability, and despite being well organised, the appointment process was marred by deficiencies in the process and a lack of equal conditions that undermined the credibility and integrity of the appointment process. It noted that, while the hearings before the HCJ had been transparent, the selection process had been characterised by “*variations in conditions, lapses in decorum, internal divisions on the HCJ and serious conflicts of interest*”. With regard to the parliamentary appointment process the ODIHR noted that the process is vulnerable to politicisation and manipulation as it gives the parliament full discretion to appoint or reject any nominee without having to adhere to any criteria and without having the need to justify the decision. This was highlighted by the fact that the Legal Affairs Committee’s report to the plenary lacked a reasoning for the choice of candidates selected. The vote in the plenary took place with most of the opposition parties boycotting the vote in protest of the continuation of the appointment process. ODIHR regretted the decision of the ruling majority to maintain the vote under these conditions as this challenged the inclusiveness of the appointment process and undermined the public trust in the appointments.

65. We deeply regret the decision of the ruling majority to continue with the appointment of Supreme Court Judges against repeated recommendations of the international community and domestic stakeholders. The clearly deficient appointment process, that in several aspects did not comply with international norms and standards, will do nothing to improve the public trust in the independence and impartiality of the Supreme Court and in the end the judiciary as such.

5.2. Law on Administrative Offenses

66. The Georgian law on Administrative Offenses dates from the Soviet era and its complete revision is long overdue. Many of its provisions have already been judged as unconstitutional by Georgia’s Constitutional Court, while reportedly several other provisions would suffer the same fate if challenged before the Constitutional Court. As a result, the legal framework allows for overbroad application of administrative detention, as well as excessively high fines, and is vulnerable to abuse. The problems with the law are widely recognised by the authorities who informed us last visit that they intended to propose a draft for a completely new law on Administrative Offences, immediately after the 2020 parliamentary elections.

67. However, on 29 April 2021 the parliament adopted a series of controversial amendments to the Law on Administrative Offences. These amendments inter alia, considerably increase the penalties for repeated hooliganism and disobeying the police and expand the duration of administrative detention. These amendments have been criticised by the opposition and civil society, as well as international community, as running counter to the principles of freedom of expression. While stating that there were no constitutional reasons for her to veto the amendments, the President of Georgia harshly criticised the hasty adoption process and contents of the amendments which she considers run counter to the spirit of the 19 April agreement.

68. In our view, adopting amendments that affect such sensitive areas as freedom of expression and assembly into a law that is widely considered as overall deficient and inadequate, cannot be considered good law-making. The authorities should withdraw these amendments and instead focus on completely redrafting the law on administrative offences, in close co-operation with the Venice Commission, as they had promised during our last visit. During our visit the Speaker of the Parliament informed us that the parliament would soon start the drafting process for a completely new law on administrative offences that would be fully in line with international standards and norms. We welcome this clearly expressed political will of the authorities to draft such a new law and expressed our hope that this law will be drafted and adopted expediently and without undue delays.

6. Miscellaneous observations

69. During our visit we continued our discussions with the authorities on the remaining accession commitments of Georgia, in particular about the European Charter for Regional and Minority Languages. We welcome the clearly expressed political will of the authorities to address these issues in the near future.

70. During our stay we were informed about the humanitarian and human rights situation in the Georgian regions of South Ossetia and Abkhazia, including from the impact of the Covid-19 pandemic, which is of serious concern. We welcome the efforts of the Georgian authorities to alleviate this situation and regret that such humanitarian efforts are hindered by continuing restrictions imposed by the *de facto* “authorities” on freedom of movement for civilians and representatives of international organisations between these regions and the

³⁰ <https://www.osce.org/odihr/496261>

rest of the country. In the interest of the populations concerned, we reiterated the Assembly's call on the *de facto* "authorities", and the Russian Federation as the country exercising effective control, to lift such restrictions without further delay.

71. We intend to make a next visit to Georgia following the local elections, with a view to presenting our report on the honouring by Georgia of its obligations and commitments to the Council of to the Parliamentary Assembly in the spring of 2022.

Appendix 1: Statement by the co-rapporteurs following the visit

PACE Georgia monitors welcome political agreement and call on all political forces to put national interest over those of their individual parties

Monitoring | 08.06.2021 | Following a visit to Tbilisi from 1 to 3 June 2021, the co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for the monitoring of Georgia, Titus Corlăţean (Romania, SOC) and Claude Kern (France, ALDE), have welcomed the political agreement mediated by European Council President Charles Michel that was signed by most political forces in Georgia.

“This agreement covers several important areas that we have been following closely in the context of the Assembly’s monitoring procedure. If implemented fully, and in good faith, this agreement could signify a considerable step forward in the country’s democratic consolidation. All political parties should therefore join efforts to implement this agreement, and those that have not done so should sign it without delay. Georgia is at a crossroads. We urge all political forces and stakeholders to place the national interest, and the country’s Euro-Atlantic integration project, above the interest and strategies of their parties and personalities,” underlined the two co-rapporteurs.

They emphasised the importance of having an impartial and genuinely independent judiciary that has the full trust of Georgian citizens. While welcoming the considerable progress made with reforming the judiciary, the rapporteurs called on the authorities to ensure that the agreed evaluation of the third and fourth waves of judicial reform is based on a truly inclusive process, with the involvement of all relevant stakeholders including civil society. The co-rapporteurs underlined that this evaluation process is also an important opportunity to implement the remaining unaddressed recommendations of the Venice Commission concerning the judiciary, especially as regards the High Council of Justice, whose functioning and low level of public trust remain an obstacle for a genuinely independent judiciary, and a very serious point of concern.

“In this respect we cannot stress enough the importance of a proper selection process for the soon-to-be-vacant non-judge positions on the High Council of Justice. We urge the Georgian parliament to ensure that these candidates are selected in an inclusive, transparent, consensual and merit-based selection process, and to ensure that these persons have support among the stakeholders and political forces that is as wide as possible. This is essential for their legitimacy and the public trust in this important judicial institution,” said the co-rapporteurs.

With regard to the selection of the Supreme Court Judges, the rapporteurs welcomed that practically all recommendations of the Venice Commission with regard to the selection process have now been adopted by the Georgian parliament. However, they regretted that the selection process begun prior to the adoption of these amendments was maintained and not restarted from the beginning, as recommended. “The onus is now on the High Council of Justice to ensure an inclusive, transparent and merit-based selection process in line with the recommendations of the Venice Commission. The candidates should be selected by a broad consensus and have the full trust of the relevant stakeholders. This is essential for judicial independence. Corporatist self-interest should not be allowed to prevail in this respect,” underscored the co-rapporteurs.

The co-rapporteurs also expressed their concern at the recent controversial amendments to the Law on Administrative Offences. They underscored that this Law is a highly deficient Soviet-era code, whose provisions raise questions about proportionality and respect for due process, and several of which have been declared unconstitutional by Georgia’s Constitutional Court. The rapporteurs therefore reiterated their recommendation that a completely new Law on Administrative Offences be drafted, in close consultation with the Venice Commission to ensure that it fully adheres to the highest international standards and norms. They welcomed the clearly expressed political will of the authorities to draft such a new law and expressed their hope that the new parliament would now start the drafting process without delay.

The co-rapporteurs noted the increased importance and attention given to the forthcoming local elections in Georgia as a result of the Michel Agreement. They urged all political forces to ensure that these elections are conducted in a genuinely democratic manner, in line with both the letter and the spirit of the electoral legislation, as well as international standards for democratic elections. The co-rapporteurs welcomed the overall inclusive and consensual manner in which the amendments to the Electoral Code set out in the Michel Agreement were drafted by the parliamentary working group. They called on all political forces to fully implement all recommendations in the forthcoming Venice Commission opinion on these amendments, and to wait with their adoption until after this opinion has been received. Lastly, they expressed their hope that, despite the

heightened national political interest in these elections, their relevance for the strengthening of local government and democracy would not be overlooked.

The rapporteurs expressed their deep concern about the humanitarian and human rights situation in the Georgian regions of South Ossetia and Abkhazia, including from the impact of the Covid-19 pandemic. They welcomed the efforts of the Georgian authorities to alleviate this situation and deeply regretted that such efforts were hindered by restrictions imposed by the de facto “authorities” on freedom of movement for civilians and representatives of international organisations between these regions and the rest of the country. In the interest of the populations concerned, the co-rapporteurs therefore reiterated their call on the de facto “authorities”, and the Russian Federation as the country exercising effective control, to lift these restrictions without delay.

The co-rapporteurs intend to visit Georgia again following the local elections, with a view to presenting their report on Georgia’s honouring of its Council of Europe obligations and commitments to the Parliamentary Assembly in the spring of 2022.

Appendix 2: programme of the fact-finding visit**Programme of the fact-finding visit to Tbilisi (1-3 June 2021)**

Co-rapporteurs: Titus Corlăţean, Romania, Socialists, Democrats and Greens Group
 Claude Kern, France, Alliance for Liberals and Democrats for Europe
 Secretariat: Bas Klein, Deputy to the Head of Secretariat, PACE Monitoring Committee

Main focus of the visit:

- Recent political developments
- 2020 parliamentary elections and post electoral political crisis
- Reform of the judiciary: judicial appointments
- Media Environment

Monday, 31 May 2021

Evening and early morning 1 June: arrival of members of the delegation

Tuesday, 1 June 2021

- 10:00 Meeting with Vahagn Muradyan, Deputy Head of the Council of Europe Office in Tbilisi
- 10:45 Meeting with extra parliamentary opposition (*)
- United National Movement
 - European Georgia
- 12:30 Lunch
- 13:30 NGO meeting on the recent parliamentary elections (*)
- TI Georgia
 - GYLA
 - ISFED
- 15:00 Meeting with the Media Advocacy Coalition (*)
- Charter of Journalistic Ethics
 - OSGF
 - GDI
 - GYLA
 - Alliance of Regional Broadcasters
 - Media Rights
- 16:30 Meeting with the coalition for an independent and transparent judiciary (*)
- GDI
 - TI Georgia
 - SJC, former EMC
 - Rights Georgia
 - OSGF
 - IDFI
- 18:00 Meeting with the US and EU Ambassadors on the political crises and international mediation efforts (*)

Wednesday, 2 June 2021

- 09:00-09:45 Meeting with **H.E. Kakha KUCHAVA**, Chairman of the Parliament of Georgia
- 09:50-10:30 Meeting with members of the Georgian delegation to PACE
- 10:35-11:15 Meeting with **Anri OKHANASHVILI**, Chairman of the Legal Issues Committee of the Parliament of Georgia and the members of the committee
- Free time
- 13:20-15:00 Lunch hosted by **Shalva PAPUASHVILI**, Chairman of the Committee on Education and Science Committee with the participation of **Nikoloz Samkharadze**, Chairman of the Foreign Relations Committee
- 15:20-16:00 Meeting with **H.E. Irakli GARIBASHVILI**, Prime Minister of Georgia
- 16:20-17:00 Meeting with **Irakli SHOTADZE**, Prosecutor General of Georgia
- 17:20-18:00 Meeting with **David ZALKALIANI**, Minister of Foreign Affairs of Georgia
- 18:15-18:55 Meeting with **Kakhi BEKAURI**, Chairman of the Georgian National Communications Commission
- 19:15-19:55 Meeting with **Tamar GVARAMADZE**, First Deputy Public Defender and **Giorgi BURJANADZE**, Deputy Public Defender

Thursday, 3 June 2021

- 09:00 Meeting with representatives of the international Community (*)
- 10:20-11:00 Meeting with Parliamentary Opposition
- Levan Ioseliani, Party "Citizens"
 - Ana Buchukuri, Non-affiliated Members of the Parliament
 - Pridon Injia, Party "European Socialists"
 - Aleksandre Rakviashvili, Party "Girchi"
- 11:05-11:45 Meeting with Parliamentary Opposition
- David Bakradze, Non-affiliated Members of the Parliament
 - Zurab Japaridze, Party "Girchi-More Freedom"
 - Giorgi Vashadze, Party "Strategy Aghmashenebeli"
 - Khatuna Samnidze, Election bloc "United National Movement-United Opposition"
 - Republican Party
- 11:50-12:30 Meeting with **David SONGULASHVILI**, Chairman of the Sector Economy and Economic Policy Committee
- 12:50-14:20 Lunch hosted by **Tamar ZHVANIA**, Chairperson of the Central Election Commission
- 14:40-15:20 Meeting with the High Council of Justice

- 15:30-16:10 Meeting with members of the Faction “Lelo-Partnership for Georgia”
- Badri Japaridze
 - Mamuka Khazaradze
 - Armaz Akhvlediani
 - Salome Samadashvili
 - Ana Natsvlishvili
- 16:15-17:00 Meeting with **Irakli KOBAKHIDZE**, Leader of the Parliamentary Majority
- Shalva Papuashvili
 - Maka Botchorishvili
 - Nikoloz Samkharadze
 - Giorgi Khelashvili
- 17:20-18:00 Meeting with **Tea AKHVLEDIANI**, State Minister of Georgia for Reconciliation and Civic Equality
- 19:00 Dinner hosted by members of the Georgian delegation to PACE

Friday, 4 June 2021

Departure of members of the delegation

(*) Meetings to be organised by the Council of Europe Office in Tbilisi

Appendix 3: Text of the 19 April agreement

A way ahead for Georgia

We, the undersigned parties, taking into account our shared interest to:

End the current political dispute and advance Georgia's democratic and rule of law agenda through political, judicial and anti-corruption reforms,

Enable our country to stay strong and united in meeting the health and economic challenges posed by the COVID-19 pandemic,

Ensure Georgia's security and stability interests in the midst of regional challenges,

Act with further determination to fulfil Georgia's European and Euro-Atlantic aspirations,

Recognising the support from President of the European Council Charles Michel,

Have agreed:

- to enter Parliament and to fully participate in parliamentary business upon signing this agreement;
- to conduct our duties until the next parliamentary elections with mutual respect and in recognition of the importance of unity in the interest of Georgia's stability.

Therefore, we commit to fulfil expeditiously and in good faith all of the following elements:

1. Addressing perceptions of politicized justice

- In the interest of Georgia's political stability and in order to implement this agreement, the signatories commit to address, within one week of signing this agreement, the two cases of perceived politicized justice, either by an amnesty and/or by taking such steps as to produce an equivalent outcome. In particular, within one week of signature of the agreement, a party represented in Parliament shall initiate an amnesty law for all violations and convictions stemming from the 19-21 June 2019 protests.
- Moreover, Parliament shall address the perception of politicized justice through legislation and amending the Rules of Procedure as necessary, to require a higher than simple majority threshold for the lifting of parliamentary immunity.

Timeline:

1. Within one week of signature: actions necessary to fulfil this provision shall be taken.

2. All signatories then enter Parliament to vote on the legislative changes and the reform of parliamentary rules.

2. Ambitious electoral reform

- All future parliamentary elections shall be fully proportional. The next two parliamentary elections shall have a threshold between natural and 2%.
- A grouping of at least 4 Members of Parliament shall be allowed to form a parliamentary faction to which MPs of other parties can be included.
- The parties shall support the bill tabled in Parliament on 2 March, with the following complementary or modifying amendments:
- Local elections: a 4/1 ratio of proportional and majoritarian mandates for the 5 largest cities and 2/1 for all others; thresholds shall be 2.5% in Tbilisi and 3% everywhere else.
- Central Election Commission: 8 professional members and 9 political party members. Professional members appointed by two-thirds majority of the Parliament's full composition. One of the political party members representing an opposition party shall be Deputy Chairperson.
- District Election Commissions: same proportions and two-thirds majority in CEC on professional members' appointment.

- Precinct Election Commissions: same proportions subject to a parliamentary discussion on feasibility. Professional members appointed by simple majority plus one vote in DECs. PEC Protocols to be signed by at least 5 professional members plus one political party member.
- CEC Chairperson shall be elected by two-thirds majority of the Members of Parliament.
- An “anti-deadlock” mechanism for the election of the Chairperson and/or of the professional members of the Central Election Commission shall be established as follows:
 1. The first two attempts shall require a two-thirds majority. The third attempt shall require a three-fifths majority. Subsequent attempts shall require a simple majority.
 2. Votes shall take place no earlier than 4 weeks after the previous vote.
 3. Any appointment pursuant to this anti-deadlock procedure (lower than a two-thirds majority) shall be temporary, with a term limited to six months, during which the standard appointment procedure shall be re-launched.
- Clear criteria for the recounts of ballots shall be defined. The automatic 10% recount of all precincts on a random basis remains.
- A special task force shall be set up under the CEC’s mandate to include Public Defender’s Office and invite credible non-partisan election observer organisations, as well as trusted invited domestic and international experts, to review the dispute resolution process and provide timely recommendations to the CEC. The task force may be given additional functions such as involvement in recounts.
- In line with the Venice Commission and OSCE/ODIHR Joint Opinions of 20 March 2021, related to two draft laws tabled in January 2021 to amend provisions on party registration and on party financing, the adoption of the proposed amendments shall be reconsidered.

Timeline:

1. Discussion resumes on the draft electoral bill in the Working Group, upon the other opposition parties' entry into Parliament
2. An updated draft, amended to fully reflect this agreement, is sent to ODIHR for opinion within two weeks of conclusion of this agreement
3. All required amendments shall be adopted by the Parliament in good time before the 2021 local self-governmental elections

3. Rule of Law/Judicial Reform

Parliament shall adopt ambitious judicial reform in this Parliamentary term, including the following, as the first step in a broad, inclusive and cross-party reform process.

- To increase the independence, accountability and quality of the judicial system, the Georgian authorities will, in line with two packages of judicial reforms adopted in 2017 and 2019:
 - a) further enhance transparency and merit-based selections in the appointment of judges to first instance and appeal courts, notably by publishing written justifications for appointments of judges with reference to integrity and competence criteria;
 - b) submit to the Parliament draft legislation on the appointments to the Supreme Court in line with the related Venice Commission opinion No. 949/2019 of 24 June 2019, notably as concerns the staggered approach to appointments, open voting in the High Council of Justice, and the need for the latter to justify the nominations;
 - c) refrain from making appointments to the Supreme Court under existing rules;
 - d) adopt the legislation implementing the ruling of the Constitutional Court of Georgia from June 2019 by setting rules for the publication of judicial decisions.
- In the meantime, as regards the Supreme Court, all ongoing appointments shall be paused and the application process shall be reopened, including to new candidates, once the new legislation have entered into force.
- Substantive reform of the High Council of Justice to increase transparency, integrity and accountability, including in appointments, appraisals, promotions, transfers, disciplinary measures and appeals shall be drawn up, submitted to the Venice Commission and the OSCE/ODIHR for an opinion and their recommendations shall be fully implemented.
- As regards future Prosecutors General, following necessary procedures for constitutional revision, including a public debate, the parties commit to pursuing a shared political position that a vote of a qualified majority of the Members of Parliament, ensuring the broadest, cross-party political support, shall be required for the appointment of the next Prosecutors General and to align these appointments with international best practices to ensure appointments are made in a transparent, non-partisan manner, based on merits.
- Furthermore, the parties commit to pursuing a shared political position on establishing an “anti-deadlock” mechanism for the election of future Prosecutors General, as follows:
 1. The first two attempts shall require a qualified majority. Subsequent attempts shall require a simple majority.
 2. Votes shall take place no earlier than 4 weeks after the previous vote.
 3. Any appointment pursuant to this anti-deadlock procedure (lower than the qualified majority) shall be temporary, with a term limited to one year, during which the standard appointment procedure shall be re-launched.
- The parties commit to further judicial reform through an inclusive process, including an assessment of the effectiveness of the 3rd and 4th waves of judicial reform. International advice and support will be sought for implementation of these reforms, in particular as regards the integrity of appointees.

Timeline:

1. Discussion on the implementation of this agreement and on the further reforms starts upon the other opposition parties' entry into Parliament.
2. A draft is tabled and sent before 1 July to the Venice Commission for opinion.
3. A first vote takes place in the autumn session of 2021.
4. Parliament adopts the reforms expeditiously and no later than during the Spring 2022 session.

4. Power Sharing in the Parliament

- Opposition MPs shall be assigned 5 committee chairmanships, 2 of which shall be among the following five committees:
 1. Committee on Procedural Issues and Rules
 2. Committee on Legal Issues
 3. Human Rights Committee
 4. Budget and Finance Committee
 5. Foreign Relations Committee
- Opposition MPs shall be assigned the position of 1 chairmanship among the following Parliament delegations to international fora: Euronest PA, EU-Georgia Parliamentary Association Committee, Parliamentary Assembly of the Council of Europe and the OSCE PA.
- Other positions shall be assigned in the future using a more inclusive formula such as the D'Hondt rule.
- The parties shall seek to establish a Jean Monnet Dialogue with the European Parliament.

Timeline: *Within one week of signature: start the process to define more power sharing in the Parliament with the changes to take effect upon convening of the autumn session of 2021.*

5. Future elections

Following the offer made by Georgian Dream on 16 April 2021, early parliamentary elections shall be called in 2022 if the Georgian Dream party receives less than 43% of valid proportional votes in the October 2021 local self-government elections.

The parties take note of the assessment by the OSCE ODIHR, according to which “the 31 October parliamentary elections were competitive and, overall, fundamental freedoms were respected. Nevertheless, pervasive allegations of pressure on voters and blurring of the line between the ruling party and the state reduced public confidence in some aspects of the process. (...) The systemic rejection of the majority of complaints on formalistic grounds, significantly limited the opportunity to seek effective legal remedy.”

The parties acknowledge their differing assessment of the 2020 elections and agree to take up their parliamentary mandates and participate in future elections on the basis of the electoral reform agreed here above, in the interest of Georgia's political stability and in order to implement this agreement.

An International Observation Mission shall be requested by the Georgian authorities for the October 2021 local elections.

Timeline: *This political commitment is made upon signature of the agreement.*