

STATE OF
IMPLEMENTATION OF

12

PRIORITIES

EU CANDIDACY CHECK

16 JANUARY - 30 APRIL, 2023



The document is produced in the framework of the internal project
„EU Candidacy Check“ of the „Open Society Georgia Foundation“

and elaborated by „Democracy Research Institute“ (DRI), „Georgian Court Watch“, „Georgian Democracy Initiative“ (GDI),
„Georgian Foundation for Strategic and International Studies“ (GFSI), „Governance Monitoring Centre“ (GMC),
„Georgia`s Reforms Associates“ (GRASS), „Partnership for Human Rights“ and „Sapari“



METHODOLOGY

Monitoring Document on the state of implementation of 12 priorities “EU Candidacy Check” consists of 4 sections:

- 1) EUROPEAN UNION REQUESTS:** Priorities defined by the EU are described unchanged
- 2) EXPECTATIONS:** Compilation of the Expectations of different actors, particularly:
 - Expectations of the EU based on the Opinion of the EU Commission and public statements of the EU Institutions, EU Delegation to Georgia and representatives of the Member States;
 - Expectations of the Civil Society, based on the plan presented by the CSOs, statements and reports;
 - Expectations of the political parties, based on the plan presented by the parties and statements
- 3) STATE OF PLAY: describes the implementation status of the priorities based on:**
 - Draft laws initiated in the Parliament;
 - Statements and reports of the state institutions;
 - Assessments and statements of the political parties;
 - Assessments and statements of the politicians;
 - Statements, reports and assessments of the CSOs;

- Information published by the cabinet of the Chairman of the Parliament;
 - Information received through communication with the above-mentioned actors.
- 4) CHALLENGES:** The list of remaining challenges/problems concerning each recommendation based on:
 - The assessments of CSOs, statements and reports;
 - The statements and assessments of international partners;
 - The assessments and statements of political parties and politicians.

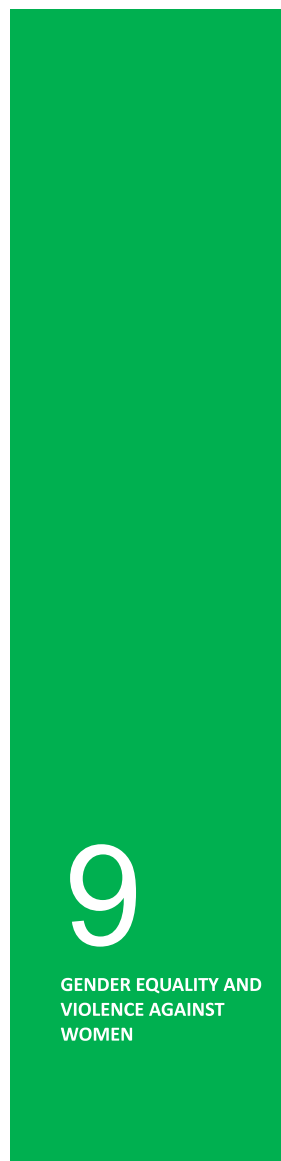
The implementation of the priorities is rated with 4 different verdicts:

- 1) FULFILLED:** Priority is fully implemented;
- 2) MOSTLY FULFILLED:** Substantial part of the priority is fulfilled, but some issues still remain to be addressed;
- 3) PARTIALLY FULFILLED:** Some issues related to the priority have been addressed, but the essential part of the requirements still needs to be addressed;
- 4) TO BE FULFILLED:** Priority is still to be fulfilled, or the situation related to this requirement is deteriorating, or only a minor and relatively insignificant part of the priority is fulfilled, which doesn't change the overall picture.

STATUS

TO BE FULFILLED PARTIALLY FULFILLED MOSTLY FULFILLED FULFILLED





PRIORITY

1

DE-POLARIZATION

TO BE FULFILLED

EU REQUESTS

“Address the issue of political polarization, through ensuring cooperation across political parties in the spirit of the April 19 agreement”

EXPECTATIONS

- » Reduce the electoral threshold to 2% for 2024 elections;
- » End politically motivated cases against the critical media and political opponents;
- » Release of Nika Gvaramia, director of Mtavari TV;
- » Transfer of ex-President Saakashvili for treatment to a hospital abroad;
- » Reduction of the bellicose rhetoric from the GD and the opposition;
- » The ruling party to stop boycotting critical media channels and to engage in the TV debates;
- » Power-sharing in the Parliament in accordance with the Charles Michel April 19, 2021 agreement (opposition to chair several parliamentary committees);
- » Consensus on the parliamentary appointments where a high quorum is needed (Ombudsperson, Head of CEC, lay members of the High Council of Justice);
- » Reduce the hostile rhetoric against the civil society and independent media;
- » Refrain from the initiation and discussions on the legislation impeding activities of CSOs and independent media.

STATE OF PLAY

- ✗ Adoption of the law on „Transparency of Foreign Influence“ at the first hearing deepened Political polarization between the Government and opposition, Government and media, Government and Civil society;
- ✗ According to the GD, responsibility to fulfill this condition lies with the opposition, not with the Government;
- ✗ Attacks against political opponents, critical media and CSOs are more intensive;
- ✗ Georgian Dream stepped up anti-Western rhetoric, blames the West, opposition, CSOs and critical media for wanting to drag Georgia into the war with Russia;
- ✗ Everyone criticizing the Georgian Dream is called - “the war party”;
- ✗ Opposition often calls the Georgian Dream – “Russian stooges” and “traitors”;
- ✗ Tbilisi Court of Appeals upheld the verdict of the Tbilisi City Court that denied to postpone the sentence of Mikheil Saakashvili in order to transfer him abroad for medical treatment;
- ✗ No power-sharing arrangements in the Parliament, as agreed in the Charles Michel agreement;
- ✗ Electoral threshold hasn't been reduced to 2%, as agreed in Charles Michel April 19, 2021 agreement;
- ✗ Not all opposition parties participate in the working groups set up to elaborate laws for implementing the 12 priorities;
- ✗ Georgian Dream blames the EU for fostering polarization and radicalization and declares that the purpose of the adoption of the foreign influence law, was depolarization. GD denies the role of Charles Michel April 19, 2021 agreement in the process of depolarization;
- ✗ The GD doesn't recognize independent identity of the opposition parties and labels them as “collective National Movement”, that should be neutralized.

CHALLENGES

- ! No reforms are implemented on power-sharing and electoral threshold;
- ! Cases of Saakashvili and Gvaramia remain unaddressed;
- ! Politicized justice continues;
- ! The Government and opposition continue blaming each other for not wanting to de-polarize;
- ! Political processes remain highly polarized in the run-up to the 2024 elections;
- ! No scaling down of the polarizing rhetoric;
- ! No political will for consensus on the parliamentary appointments where a high quorum is needed;
- ! Prevention of the vote on the establishment of a commission of inquiry into the judiciary deepened polarization between the political actors;
- ! Adoption of legislation preventing activities of CSOs and media will deepen the polarization;
- ! The spirit of the April 19 agreement has not been taken into account.

PRIORITY

2

ELECTORAL AND INSTITUTIONAL REFORMS

PARTIALLY FULFILLED

EU REQUESTS

“Guarantee the full functioning of all state institutions, strengthening their independent and effective accountability as well as their democratic oversight functions; further improve the electoral framework, addressing all shortcomings identified by OSCE/ODIHR and the Council of Europe/Venice Commission in these processes”.

EXPECTATIONS

- » Adopt constitutional amendments to the electoral system, reducing the barrier to 2%;
- » Adopt amendments to the Election Code per Charles Michel April 19, 2021 agreement;
 - Elect CEC Chairperson and professional members by 2/3 majority and include the anti-deadlock mechanism;
 - Limit the election of the temporary CEC chair so that before the 2024 elections, the elected chairperson heads the CEC;
 - Change the electoral code to minimize electoral fraud (chain voting), fraud during counting, vote-buying and pre-election pressure on political opponents;
- » Ensure a higher level of independence and accountability of state institutions ;
- » Strengthen democratic parliamentary oversight on the state institutions, including by changing the rules of procedures;
- » Implement the OSCE/ODIHR and the Council of Europe/Venice Commission recommendations.

STATE OF PLAY

✔ Georgian Dream initiated and adopted the changes to the rules of procedures regarding democratic oversight in the Parliament;

- The number of interpellations increased from 4 to 8;
- Minister will be obliged to present a written report 5 days before Minister's hour;
- The Government to appear more promptly in the Parliament per MPs' request;
- The deadline for answering MP's question will be reduced from 15 to 10 days;
- The committee's thematic inquiries can be established with a reduced majority - by the majority of MPs present in a committee instead of the majority of all MPs;
- A report of the State Security Service of Georgia can be presented before the Parliament only by its Head instead of the Deputy Head;

✔ The ruling party has taken into account some recommendations of the civil society organizations while amending the rules of procedures;

✔ The ruling party adopted the changes to the electoral code covering the counting of the ballots with electronic counting machine, to be installed in 90% of the polling stations, which will ensure the risks within the polling station and solve the problem of "chain voting" In the rest of the stations the ballots will be digitalized and results will be recounted based on a random principle;

✔ Electronic technologies were used for the first time in the by-elections held on April 29, 2023;

✔ According to the assessment of ISFED the by-elections have been held in a largely non-competitive environment; The election day passed in a calm environment without significant violations; Use of electronic technologies has simplified and accelerated the process of voters' registration and vote counting;

✔ Some of the Venice Commission recommendations have been incorporated in the draft law. Changes are related to the party financing, administrative resources, election administration, complaints, recounts and inking;

✔ In February 2023 the Government of Georgia elaborated the Public Administration Reform Strategy for 2023-2026 and its Action Plan for 2023-24, which includes decentralization, public service development, management of public finances, digital governance and national anti-corruption measures;

✔ Procedural Issues and Rules Committee launched the monitoring process of feedbacks on parliamentary questions in accordance with the new amendments in the rules of procedures adopted in the course of implementation of 12 priorities;

⌚ Parliament could not elect a CEC chairperson;

✘ GD linked reducing the electoral threshold to 2% with the receipt of the candidate status;

✘ The working group created by the Procedural Issues and Rules Committee didn't discuss the proposals concerning the enhancement of parliamentary oversight of the security sector;

✘ The members of parliamentary majority of "Georgian Dream" didn't pass the mandatory registration for voting three times in the row in order to prevent the voting on the initiative of the opposition about the establishment of parliamentary commission of inquiry for examination of the corruption cases and other illegal actions in the judiciary system and subsequently removed the issue from the bureau's agenda;

✘ The state Institutions respond to the written questions of parliamentary opposition usually, with a delay or do not respond at all.

CHALLENGES

! According to the assessment of the ISFED even in the circumstances of non-competitive elections held on 29 April the ruling party didn't give up on mobilization and tracking/noting of voters. In most of the cases it took place within 100 meters of polling stations, which is prohibited by legislation;

! On April 29, malfunctions of verification and voting and counting machines were observed at several polling stations, which, in some cases, hindered the voting process;

! The electoral barrier remains unchanged at 5%, and no electoral blocs are allowed, putting opposition parties in a disadvantageous position for the 2024 elections;

! According to the joint assessment of the OSCE/ODIHR and the Venice Commission, the changes in the electoral law don't cover the following important issues:

- Delimitation of the electoral districts;
- Misuse of administrative resources during the election campaign;
- High limits for electoral donations, which impacts an equal election environment
- Further regulation of the financing of election campaigns;
- Further improvement of regulations concerning media campaigns;
- Recounting and annulment of votes;
- Preventive measures against intimidation of voters.

! According to the Report of ISFED, GYLA and TI Georgia, which is based on opinions of the Venice Commission and OSCE/ODIHR there is still a need of changes in the electoral legislation, including regarding the composition of the central election commission, extending the deadlines for submission and consideration of complaints and appeals, improvement of criteria for conducting recounts and annulments etc;

! Central Election Commission Chairperson is not appointed through the 2/3 of the Parliament but remains a temporarily appointed person;

! According to the CSOs, accountability of the Government to the Parliament still remains low;

! According to the opposition and the NGOs, amendments to the Rules of Procedure do not ensure effective accountability of state institutions;

! The oversight instruments for opposition are limited and, in individual cases, depend on the consent of the parliamentary majority;

! Parliamentary majority doesn't give an opportunity to the parliamentary opposition to use the parliamentary oversight mechanisms (establishment of the commission of inquiry);

! Procedure of Q&A during the interpellation hasn't been changed.

PRIORITY

3

INDEPENDENT
JUDICIARY

TO BE FULFILLED

EU REQUESTS

“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 to 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”.

EXPECTATIONS

- » Adoption of the transparent and effective judicial reform Strategy and Action Plan;
- » Ensure a broad, inclusive and cross-party consultation process for the judiciary reform; » Increase the institutional and individual independence of the judiciary and judges by decreasing the political influence of the ruling party on the courts through the so-called “clan”;
- » Comprehensive reform of the High Council of Judges, by reducing judicial corporatism, limiting of extensive powers of High Council of Judges and strengthening pluralism in the decision-making process;
- » Change the criteria and appointment process of the Supreme Court candidates, introduce effective appeal mechanisms;
- » Election of five members in the High Council of Justice;
- » Change the procedure for appointing a Prosecutor General.

STATE OF PLAY

⌚ Georgian Dream has sent the draft amendments to the organic law on common courts to the Venice Commission and OSCE/ODIHR;

⌚ Venice Commission prepared its opinion in the context of 12 priorities defined by the EU;

✗ According to the Venice Commission the draft law doesn't ensure a holistic judicial reform, including the High Council of Judges;

✗ Venice Commission reiterates that its previous recommendations, such as corporatism and self-interests in the High Council of Justice, second and transfer of the judges, restriction of the grounds for disciplinary liability and other guarantees for the independence of judges haven't been taken into account;

✗ The draft law has been criticized by every parliamentary opposition party, which argue that GD is not willing to give up its control of the judiciary and merely passes technical changes;

✗ NGOs claim that the GD has not taken into account most of their recommendations;

✓ The procedure of the appointment of the Prosecutor General has been changed by consensus between the GD and the main opposition parties (at the first hearing);

✗ No consensus was reached on the appointment of the five lay members of the High Council of Justice, and the vote was postponed. On May 23, 2023 the parliament put on the agenda the election of the lay members of the High Council of Judges, but the voting has not been held;

✗ U.S. Department of State designated three acting Judges and one former judge under Section 7031(c) visa restriction authorities, "due to their involvement in significant corruption". The Prime Minister of Georgia and other leaders of "Georgian Dream" expressed their support to the sanctioned judges;

✗ "Georgian Dream" does not support the initiative of the parliamentary opposition on establishment of a special commission of inquiry for investigation of the corruption cases in the judicial system which is requested by the civil society representatives. Members of the parliamentary majority, in several plenary sessions, did not register, citing "solidarity" towards the judges as the reason. Therefore, although the opposition had enough votes to form the commission, due to the lack of a quorum, the voting could not take place.

CHALLENGES

- ! Amendments presented by the Parliament don't cover the reform of the High Council of Justice;
- ! The Parliament couldn't ensure broad involvement in the elaboration process of the Strategy and Action Plan on the judicial reform, which hinders the implementation of the EU requirement regarding inclusiveness and cross-party consultation;
- ! Venice Commission considers that amendment does not provide a holistic reform of the judiciary, including of the High Council of Justice;
- ! Opposition and the NGOs are criticizing the GD-initiated legislative amendments on judicial reform issues;
- ! Two judges, alleged leaders of the influential group (dubbed as “clan”), have been appointed in the High Council of Justice before the reform of the appointment procedure, which leaves the fulfilment of this conditionality under question;
- ! Amendments initiated by the GD are not sufficient for the establishment of an independent, accountable and impartial Judiciary, as proved by the recent Opinion of the Venice Commission;
- ! The 5 lay members of the High Council of Justice are still not elected;
- ! Despite the approval of the high quorum appointment procedure for the Prosecutor General (at the first hearing), the ruling party declared only to use the deadlock-breaking mechanism and appoint the Prosecutor General for one-year terms eight times in a row;
- ! The recommendation to implement the procedure of double 2/3 majority voting in the High Council of Justice has not been taken into account.

PRIORITY

4

ANTI-CORRUPTION
MEASURES

PARTIALLY FULFILLED

EU REQUESTS

“strengthen the independence of its Anti-corruption Agency bringing together all key anti-corruption functions, in particular to rigorously address high-level corruption cases; equip the new Special Investigation Service and Personal Data Protection Service with resources commensurate to their mandates and ensure their institutional independence”.

EXPECTATIONS

- » Create a single anti-corruption agency that will be independent of political control, combining the roles of the existing bodies and equipped with necessary functions and capabilities;
- » Elaborate of the new National Anti-Corruption Strategy and relevant Action Plan;
- » Ensure independence and strengthen the capacity of the two new bodies formed by the dissolution of the State Inspector's Service - Special Investigation Service and Personal Data Protection Service.

STATE OF PLAY

- ✓ GD initiated the creation of the Anti-Corruption Bureau and adopted relevant legal changes in the Parliament with the three hearings;
- ✓ Anti-corruption Bureau was created, and the Head of the Bureau was appointed by the Prime Minister based on competition;
- ✓ Anti-corruption Bureau will be tasked with overseeing the implementation of the policy and strategy documents concerning the fight against corruption, coordinating activities of the relevant state bodies, monitoring of asset declarations of high public officials, improvement of the protection of whistleblowers, monitoring of the party financing (from 1 September 2023);
- ✓ Anti-corruption Bureau will be accountable to the Parliament and interdepartmental anti-corruption council;
- ✓ In 2023, the judges of the Tbilisi Court of Appeal, Mikheil Chinchaladze and Levan Murusidze, were included in the list of officials to be verified by the independent commission created for the purpose of selecting the asset declarations of the officials;
- ✓ According to the "De-oligarchization Law", which has been adopted by the Parliament in its second hearing and resent to the Venice Commission, designation of a person as an oligarch will be the competence of the Anti-Corruption Bureau;
- ✗ GD ignored the recommendation to equip the Anti-Corruption Bureau with the investigative functions;
- ✗ Possibility to participate in the working process of the working group was not provided for all interested CSOs;
- ✓ The powers of the Special Investigation Service will increase as the list of offences that the service can investigate is broadened. The breach of any right covered by the ECHR convention will be investigated by the Special Investigation Service instead of the office of the Prosecutor General;
- ✓ Social guarantees of the employees of the Personal Data Protection Service will be expanded.

CHALLENGES

- ! Lack of democratic accountability of the Anti-Corruption Bureau;
- ! Anti-corruption Bureau does not have investigative functions;
- ! Investigation of corruption crimes is still the competence of different investigative bodies, which doesn't correspond to the requirement to unite various essential anti-corruption functions under a single authority;
- ! Anti-corruption agency operates still under the State Security Service;
- ! A new National Anti-Corruption Strategy and relevant Action Plan have not been elaborated.

PRIORITY

5

DE-OLIGARCHIZATION

TO BE FULFILLED

EU REQUESTS

“To implement the commitment to “de-oligarchization” by eliminating the excessive influence of vested interests in economic, political, and public life”.

EXPECTATIONS

» NGOs and opposition parties believe that de-oligarchization could be achieved by implementing other 11 conditions;

Note: EU never requested adoption of the law on de-oligarchization

CHALLENGES

! According to the Georgian Dream the law on de-oligarchization will be applied only to the supporters of critical media and opposition parties but will not be applied to Bidzina Ivanishvili, as stated by GD;

! Venice Commission identified substantial deficiencies in the draft law. Commission recommends applying systemic approach instead of a personal approach as foreseen by the existing draft law;

! The law may be adopted without considering the opinion;

! Absence of the political will on the initial approach to implement measures aimed at de-oligarchization without adopting the law;

! The presented draft law doesn't solve the problem of oligarchisation, but the revised version contains fewer restrictions.

STATE OF PLAY

⌚ Law on de-oligarchization was adopted with two hearings and sent to the Venice Commission. After receiving the opinion from the Venice Commission, the Parliament sent the draft law back to the second hearing in order to consider the recommendations of the Venice Commission and introduce relevant amendments. Some amendments have been made to the draft law and it has been transmitted again to the Venice Commission for its assessment;

✗ According to the Venice Commission, in the light of the public statements, there is a risk that once adopted, it will be applied to the opposition;

⌚ Venice Commission underlined that the draft law “gives the Government too much influence over the process”; According to the revised draft law, decision on designation of the person as an oligarch will be made by the anti-corruption bureau, but the initiation of the procedure still remains the prerogative of the Government;

⌚ According to the Venice Commission, the prohibition of financing of political parties, election campaigns, other political campaigning and/or the holding of rallies or demonstrations "with political demands" for persons registered as “oligarchs”, could interfere with Articles 10 and 11 of ECHR; Abovementioned restrictions are no longer included in the revised draft law;

✗ Venice Commission gives preference to the systemic approach and underlines that the “personal approach”, which is applied to the presented draft law, needs strong guarantees to prevent the violation of several human rights and the rule of law. The revised draft law is still based on the personal approach;

✗ Given the risks identified above, the Venice Commission considers that the "personal approach" taken in the draft law, which defines and stigmatizes persons on the basis of unclear criteria, carries a high risk that will lead to human rights violations. According to the revised draft law designation and registration of the person as an oligarch doesn't mean automatically that the person is a law offender.

⌚ Recommendations of the Venice Commission refer to:

- Clarification of key provisions and procedures, such as "being involved in political life" and "exerting significant influence on mass media"; The revised draft law contains the mentioned explanations, but some criteria are still vague;
 - Elaboration of effective mechanisms for procedural safeguards and effective remedies; According to the revised draft law, a person will have the right to be represented in the process of his/her designation as an oligarch through a representative, and subsequently he/she will be able to complain in the court of appeals;
 - Ensuring the proportionality of legal consequences of designation as an "oligarch"; According to the revised draft law the person designated as an oligarch will no longer be restricted from financing political parties, political campaigns and demonstrations. A person designated as an oligarch is still prohibited from participating in the privatization process and, with exceptions, it will still be mandatory to declare communication with a person designated as an oligarch, which creates the risk of violating Article 8 of the European Convention on Human Rights (the right to privacy and family life).
- ⌚ The Legal Issues Committee discussed the draft law presented by the UNM but didn't support it;
- ✗ NGOs and part of the opposition are against passing the Law on De-oligarchization, as they believe that, passing the law will not solve the problem of de-oligarchization and it will only be applied to the opposition supporters and critical media. Furthermore, according to the COSs and opposition, there is no need of the adoption of the law and this goal can be achieved by systemic approach and implementation of other priorities.

PRIORITY

6

**FIGHT AGAINST
ORGANIZED CRIME**

MOSTLY FULFILLED

EU REQUESTS

“Strengthen the fight against organized 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 the law enforcement agencies”.

EXPECTATIONS

- » Strengthen the fight against organized crime;
- » Guarantee accountability and oversight of the law enforcement agencies.

STATE OF PLAY

- ✔ The parliamentary working group conducted an overview and assessment of the situation regarding the fight against organized crime and held 8 closed meetings;
- ✔ As a result of the working group meeting, the Defence and Security Committee adopted the document containing 76 specific steps that need to be taken and responsible bodies and timelines for their fulfillment have been determined;
- ✔ The document covers organized criminal groups, trafficking and money laundering, cyber and drug crimes, financing of terrorism, etc.
- ✔ Parliament adopted the Action Plan for combating organized crime 2022-2024;
- ✘ The working group didn't discuss the amendments to the Parliament's rules of procedure on the strengthening of the accountability and oversight of the law enforcement agencies, with the argument that the work has been done under the second priority.

CHALLENGES

- ! The working group didn't discuss the issue of accountability and oversight of the law enforcement agencies;
- ! Two CSOs suspended their participation in the working process due to the discriminatory decision against ISFED;
- ! Recommendations regarding the trust group at the Defence and Security Committee presented by the NGOs (DRI) have not been taken into account;
- ! The protocols of the working group meetings are not publicly accessible;
- ! Guaranteeing accountability and oversight of the law enforcement agencies remains an open issue.

PRIORITY

7

MEDIA

TO BE FULFILLED

EU REQUESTS

“To undertake stronger efforts to guarantee a free, professional 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 safety of journalists and other media professionals“.

EXPECTATIONS

- » Release/pardon Nika Gvaramia, founder of Mtavari TV;
- » Suspension of criminal proceedings and other legal disputes against the owners of “Formula” and “TV Pirveli”;
- » Criminal prosecution of the perpetrators of the violence against journalists on July 5, 2021;
- » Investigation on illegal wiretapping against media representatives and criminal prosecution of the respective persons;
- » Harmonization of Georgian media law with the EU Directive on Audiovisual Media Services based on broad consensus;
- » Abstaining from initiation and/or adoption of legislation impeding media freedom.

STATE OF PLAY

⚠ Georgian Dream pledges that the Parliament, in cooperation with the Prosecutor's Office and the Interior Ministry, will ensure access to information about the current investigations in the cases of public interest;

✗ Parliament adopted deficient amendments to the law on Broadcasting motivated by the need to harmonize the legislation with the EU's Audiovisual Media services directive

None of the issues related to media freedom has been addressed;

✗ The law was criticized by the civil society on some fundamental issues, as being damaging to the freedom of media and inconsistent with the EU Directive;

According to the amendments:

(1) Decisions of the National Communication Commission of Georgia will be immediately executed;

(2) The "Right of reply" goes beyond the provisions of the EU Directive, and the oversight function on this matter will be carried out by the commission;

(3) Provisions regulating the hate speech, especially its definition and regulation mechanism, contain serious risks to media freedom;

✗ According to the assessment of the Directorate General for Human Rights and Rule of Law of the Council of Europe, several areas of broadcasting law do not comply with European Union and Council of Europe standards. Council of Europe calls on the Parliament of Georgia to bring the Georgian Law "On Broadcasting" in line with EU Directive;

✗ Chairman of the Parliament issued a new code of conduct introducing new accreditation rules for representatives of media outlets, which partially contradicts the constitution of Georgia, violates the right of the media to fulfill its official duties in the Parliament. Based on the new code of conduct, on 6 April 2023 the Parliament of Georgia has suspended the accreditation of three journalists and two cameramen from three government-critical TV channels - Mtavari Arkhi, Formula and TV Pirveli;

✗ Parliamentary majority supported the Foreign Influence Law, which, according to the EU representatives, is incompatible with EU values and standards and contradicts at least 2 from 12 recommendations of the EU Commission. After the massive protests the draft law was retracted;

✗ Implementation of the Law would cause suspension of activities of the independent media.

CHALLENGES

! Nika Gvaramia remains imprisoned;

! Guilty verdict on a criminal case against the founder of TV Pirveli remains in force according to the decision of the appeal court;

! The lawsuit of the Ministry of Defense against the founder of TV Formula David Kezerashvili continues – the risk for TV Formula to lose its editorial independence still exists;

! Organizers of the July 5 pogroms against the journalists are not punished;

! Case of illegitimate wiretapping of journalists is not investigated, organizers are neither identified nor punished;

! CSOs claim that GD's interpretation of the EU's AVMSD is biased and the adopted law is deficient and goes beyond the provisions the EU Directive to the disadvantage of the media;

! Initiation, discussion and adoption of the legislation impeding activities of media will deteriorate the media environment in Georgia;

! Based on a unconstitutional new code of conduct issued by the Chairman of the Parliament the media is restricted to fulfill its official duties in the Parliament.

PRIORITY

8

VULNERABLE GROUPS

PARTIALLY FULFILLED

EU REQUESTS

“Move swiftly to strengthen the protection of human rights of vulnerable groups, including by bringing perpetrators and instigators of violence to justice more effectively”.

EXPECTATIONS

- » Investigate July 5, 2021 violence and bring perpetrators and organizers to justice;
- » Enhance the protection of vulnerable group;s
- » Adopt the National Human Rights strategy and action plan;
- » Conduct informative and educational campaigns aimed at reducing homophobia and xenophobia;
- » Establish special mechanisms to increase the political representation and participation of ethnic minorities;
- » Create democratic, inclusive and regular consultative mechanisms with the Government and Parliament of Georgia, involving independent civil society actors from the ethnic minority communities;

STATE OF PLAY

- ✗ Organizers of the July 5, 2021 violence have not been punished;
- ✓ 31 participants of the July 5, 2021 violence have been found guilty by the Tbilisi City Court;
- ✓ Government of Georgia elaborated and the Parliament approved the “National Strategy for Human Rights protection 2022-2030.” Some opposition parties supported the document;
- ⌚ The work has been launched in order to elaborate the National Action Plan for Human Rights Protection in the Administration of the Government of Georgia;
- ✗ The issue of the protection of the LGBTQI community was excluded from the Human Rights Strategy. The CSOs have not been involved in the process of elaboration of the strategy. Recommendations submitted later by the CSOs, including concerning the chapter on LGBTIQ, have not been taken into account;
- ⌚ Government claims that it continues to implement the policies aimed at strengthening ethnic minorities, including through supporting ethnic minorities to study the Georgian language, access education at all levels, enroll in the internships in state institutions and have access to information in their mother language;
- ⌚ Persons convicted for violence against journalists and cameramen, including Lexo Lashkarava have been found guilty by the decision of the appeal court as well, but no single person from the organizers have been punished;
- ✗ According to the Ministry of Interior, 31 persons are prosecuted for the July 5 case, but none of them are accused of organizing the violence;
- ✗ After the failed attempt of the adoption of the law “On Transparency of Foreign Influence” rhetoric against the LGBTIQ community hardened. Georgian Dream leaders assess “LGBT propaganda” as anti-state actions and violence of the minority against the majority.

CHALLENGES

- ! Organizers and perpetrators of the July 5 violence remain unpunished;
- ! Protection of the rights of the LGBTQI+ groups disappeared from the agenda and it has been excluded from the Human Rights Strategy 2022-2030. This fact was criticized by community members, CSOs and international partners;
- ! The ruling party significantly enhanced the rhetoric against the LGBTQI+ community;
- ! Civil Society Organizations are still not involved in the working process on Human Rights National Action Plan.

PRIORITY

9

**GENDER EQUALITY AND
VIOLENCE AGAINST
WOMEN**

MOSTLY FULFILLED

EU REQUESTS

“Notably consolidate efforts to enhance gender equality and fight violence against women”.

EXPECTATIONS

- » Enhance gender equality and fight violence against women through better implementation of gender equality legislation by law enforcement agencies;
- » Adopt new action plan on Gender-based violence and domestic violence;
- » Change the definition of rape in line with the Istanbul Convention;
- » Remove “the victim status” as a precondition for accessing the state services.

STATE OF PLAY

- ✔ The Parliament adopted changes to the gender equality laws with the multi-party support;
- ✔ Every draft law will be required to have the gender impact assessment;
- ✔ According to the changes, the state will ensure gender equality at all levels – not only de jure but also de facto;
- ✔ The Government adopted the decree on the compensation for the victims of domestic violence;
- ✔ In order to access state services, “the victim status” is no longer required as a precondition;
- ✔ Human rights committee of the Parliament adopted the state concept for economic empowerment of women;
- ✔ Parliament conducted a thematic inquiry, chaired by the opposition MP, into women's access to financial resources;
- ⌚ In order to harmonize the definition of rape with Istanbul Convention, thematic research is underway in the Parliament, which should be finished by 27 April 2023 but the deadline was extended by two months;
- ✔ The Parliament extended for one additional term (till 2032) the applicability of the gender quota;
- ✔ These changes are supported by the opposition parties and the CSOs.

CHALLENGES

- ! Definition of rape has not been changed yet per Istanbul Convention;
- ! The Concept of gender equality narrowed the definition of gender and doesn't cover the protection of LGBTIQ community rights;
- ! The concept of economic empowerment of women narrowed the definition of gender and did not cover the protection of LGBTQI+ community rights.

PRIORITY

10

**INVOLVEMENT OF THE
CSOS**

TO BE FULFILLED

EU REQUESTS

“Ensure the involvement of civil society in decision-making processes at all levels”.

EXPECTATIONS

- » Involve civil society in the implementation of 12 priorities;
- » Involve civil society in the decision-making process at the executive, parliamentary and local levels;
- » Involve NGOs in the process of creating national policies, strategic documents and action plans;
- » Refrain from initiation, discussion and/or adoption of the legislation impeding activities of civil society and independent media.

CHALLENGES

- ! According to the CSOs, most of their recommendations on judiciary reform, anti-corruption measures, democratic oversight, media and vulnerable groups remain unaddressed;
- ! Blocking ISFED from the working group on the reform of the electoral code;
- ! GD continues a discrediting campaign against the CSOs;
- ! Initiation, discussion and adoption of legislation impeding activities of the CSOs will significantly deteriorate the conditions for civil society and will hamper their activities, as well as involvement in the decision-making process;
- ! Initiation and adoption of important legislative acts without involvement of the civil society;
- ! Recommendations of the CSOs on the Ombudsperson were ignored.

STATE OF PLAY

⌚ GD pledged to involve NGOs in implementing 12 priorities and to create the mechanisms for NGOs' effective participation;

⌚ NGOs were invited to the parliamentary working groups, albeit with limited representation;

✗ GD blocked ISFED from participating in the election working group;

⌚ Under the coordination of the Chairman of the Parliament sporadic meetings with the representatives of civil society have been conducted, but the actual involvement of civil society organizations was not ensured;

✗ After the initiation of "Foreign Influence Transparency" draft law, the civil society expressed its clear negative position during the meeting with the Chairman of the Parliament due to its anti-European and anti-democratic nature, which was completely ignored by the ruling party. Civil society also tried to explain the negative aspects of the bill at the committee hearings. ✗ Despite of the explicit negative position of the civil society, media and international partners, parliamentary majority supported the draft law "On the Transparency of Foreign Influence, "which is incompatible with EU values and standards and contradicts at least 2 of the 12 recommendations of the EU Commission. After the massive protests, the draft law was retracted;

✗ Implementation of the law could cause termination of the activities of CSOs;

✗ As a result of initiation and the first hearing of legislation impeding activities of CSOs, polarization between the Government and civil society has been deepened and hinders the participation of CSOs in the process of implementation of 12 priorities.

✗ Due to the Government's commitment to the principles of so-called "foreign agent" law, the COSs (Institute for Development of Freedom of Information IDFI, Transparency International Georgia TI, Civil Society Institute and Georgian Young Lawyers Association GYLA) suspended their membership in the Open Governance Permanent Parliamentary Council advisory group. Even before, the administration of the Parliament deprived this group of the right to use the working space at their disposal in the parliament, thus worsening the conditions for their work.

✗ Despite the retraction of the law GD continued attacks on the civil society sector and intensified smear campaign. The leaders of GD are labelling the civil society organizations as agents of foreign influence and are blaming them for undermining the European integration process, provocative actions, destructive activities and wanting to drag Georgia into the war with Russia. They are also questioning their faithfulness to the state's interests;

✗ The attempt to pass the draft law on "Transparency of Foreign Influence", practically suspended the existing cooperation formats between the government and public organizations. Despite the fact that the "Georgian National Platform of the Eastern Partnership Civil Society Forum" tried to recommence the consultations with the ruling party on the issue of the implementation of 12 priorities, the mentioned initiative did not bring any results.

PRIORITY

11

PROACTIVE
CONSIDERATION OF
ECHR JUDGMENTS

FULFILLED

EU REQUESTS

“Adopt legislation so that Georgian courts proactively take into account European Court of Human Rights judgments in their deliberations”.

EXPECTATIONS

- » Parliament to adopt legislation to oblige Georgian courts to proactively take into account European Court of Human Rights judgments;
- » To create an effective mechanism for the implementation of the adopted legislation.

STATE OF PLAY

- ✓ Parliament adopted laws that would enable Georgian courts to proactively take into account ECHR judgements;
- ✓ Judges will be able to base their decisions on the ECHR cases ✓
Special service will be created inside the Georgian courts that will provide analysis of the ECHR decision to the judges;
- ✓ CSOs were involved in the working group preparing the legislation;
- ✓ Changes were adopted with the support of the opposition parties.

CHALLENGES

- ! Possible difficulties in the implementation and enforcement of the law;

PRIORITY

12

INDEPENDENT
OMBUDSPERSON

PARTIALLY FULFILLED

EU REQUESTS

“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; ensure the Office's effective institutional independence”.

EXPECTATIONS

- » Parliament to appoint new Public Defender with multi-party consensus and in cooperation with the CSOs;
- » Transparency of the selection process;
- » Ensure the independence of the new Ombudsperson.

STATE OF PLAY

✗ GD created an assessment group comprising of nine members of civil society and academia to evaluate each applicant for the Public Defender. Independent CSOs presented three candidates – Giorgi Burjanadze, Ana Abashidze and Nazi Janezashvili (who later withdrew), who obtained the highest evaluations from the assessment group and were supported publicly by the opposition. Public hearings of the candidates were held. GD conducted a negative campaign against the candidates presented by the CSOs. Despite the transparent process, GD didn't support any of these candidates and the whole process failed;

✓ During the spring session, without the participation of the civil sector in the selection process, GD supported the candidacy of the Member of the opposition Citizens Party, Vice-Chairman of the Parliament Levan Ioseliani, which was elected as an Ombudsman with the support of some representatives of the opposition.

CHALLENGES

- ! Transparency of the selection process of the candidate and election of a politician remains a problem;
- ! Ensuring effective institutional independence of the newly elected Public Defender's Office.

