



WORK OF THE 2021 SPRING AND EXTRAORDINARY SESSIONS OF THE PARLIAMENT OF GEORGIA

Democracy Index-Georgia
Tbilisi 2021

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Table of Contents

INTRODUCTION.....	5
MAIN FINDINGS, TRENDS, AND CONCLUSIONS.....	8
CHAPTER 1 MEMBER OF PARLIAMENT.....	11
1.1. Majority and Opposition.....	11
1.2. Question from a Member of Parliament	12
1.3. Citizens' Applications	18
CHAPTER 2 COMMITTEES.....	21
2.1. Legislative Proposal.....	21
2.2. Petitions	23
2.3. Lobbying.....	23
2.4. Cooperation with civil society (including trends highlighted in the review of shadow reports).....	23
2.5. The civil sector's and citizens involvement in parliamentary activities	25
2.6. Exercise of parliamentary oversight by committees	26
2.6.1. Control over the execution of normative acts	27
2.6.2. Verifying the compliance of the by-laws with the legislation of Georgia.....	28
2.6.3. Mandatory attendance of officials at the committee meeting.....	28
2.6.4. Obligation to submit information	30
2.6.5. Thematic Inquiry Group	30
2.6.6. Study of the activities of administrative bodies	32
2.6.7. A study of case law	33
2.6.8. Oversight over the fulfillment of the tasks defined for the executive authorities by transitional provisions within the established period	33
CHAPTER 3. PLENARY SITTINGS OF PARLIAMENT.....	35
3.1. Legislative Process, Procedure For Reviewing Bills, Legislative Policy	35
3.1.1. Bills Submitted/Adopted/Failed at the Spring Session	35
3.1.2. Trend of Expedited Consideration of the Bills.....	37
3.1.3. Supported Legislative Initiatives by Subjects	38
3.1.4. Regulatory Impact Assessment (RIA)	39
3.1.5. EU Approximation	39
3.1.6. Research Substantiation of legislative Initiatives	39
3.2. Legislative initiatives implemented at the Extraordinary Session	40
3.2.1. Initiators of Bills.....	41
3.2.2. Accelerated/Simplified Considerations.....	41

3.2.3. Approximation to the EU / Regulatory Impact Assessment.....	42
3.2.4. Application of Studies in Legislative Initiatives	42
3.2.5. Draft initiatives presented at the Extraordinary Session.....	43
3.3. Taking into account the opinions submitted by the organization Democracy	
Index Georgia on the bills during the reporting period.....	43
3.3.1. Opinions submitted by “Democracy Index – Georgia” on Bills	43
3.3.2. Trends outlined in the process of working on bills	51
3.4. A confidence vote in Government, the accountability of the Prime Minister and	
ministers to Parliament.....	52
3.4.1. A confidence vote in Government	52
3.4.2. Annual Report and Report of the Prime Minister	54
3.4.3. Attendance of an Official at the Plenary Session.....	55
3.4.4. A Minister’s Hour.....	55
3.4.5. Hearing of a Government Member and Other Officials.....	57
CHAPTER 4 OTHER THEMATIC ISSUES	58
4.1. Constitutional Amendments.....	58
4.2. Interim Fact-Finding Commissions of Inquiry	60
4.3. Ninotsminda Boarding School	63
4.4. Election / Appointment issues of Officials.....	63
4.5. COVID-19 Pandemic and related Parliamentary Policies.....	64
Recommendations.....	65

INTRODUCTION

Methodology

Democracy Index – Georgia observes the following:

- Parliament's legislative process – as one of the primary forms of policy-making;
- Exercising control over the various bodies/officials accountable to the Government and the Parliament by the Parliament to check the effectiveness of the implementation of the defined policy;
- Individual activities of Members of Parliament;
- Civil society involvement in the decision-making process by Parliament.

As a result of the observations, the organization evaluates the democratic performance of the legislative and oversight functions of the Parliament, based on the following criteria:

- Transparency of the activities of each Member of Parliament;
- Adequate reflection of citizens and current problems in the parliamentary agenda;
- Compliance of the activities of the Parliament with the requirements of civil society, as well as with the declared European values;
- The degree of civil society involvement in the oversight function by the Parliament, both the legislature and the government, as well as on the process of appointing senior officials;
- Participation of the opposition in parliamentary activities;
- The degree of activity and proactivity of the committees.

The report is based on the principle of impartiality. Assessment of each issue, as in the previous three reports¹, is based on the Constitution of Georgia, the obligations under international treaties and agreements, and the recommendations given to Georgia by international organizations, as well as government programs and action plans of parliamentary subjects. Consequently, the assessments presented are universal and free from any political group's vision, ideology, and goals.

Context

Once again, the Spring Session started against the backdrop of a political crisis – in a polarized environment. At the beginning of the session, the opposition was still in a boycott mode, and the parliamentary majority was not approving their statements on the termination of power, although the opposition was not performing the activity in Parliament.

Council of Europe President Charles Michel was involved in negotiations between the government and the opposition to defuse the political crisis. As a result, an agreement was signed on April 19 – “A way ahead of Georgia”² (hereinafter referred to as the Charles Michel Agreement). The agreement concerned the entry of the opposition into the Parliament and the resolution of 5 principled issues together with the majority, through joint efforts.³

Out of the parties that entered the Parliament, the document was not signed by the Georgian Labor Party, European Georgia, and the Alliance of Patriots. At the same time, the agreement was

1 Democracy Index – Georgia, Parliamentary Monitoring Reports <https://democracyindex.ge/ge/studies>

2 Agreement „A way ahead of Georgia“ (unofficial translation) <https://bit.ly/2W1zEot> [8.09.2021]

3 1. Addressing perceptions of politicized justice; 2. Ambitious electoral reform; 3. Rule of Law/Judicial Reform; 4. Power Sharing in the Parliament; 5. Future elections.

signed, and out of 5 mandates received by European Georgia, 4 were individually accepted by Davit Bakradze, Shalva Shavgulidze, Armaz Akhvlediani, and Taniel Nakaidze, and from the United National Movement – Salome Samadashvili, Grigol Vashadze and two members of the Republican Party within the bloc – by Khatuna Samnidze and Tamar Kordzaia. The United National Movement (UNM) signed an agreement on September 1, 2021, following the release of Nikanor Melia from remand detention and his entry into Parliament, after the Georgian Dream had already announced its unilateral withdrawal from the agreement.⁴

After the opposition entered the Parliament, four factions were formed: the Parliamentary Majority Faction “Georgian Dream” and the Parliamentary Opposition Factions: “United National Movement” – Unified Opposition “Power is in Unity”, “Lelo” – Partnership for Georgia, “Charles Michel Reform Group” and three parliamentary groups⁵: “Girchi”, “Citizens” and “European Socialists”. At the same time, 3 MPs work in the Parliament with the status of independent MPs.

In the process of working on the implementation of the Charles Michel Agreement in Parliament, several shortcomings emerged:

- The reform of the electoral legislation was adopted so that the majority of the opposition did not support it, and no consensus was reached⁶.
- The points of the Charles Michel Agreement on Judicial Reform and the Appointment of Supreme Court Justices have not been implemented⁷. Moreover, the appointment of Supreme Court Justices without judicial reform has caused apparent dissatisfaction in the international community as well⁸.

4 First Channel "The National Movement signs the Charles Michel Agreement".
<https://bit.ly/3nVMsbB> [8.09.2021]

5 The parliamentary group is a novelty for Georgian parliamentarism and is directly related to the entry of two small groups – two candidates from "Aleko Elisashvili – Citizens" and four candidates from the list of the "Alliance of Patriots" – into the parliament at the moment of the parliament assembly. With this change, as a subject, the parliamentary group is a kind of quasi-faction that does not have the powers provided by the constitution.

6 The parliamentary faction "Lelo – Partnership for Georgia" did not support the package of electoral legislation reform due to the imposition of a 40% threshold on women's quotas, the 40% threshold in the majoritarian elections and the restriction of the Labor Party's right to be a member of the election commissions. The package was also not supported by the United National Movement. Voting Results: <https://bit.ly/3uLiMiz> [8.09.2021]

7 The Charles Michel Agreement provided that judicial reform should also affect the ongoing election of judges to the Supreme Court. Nevertheless, the process of electing judges to the Supreme Court did not pause, and Parliament elected 6 judges for life on 12 July. In particular, the agreement stipulates that: "1) 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 nomination;
2) Before enacting the new legislation, all ongoing appointments should have been paused, and after the entry into force of the relevant amendment to the law, the process of the re-election of judges of the Supreme Court should have been resumed.

3) To develop certain measures for the reform of the High Council of Justice, aimed at improving transparency and accountability, which, if agreed upon by the Parties, shall be submitted to the Venice Commission and the OSCE / ODIHR for consideration and evaluation".

8 The US Ambassador Extraordinary and Plenipotentiary to Georgia Kelly Degnan noted that Parliament could have paused the process of appointing judges, but did not do so. She expressed frustration and even said that personal sanctions against judges are one of the levers: "Tabula", Degnan on judges: Sanctions are one of the levers, we are very disappointed. See. Internet source: <https://bit.ly/3AxIMaE> [8.09.2021]. Related: RFE/RL: The US Embassy has highlighted several court-related issues in the agreement with a marker pen. <https://bit.ly/3u8N8LO> [8.09.2021]. US Secretary of State Anthony Blinken expressed deep concern on the same subject, noting that the decision was contrary to the April 19 agreement: Tabula, Blinken: The United States is deeply troubled by the Georgian Parliament's approval of Supreme Court nominees. <https://bit.ly/3AvUWtb> [8.09.2021]. Statement by the US State De-

- On July 28, the Georgian Dream announced its unilateral withdrawal from the agreement.⁹ The “Charles Michel Agreement” allowed for early parliamentary elections if the Georgian Dream could not overcome the 43% threshold in municipal elections. However, the Georgian Dream decided to withdraw from the agreement a few days before the municipal elections. After that, at the September 7 sitting of the Parliament, while discussing the amendments to the Constitution, Irakli Kobakhidze put the boundary line between a legal and a political agreement.¹⁰ It should be noted that with such a definition, the Georgian Dream has denied the fact that law/justice is a legal form of decision-making, including political decision-making, and not a set of abstract procedures detached from socio-political events. This decision, driven by such a political vision, harms the democratization of the country.

During the Spring Session – on February 18, due to disagreements in the ruling party, Prime Minister Giorgi Gakharia resigned. Six lawmakers in his alignment left the parliamentary majority. In 4 days – on February 22, the Parliament declared a vote of confidence in the new government headed by Irakli Gharibashvili.

A significant event, which coincided with the Extraordinary Session convened at the end of the Spring Session, was the attempt to hold the march of the LGBT community in Tbilisi on July 5-6. Ultra-conservative groups have been able to violently restrict the right to expression for members of the LGBT community amid the apparent passivity of the police. On the 5th of July, 55 people were injured. Out of them, 53 were media representatives.¹¹ Instead of the right to equality, most of Prime Minister Irakli Gharibashvili’s statement at the July 5 government session focused on the country’s traditions and rules. In his view, the minority should be subject to the majority’s will, and in order to avoid confrontation between them, the organizers and participants of the Pride should be restricted to freedom of expression. He called on activists and human rights defenders that they should have been refraining from exercising this constitutional right and not conducting the so-called Pride march. He indicated to the opposing side only to refrain from violence in general. The Prime Minister unjustifiably gave preference to the other side, thus contributing to the further development of violence. With this statement, the head of the government went beyond the constitutional framework and tried to narrow the scope of expression defined by law, thus deviating from the policy set by the Parliament through the government program.¹² The same rhetoric was followed by the Ministry of Internal Affairs.¹³

Democracy Index – Georgia issued a statement on the same day stating that: “The statements of the Prime Minister and the Minister of Internal Affairs have severed the legitimate link between the policies established by Parliament, based on which they have been given confidence and their

partment on the same issue: "Tabula", State Department: The appointment of Supreme Court Judges will threaten democratic development. <https://bit.ly/3iLm2qi> [8.09.2021]

9 Interpressnews, Georgian Dream announces annulment of April 19 agreement. <https://bit.ly/3iNmW5x> [7.09.2021]

10 Irakli Kobakhidze noted: “As for the nature of the agreement itself ... there was talk as if some legal document was annulled. We do understand very well that a political agreement is a political agreement and a legal agreement is a legal agreement. Therefore, we can by no means approach a political agreement with the standard that applies to a legal agreement.” Plenary Session, September 7, 2021. Exact time during the video: 5:14:40. [7.09.2021]

11 Radio Liberty, Irakli Gharibashvili: When 95% are against the march, everyone must obey. <https://bit.ly/2VZor7K> [7.09.2021]

12 "Democracy Index – Georgia", today’s statement of the Prime Minister is the basis for a vote of no confidence in the government, <https://bit.ly/3hVQBbB> [7.09.2021]

13 Statement of the Ministry of Internal Affairs <https://bit.ly/3EEN9fi> [7.09.2021]

actions. The inalienable values of a person recognized by the Constitution have been violated. Therefore, the Democracy Index – Georgia calls on the Georgian Parliament to raise the issue of the political responsibility of Prime Minister Irakli Gharibashvili's government team and declare a vote of no confidence following the Constitution and the Rules of Procedure.¹⁴ Then, on July 12, the Lelo-Partnership for Georgia faction expressed an initiative on a no-confidence motion against the government and readiness to start consultations with opposition factions.¹⁵ However, it should be noted that the no-confidence vote has not been officially registered. Before that, on July 10, Alexander Lashkarava, the operator of TV Pirveli, who was beaten to death by violent groups on July 5, had died.

During the Autumn Session of 2020, the Azerbaijan-Armenia conflict took place in the region. This regional event that took place during the previous session, its aftermath consequences have a lasting effect on Georgia. Although the October 10 Moscow agreement¹⁶ between Azerbaijan and Armenia contained a number of economic measures and conditions for increasing the contingent of Russian troops in the region, Parliament limited itself to only one committee hearing on the issue.¹⁷

Its passive role in defining the main directions of foreign policy was obvious. Parliament's work in defining foreign policy was limited to the adoption of a Resolution at the Autumn Session of 2020, which sets out the general directions of foreign policy.¹⁸

MAIN FINDINGS, TRENDS, AND CONCLUSIONS

Positive Findings:

- Activation of committees, including through more frequent use of the Thematic Inquiry Tool;
- Strengthening of the control over the implementation of the tasks defined for the executive authorities by the transitional provisions of the normative act of the Parliament in due time;
- Carrying out reform of legislation on entrepreneurial activity;
- Adoption of a Resolution on De-occupation and the Peaceful Settlement of the Russian-Georgian conflict;¹⁹
- Constitutional reform related to the electoral system.

Gaps/ Shortcomings:

- Due to the upcoming local municipal elections in 2021, the activities and decisions of the Parliament were marked by a particular political subjectivity. The vector of legislative change has been directed to increase the repressive burden on freedom of expression and to strengthen the government;

14 "Democracy index – Georgia", today's statement of the Prime Minister, is the basis for a vote of no confidence in the government, <https://bit.ly/3hVQBbB> [7.09.2021]

15 "Netgazeti", "Georgian Dream" will be alone in the Parliament "-" Lelo" <https://netgazeti.ge/news/553738/> [7.09.2021]

16 "Civil.ge", Tbilisi welcomes the Karabakh agreement. <https://bit.ly/3EF6mgG> [7.09.2021]

17 Interpressnews, a hearing on Nagorno-Karabakh in the Parliamentary Committee on Defense and Security will be held on April 12 <https://bit.ly/3CB17Nu> [22.09.2021]

18 Resolution of the Parliament of Georgia on the Foreign Policy of Georgia <https://bit.ly/2XEW8Mx> [7.09.2021]

19 Resolution of the Parliament of Georgia on De-Occupation and the Peaceful Settlement of the Russian-Georgian Conflict <https://bit.ly/2ZODl2c> [22.09.2021]

- The unsubstantiated practice of expedited consideration of a bill and the refusal to engage in legislative activity continued;
- Obstructing the involvement of civil society in legislative activities is a recent harmful practice in Parliament. A similar attitude was manifested in the unreasonably expedited consideration of substantially restrictive bills and their delayed access²⁰;
- Bills aimed at restricting rights and increasing sanctions were passed by Parliament unplanned so that such a task was not set out in the relevant plans;
- Due to the political gradations of members of Parliament, the majority exercised little oversight over their powers. However, these powers could not be used effectively by the opposition either;
- Thanks to internal party discipline, the political dominance of the government over Parliament was evident. This was clearly manifested in the following circumstances:
 - ▣ In the field of so-called COVID-regulation, the government enjoyed complete freedom, without effective parliamentary oversight;
 - ▣ The majority expressed unconditional support for both Prime Minister Giorgi Gakharia and the general policy of Irakli Gharibashvili, despite their diametrically opposed differences in anti-covid policy. After the resignation of Giorgi Gakharia, his supporting rhetoric in the pre-election period was changed by sharp criticism. Nevertheless, the parliamentary majority did not take responsibility for his activities;
 - ▣ The majority was a partner of the government in weakening parliamentary oversight. For example, the Committee on Human Rights and Civil Integration did not invite the Minister of Internal Affairs to the committee meeting, despite the initiative of the Charles Michel Reform Group²¹;
 - ▣ Parliament's inaction showed its institutional weakness and strong reliance on government;
 - ▣ The overview of MPs profiles showed a sharp ranking of the leader – the leader of the “first echelon” MPs and “sitting behind” MPs. The majority of the “sitting behind” MPs not only did not have any initiatives or any criticism of the policies of their party, but some of them also did not have any committee or session speeches and did not even use the right of MP to ask a question;
- The problem was observed without consensus – one-party personnel policy;
- Legislative and personnel policy made it clear that the goal was to consolidate power. Consequently, the legislative policy also turned out to be narrowly politicized;
- Withdraw from the Charles Michel Agreement and continuation of the politically subjective process of electing the Supreme Court justices, despite opposition from domestic actors and strategic partners;
- Concerning the Azerbaijan-Armenia conflict, the activity of the Parliament was limited to one committee hearing;²²

20 See the statement of our organization: "Democracy Index-Georgia", GRECO considers that Parliament does not properly ensure public involvement in the legislative process <https://bit.ly/3EJDJiK> [22.09.2021]

21 Letter N8898/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia. [22.09.2021]

22 InterpressNews, a hearing on Nagorno-Karabakh in the Parliamentary Committee on Defense and Security, will be held on April 12 <https://bit.ly/3CB17Nu> [22.09.2021]

- Following the adoption of a resolution on foreign policy²³ at the Autumn Session of 2020, the Parliament has practically not taken any effective measures in the field of foreign policy;
- Parliament has not adopted an updated National Security Concept since 2011.

Trends and Conclusions

Parliament has not always been able to respond to existing political realities and has been not only irrelevant to current events but irrationally pragmatic. The following tendencies identified in the activities of the Parliament form the basis for the above-mentioned statement:

- High political polarization;
- Inadequate involvement and scarcity of compromise-based policies;
- Refusal to share power and responsibility and its one-party monopolization. This hinders the practical functioning of the separation of powers and has a negative impact on the democratization of the country;
- Existence of “privileged” opposition;
- Blurring of the demarcation line between the state and the ruling party;
- Political management of the parliamentary majority by the government;
- Failure to have a political identity of the Parliament;
- Failure to share responsibilities for the policies of prime ministers.

23 Website of the Parliament of Georgia. Page, draft resolution See: <https://bit.ly/3AKnVtH> [22.09.2021]



Chapter 1 Member of Parliament

1.1. Majority and Opposition

The goal of the changes in the election legislation remained unattainable – the ruling party retained control over the members of the election commission at all levels; they did not offer the opposition to agree on the candidacy of the CEC members and the chairperson. Accordingly, using the so-called anti-deadlock mechanism, the majority elected both the CEC members and the chairperson by one party.

The majority of the opposition members who entered the Parliament after the signing of the Charles Michel Agreement and asked a question as an MP and participated in the committees also showed some activity according to the political layout. There are two crucial issues in this regard:

Interpellation

Interpellation is one of the most important tools of parliamentary oversight. In this way, government accountability and a relevant debate can be transformed into a no-confidence procedure. Although no interpellations were made during the reporting period, the power of asking questions through interpellation was used a total of four times, and in all cases by the opposition.²⁴ The appeal was addressed to the Prime Minister, the Minister of Foreign Affairs, the Minister of Finance, and the Minister of Education and Science of Georgia on 14 May 2021. According to the information provided by the Parliament, public hearings will be held in the Autumn Session.

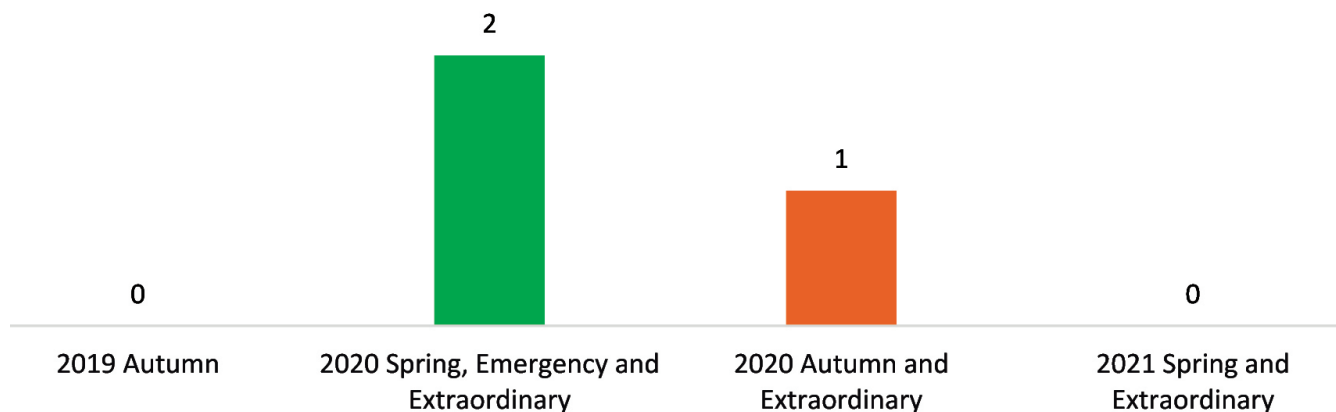
According to the Rules of Procedure of the Parliament, the addressee of the interpellation question is usually presented to the Parliament twice during each regular session – on the last Friday the last week of the March and May for Spring Sessions and September and November for plenary sessions.²⁵ After the end of the Spring Session, the Parliament held an Extraordinary Session. The above provision is not strictly imperative in nature and the plenary sittings of the Extraordinary Session were also devoted mainly to the discussion of unfinished matters. Thus, if there was a political will, it was possible that the summoned persons to appear at an Extraordinary Session.

24 Teona Akubardia, Grigol Vashadze, Giorgi Vashadze, Davit Bakradze, Khatuna Samnidze, Paata Manjgaladze, Zurab (Girchi) Japaridze.

25 Paragraph 5 of Article 149 of the Rules of Procedure of the Parliament.

Chart N1

Number of Interpellations Conducted by Sessions



Discussion of the issue of reducing the interest rate on pension loans

At the initiative of the representatives of the parliamentary opposition Alexander Elisashvili and Levan Ioseliani, the issue of high-interest rates on pensioners' loans was discussed at the sitting of the Finance and Budget Committee on April 12.²⁶ Representatives of the National Bank, the Ministry of Finance, the Social Service Agency, and JSC Liberty Bank, as well as representatives of various organizations and the civil sector attended the discussion upon request. The committee made recommendations to the National Bank and the Social Services Agency to reduce the loan rate for retirees.

Giorgi Vashadze, Paata Manjgaladze, Teona Akubardia, Khatuna Samnidze, and Taniel Nakaidze, other members of the parliamentary opposition on the same issue, initiated a draft amendment to the Law on State Pension, which would allow the pensioner to choose themselves a banking institution issuing a pension. Despite efforts, the opposition MPs' bill failed to garner adequate support even during the committee discussion, which halted the process.

Finally, despite the activism of opposition MPs on the problem of interest rates on pension loans and the use of various means, the issue has not been resolved to date.

1.2. Question from a Member of Parliament

A total of 1,128 written questions were sent by 39 MPs during the 2021 Spring and Extraordinary Sessions. Among them, 225 questions remained unanswered, 43 questions were answered beyond the deadline, and 47 questions did not expire within the legal deadline for a written response.²⁷

Members of the opposition were more active than the majority in sending questions. This was manifested both in the number of MPs and number of the letters sent by them. Of the 39 lawmakers who took advantage of the leverage, 21 were members of the opposition and the remaining 18 were members of the majority. In total, the majority members sent 443 questions, while the opposition

²⁶ Parliament website. Finance and Budget Committee Holds Hearing on Issues Related to High Interest Rates on Citizens' and Pensioners' Loans <https://bit.ly/3zsYSJX> [9.09.2021]

²⁷ The data are summarized as of September 9, based on the letter N9368/2-7/21 of September 9, 2021, of the Head of the Organizational Department of the Staff of the Parliament of Georgia.

sent 685 questions to various agencies or officials. 111 MPs did not exercise their authority to ask written questions.²⁸

The number of questions sent by members of the opposition looked the following way:

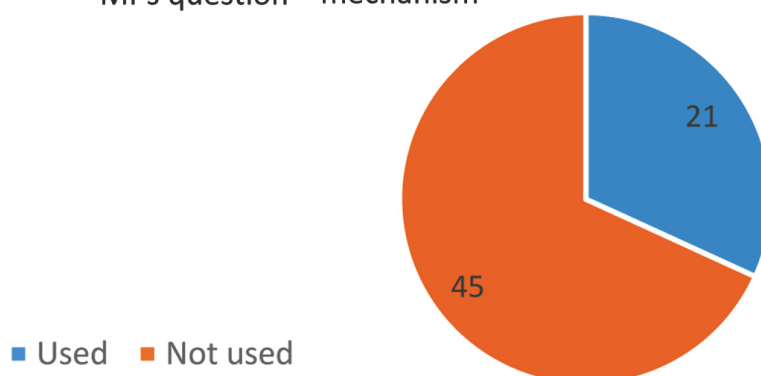
Chart N2

№	Surname, Name	Number of questions	№	Surname, Name	Number of questions
1	Akubardia Teona	19	12	Megrelishvili Vakhtang	2
2	Bokuchava Tinatin	1	13	Nakaidze Tariel	8
3	Buchukuri Anna	1	14	Natsvlishvili Anna	8
4	Gotsiridze Roman	103	15	Rakviashvili Alexander	20
5	Dekanoidze is an icon	231	16	Samnidze Khatuna	1
6	Elisashvili Alexander	112	17	Charkviani Tamar	2
7	Vashadze George	9	18	Khazaradze Mamuka	27
8	Ioseliani Levan	23	19	Khajishvili David	4
9	Kirkitadze David	1	20	Khvichia Iago	23
10	Kordzaia Tamar	87	21	Japaridze Badri	1
11	Liluashvili Beka	2			

28 1. Amilakhvari Giorgi 2. Akhvlediani Armaz 3. Bakradze Davit 4. Benashvili Gia 5. Bezhashvili Levan 6. Beraia Irakli (Dachi) 7. Beradze Ramina 8. Bitadze Maia 9. Bolkvadze Anzor 10. Bolkvadze Eliso 11. Botkoveli Giorgi 12. Bochorishvili Maka 13. Godabrelidze Giorgi 14. Gotsiridze Elguja 15. Davituliani Beka 16. Dargali Zaur 17. Daseni Isko 18. Daushvili Mikheil 19. Dugladze Zaal 20. Dumbadze Ketevan 21. Enukidze Avtandil 22. Enukidze Gocha 23. Varshalomidze Levan 24. Vashadze Grigol 25. Volski Giorgi 26. Zavrashvili Irma 27. Zilfimiani Davit 28. Talakvadze Archil 29. Toloraia Edisher 30. Injia Fridon 31. Iobashvili Nino 32. Ismailov Abdulla 33. Kacharava Davit 34. Kakhadze Vladimer 35. Kakhiani Giorgi Kakhadi 37. Kakhaishvili 37 Shalva 38. Kvizhinadze Paata 39. Kvirkvelia Manuchar 40. Kvitsiani Khatuna 41. Kikabidze Vakhtang 42. Kiureghiani Sumbat 43. Kobakhidze Irakli 44. Kobiashvili Levan 45. Kovzanadze Irakli 46. Kontselidze Resan 47. Kuchava La Kakhamer 48 Matikashvili David 51. Mamulashvili Non A. 52. Manukyan Samvel 53. Manjgaladze Paata 54. Macharashvili Guram 55. Machutadze Nika 56. Mgaloblishvili Levan 57. Mdinaradze Mamuka 58. Mezurnishvili Irakli 59. Melia Nikanor 60. Menagarishvili Maia 61. Medzmariashvili Irakli 63. Minakashvili Akaki 64 Mikeladze Zaal 65. Writer Alexander 66. Natelashvili Shalva 67. Nakopia Koba 68. Nikolaishvili Ramaz 69. Obolashvili Anton 70. Odisharia Beka 71. Okriashvili Kakhaber 72. Okhanashvili Anri 73. Papuashvili Shalva 74. Samadashvili Salomera 75. Samadashvili Salomera 75. Samadashvili Salomela 75. Dimitri 77. Sanikidze Gubaz 78. Sanikidze Victor 79. Sergeenko Davit 80. Sibashvili Sulkhan 81. Songhulashvili Davit 82. Subari Sozar 83. Taliashvili Tamar 84. Turdzeldze Nodar 85. Udumashvili Zaal 86. Usupashvili Davit 87. Kadagishvili Irakli 88. Kardava Bachuki 89. Karumidze Levan 90. Ghudushauri Aluda 91. Shavgulidze Shalva 92.Chanktseliani Goderdzi 93. Chigogidze Vasil 94. Chikovani Irakli 95. Chocheli Cesar 96. Chkheidze Nato 97. Chkheidze Rostom 98. Tsitladze Anna 99. Tsilosani Khatia 100. Chankotadze Devi 101. Chichinadze Givi 102. Khabareli Shota 103. Khabuliani Dilar 104. Khakhubia Irakli 105. Kherkheulidze Ekaterine 106. Khoshtaria Elene 107. Khojevanishvili Giorgi 108. Khundadze Dimitri 109. Janashia Teimuraz V. Japarzi 110. Japaridze Zapparidze Japaridze.

Chart N3

Opposition activity according to the use of the
MPs question mechanism



The number of questions sent by the majority members looked the following way:

Chart N4

№	Surname, Name	Number of questions	№	Surname, Name	Number of questions
1	Beraia Irakli	13	10	Sarjveladze Mikheil	242
2	Dalakishvili Alexander	2	11	Sepashvili Eka	133
3	Zarkua Irakli	1	12	Tabatadze Alexander	6
4	Ionatamishvili Rati	10	13	Kavelashvili Mikheil	6
5	Latsabidze Nino	3	14	Chachibaia Vladimir	4
6	Meshveliani Gogi	2	15	Tsakadze Bezhan	1
7	Mirzoev Savalan	2	16	Tsilosani Nino	5
8	Mikanadze Givi	2	17	Khabeishvili Levan	3
9	Samkharadze Nikoloz	3	18	Khelashvili Giorgi	5

Chart N5

The activity of the majority according to the use of the MP's question mechanism

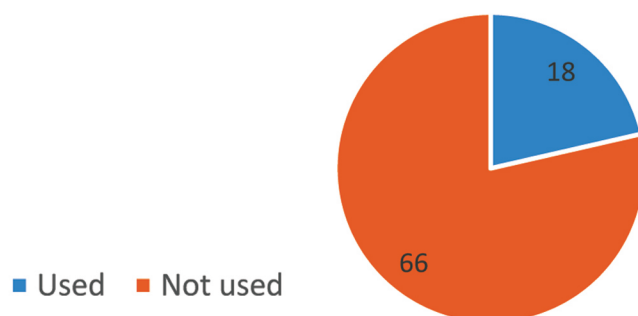


Chart N6

Ratio of MP questions by Majority and Opposition

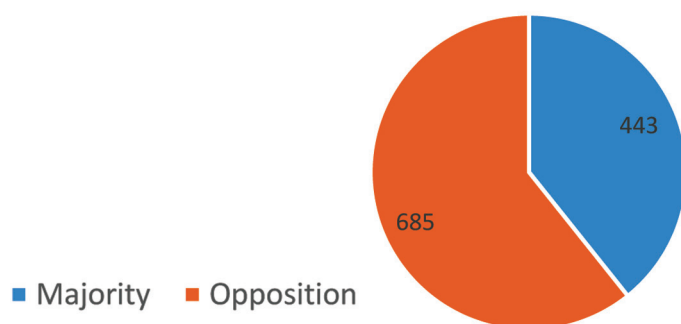
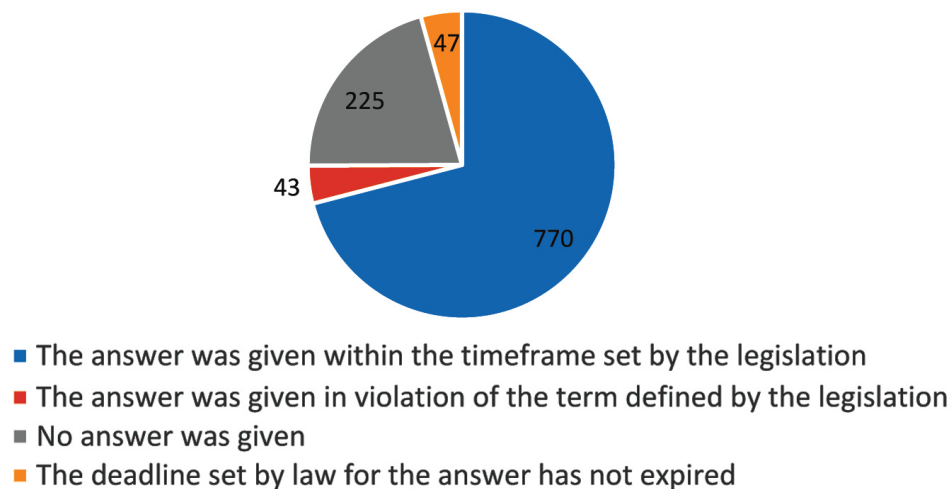


Chart N7

Data on the answers to the written questions of a Member of Parliament



MP Question vs Public Information

The analysis of the questions of the members of Parliament revealed that this mechanism is used not as a tool of oversight and accountability, but for the purposes of obtaining public information. In current practice, the line between a public information request and an MP question is blurred.

The General Administrative Code gives any person the right to request public information. Its purpose is to make public the information available in public institutions of any kind or form, except the category under classified information.²⁹ The question of a member of Parliament is a lever defined by the Constitution. It empowers the MP exclusively to ask a written question on the issue of the addressee's authority to the government, another body accountable to the Parliament, a member of the government, a government body of all levels of the territorial unit, a state institution. A timely and complete answer to the question is mandatory.³⁰ This is a parliamentary oversight mechanism that is widespread in different countries.³¹

Members of Parliament from different countries use written questions to request detailed information from the executive bodies and thus open the gaps in government policy to the public.³² This intermediate form of oversight may be a precondition for the disclosure of valuable information and find further continuation through various parliamentary mechanisms³³, even in the form of interpellation. The requirement for individual parliamentarians to report on government policy in this form is also quantitatively limited in some countries to avoid a stalemate in parliamentary activities.³⁴ In the United Kingdom, for example, the institute of written questions is used as a mechanism³⁵ for obtaining detailed information on government policy, as practice shows.³⁶

Members of the majority or opposition in Georgia often use this mechanism. However, the content of the sent letters shows that it is not always used for their intended purpose. Although the written question of a Member of Parliament is no different in content from the oral question,³⁷ the monitoring revealed that it is used with the purpose of requesting public information.

A clear example of this is the letter sent by MP Levan Khabeishvili to the person responsible for providing public information of the Ministry of Regional Development and Infrastructure in the format of a written question by a Member of Parliament.³⁸ Alexander Elisashvili, Member of Parliament, also sent a written question to all municipalities requesting information on the area of state ownership in their territory;³⁹ Mikheil Sarjveladze used this leverage to obtain information

29 In addition, see. Chapter 3 of the General Administrative Code (Freedom of Information).

30 The first paragraph of Article 43 of the Constitution of Georgia and Article 148 of the Rules of Procedure of the Parliament.

31 Gonashvili V., Tevdorashvili G., Kakhiani., Kakhidze I., Kverenchkhiladze G., Chighladze N., Constitutional Law of Georgia, Meridian, 2020, 253.

32 Written Questions: A Critical Oversight Mechanism, Parliamentary Monitoring Group, 17 February, 2021, <https://bit.ly/3zLEPrm> [102.09.2021]

33 Parliamentary Function of Oversight, Agora – Portal for Parliamentary Development, <https://bit.ly/3zGIUy2> [02.09.2021]

34 Elena Griglio, Parliamentary Oversight of the Executives, Tools and Procedures in Europe, 2020, 2019

35 Website of the Parliament of the United Kingdom. Written questions and answers, <https://bit.ly/3EDXaJF> [01.09.2021]

36 Website of the Parliament of the United Kingdom. Written questions, answers and statements, <https://bit.ly/3u-4O6bJ> [01.09.2021]

37 Questions, Canadian House of Commons website. <https://bit.ly/2Za4Tib> [03.09.2021]

38 Letter of the Member of Parliament Levan Khabeishvili dated July 27, 2021 <https://bit.ly/3EFYcoA> [03.09.2021]

39 For an example, see the letter of May 19, 2021 to the Mayor of Martvili Municipality <https://bit.ly/39s6NN8>

on the number of cases of children traveling without tickets by municipal transport or railways;⁴⁰ Savalan Mirzoev requested information on how many people are serving conditional sentences in the Kvemo Kartli region.⁴¹

The examples cited above illustrate that in practice it is often not possible to differentiate between requesting public information and a written question by a Member of Parliament. Through this mechanism, the MPs do not request accountability on the activities of a specific body but ask for information that would have been available to them even without a parliamentary mandate.

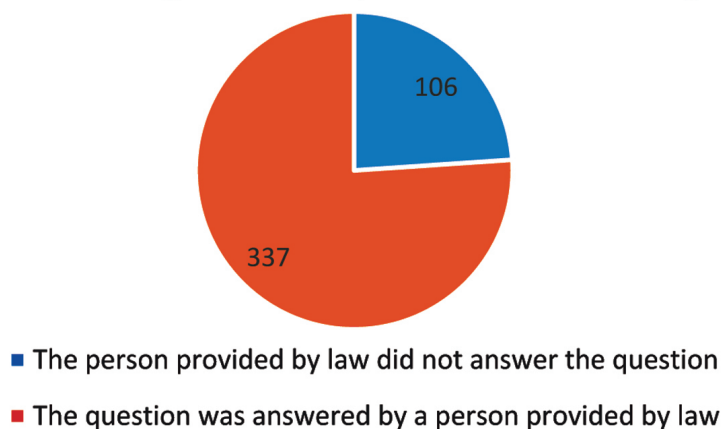
Trends on answering a question of a Member of Parliament by the persons accountable

Answering the question of a Member of Parliament is often done in violation of the Constitution and the Rules of Procedure. According to the Rules of Procedure, the addressee of the question is obliged to answer the question in person.⁴² According to Article 15, Paragraph 4 of the Law on the Structure, Powers, and Rules of Activity of the Government of Georgia, “the Ministry shall be based on the principle of one governance, unless otherwise provided by law”. According to the first paragraph of Article 6 of the Organic Law on the Prosecutor’s Office, “the Prosecutor’s Office of Georgia is a unified, centralized system”. The purpose of these regulations is for the official responsible for the matter to be directly accountable.

Despite clear legislative requirements, the monitoring revealed that this obligation is not being fulfilled in good faith. Some ministers are characterized by a kind of political arrogance and neglect of rankings. As a result of the monitoring, the organization examined the answers received by the Members of Parliament from June 11 to August 13, 2021. In 106 cases out of 443 answers examined, in violation of the law, the addressee of the question did not personally answer the question sent to him/her in writing.

Chart N8

Compliance of the authors of the answers to the question of the Member of Parliament with the legislation in the period from June 11 to August 13, 2021



[02.09.2021]

40 As an example, see the letter of June 29, 2021, to the Minister of Regional Development and Infrastructure, Irakli Karseladze <https://bit.ly/3EI6vju> [02.09.2021]

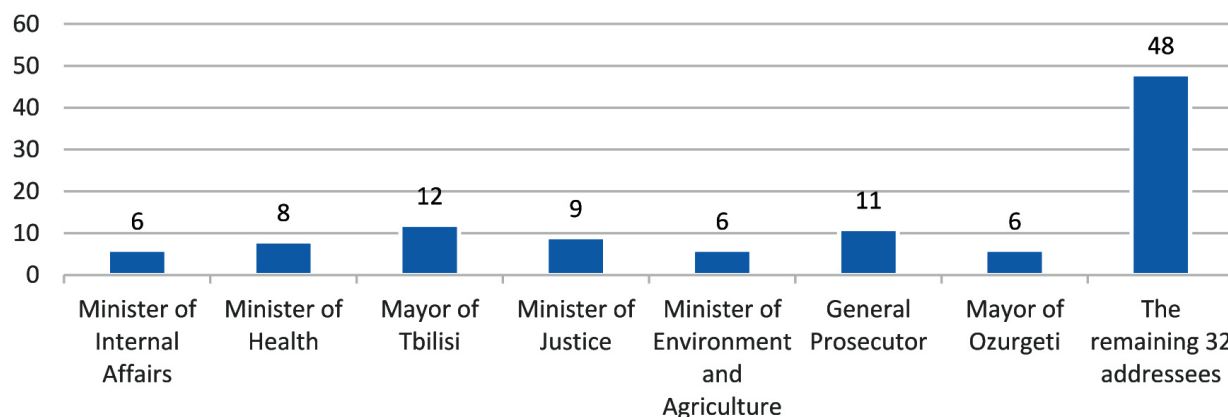
41 See a letter of Savalan Mirzoev dated July 13, 2021, to the Minister of Justice. <https://bit.ly/3AAxXNJ> [02.09.2021]

42 Fourth paragraph of Article 148 of the Rules of Procedure of the Parliament.

In this regard, the leaders are Tbilisi Mayor – Kakha Kaladze, Prosecutor General – Irakli Shotadze, Minister of Environmental Protection and Agriculture – Levan Davitashvili, Minister of Health – Ekaterine Tikaradze; Minister of Internal Affairs – Vakhtang Gomelaury, Mayor of Ozurgeti – Konstantine Sharashenidze.

Chart N9

Compliance of the authors of the answers to the question of the MP with the legislation in the period from June 11 to July 26, 2021, the author according to the agencies



The mayor of Tbilisi sends the answer to the Parliament not personally but mainly by the heads of the services and agencies subordinated to him.⁴³ The Prosecutor General is following the same path. Thus, for example, Ana Natsvlishvili's June 3 letter # 5372/3-81/21 was not answered by the Prosecutor General himself but by the Deputy District Prosecutor Samtskhe-Javakheti.⁴⁴

Such an attitude towards the legislature underscores the lack of political culture in the country to recognize the supremacy of Parliament.

1.3. Citizens' Applications

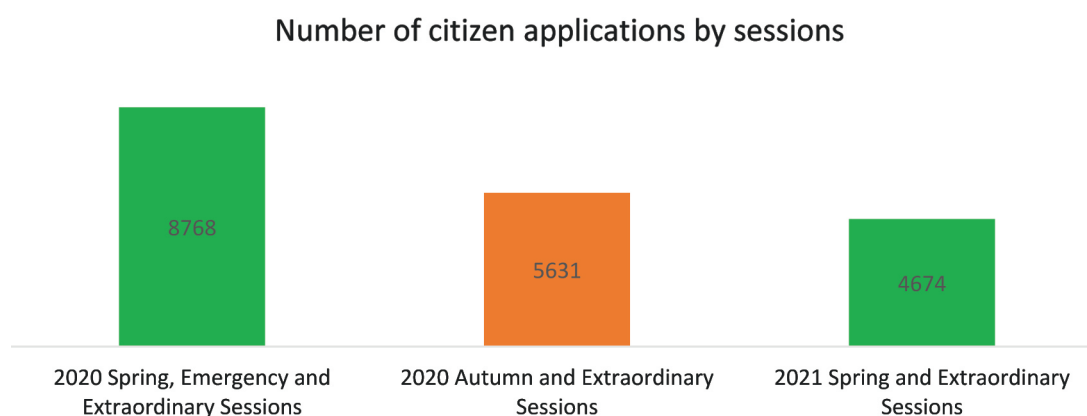
4,674 applications were submitted in the name of the MPs during the reporting period.⁴⁵ Thus, despite the end of the boycott by the opposition, the trend of decreasing the number of citizens' applications continued.

43 For example, see the response to the letter of the Member of Parliament Alexander Elisashvili dated May 19, 2021 <https://bit.ly/3u8hFJx> [02.09.2021]

44 Available at: <https://bit.ly/3nX4Uk8> [02.09.2021]

45 Letter of Ekaterine Sanashvili, Acting Head of the Organizational Department of the Parliamentary Staff, dated August 11, 2021, N8582 / 2-7-1 / 21

Chart N10



Citizens' letters were mainly related to the following issues:

Chart N11

Issue	Total application / letter	Percentage composition
Health and social issues	2145	21,49%
Protection of rights	1957	19,61%
Legal issues	270	2,71%
Request for public information	209	2,09%
Education, science, culture, sports	140	1,40%
Environmental protection, economy, and infrastructure issues	396	3,97%
Request for a meeting	243	2,43%
Replies to letters sent by MPs *	90	0,90%
Informative and received answers	3379	33,85%
Other issues	1152	11,54%

The Organizational Department of the Parliament does not have a program that would separate the cases when citizens' letters are sent to other agencies by the MPs from the instances where MP, by their initiative, sends the letter to this or that institution. Consequently, it is impossible to determine the response of the MPs, including how many of the applications submitted by the citizens were sent to another agency.⁴⁶

* This figure includes both the letters sent by the MP to the agencies due to the citizen's applications and also the letters sent on the personal initiative of the MP.

46 See the work of the Autumn and Extraordinary Sessions of the Parliament of Georgia in 2020, Democracy Index – Georgia, Tbilisi, 2020, pg. 8.

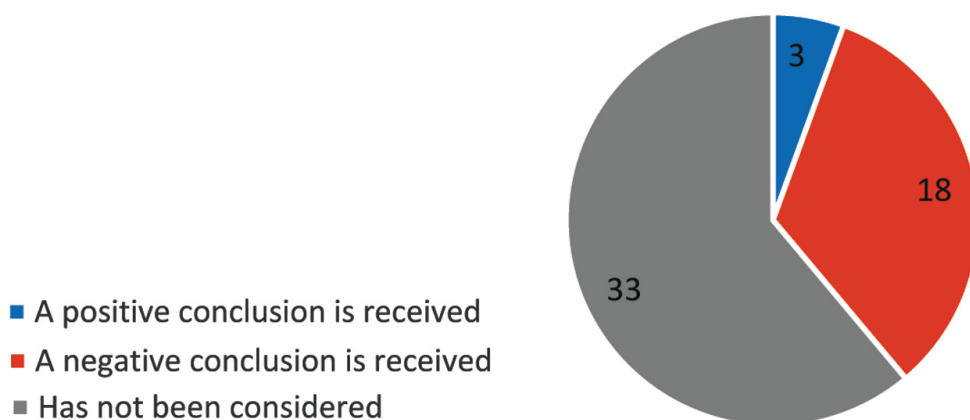
One reason for this may be that the majority, not the opposition, is politically close to day-to-day governance. Due to the political centralization of power, this context enables more and more effective communication of the majority members with the government and local self-government bodies.

2.1. Legislative Proposal

In contrast to the Autumn Session of 2020, much more than the 2021 Spring and Extraordinary Session of the Parliament was registered – instead of 22, this time, 54 legislative proposals were registered. Like the previous sessions, the legislative proposals did not have a tangible result; they were not initiated in the form of a bill. Out of 54 proposals, the leading committees received a positive conclusion in only 3 cases and a negative one in 18 cases. The consideration of the 33 legislative proposals has been postponed by the leading committees and/or has not been considered yet.⁴⁷ Positive conclusion/findings were submitted by the Committee on Agrarian Affairs, the Committee on Health and Social Affairs, and the Committee on Education and Science. Thus, the legislative proposal mechanism is mainly only formally functional and inactive in terms of actual applicability.

Chart N12

Results of the Consideration of Legislative Proposals by the Committees

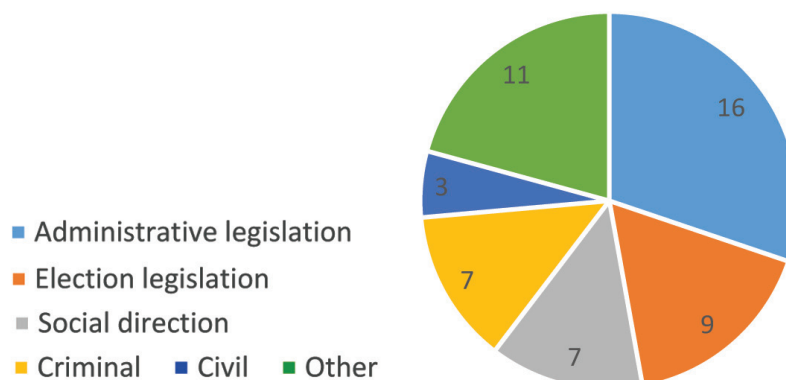


The legislative proposals were related to the following issues: the most – 16 proposals related to administrative legislation, 9 – electoral legislation, 8 – social direction, 7 – criminal law, 3 – civil law. In addition, by the legislative proposals subjects were requesting changes in the legislation on education, environment, and broadcasting, as well as the status of the Georgian language, the declaration of amnesty, and the establishment of Father's Day.

⁴⁷ The data are summarized as of August 20, 2021, based on the letter N8880/2-7-1/21 of August 20, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia.

Chart N13

Number of Legislative Proposals by Topic



In 54 out of 9 cases, the initiator subjects of the legislative proposals were representatives of various trade unions: non-governmental organizations-2, non-parliamentary opposition-2, universities-1, commercial legal entities-1, natural persons-39. According to the decision of the Bureau of the Parliament, the leading committee is in the majority – the Committee on Legal Affairs on 34 issues, the Committee on Health and Social Affairs on 8, the Committee on Education and Science on 4, the Committee on Sectoral Economics and Economic Policy on 3, the Committee on Human Rights and Civic Integration on 3, the Committee on Procedural Issues and Rules on one and Agrarian Issues – one, was determined.

These data show the interest of active citizens in, particularly politically sensitive issues. These activities are one of the best indicators to highlight the weaknesses of the legislative array.

Chart N14

Number of Legislative Proposals by Authors

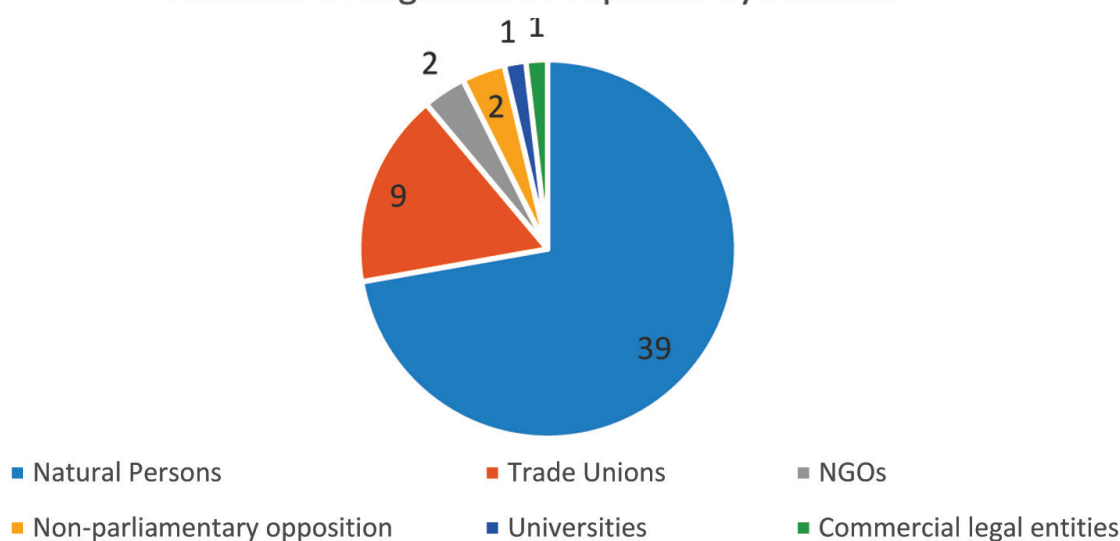
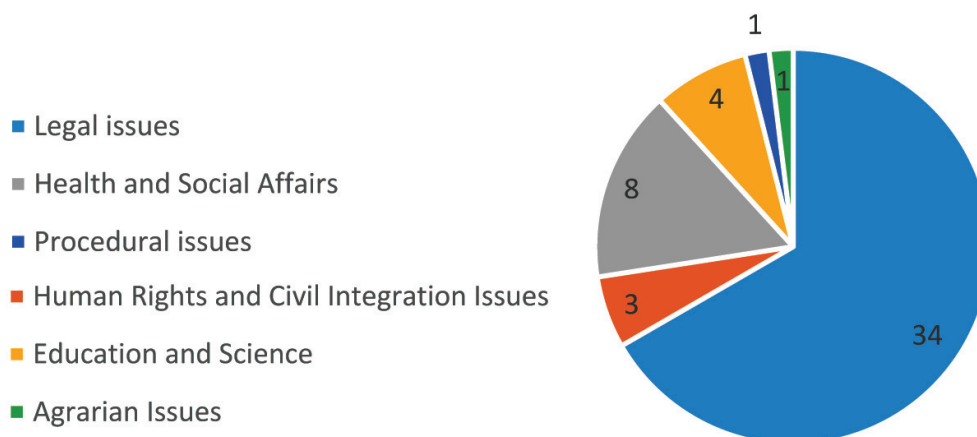


Chart N15

Distribution of Legislative Proposals according to Committees



The problem is that a large part of the legislative proposals was distributed to the Committee on Legal Affairs, which we mentioned even in the previous report also and called on the Parliament to distribute the proposals to other committees to eliminate the overload.

2.2. Petitions

7 petitions were registered at the 2021 Spring and Extraordinary Session of the Parliament. In all cases, the matter was referred to a specific agency for consideration.

The petitioners referred to the issues of the construction of hydropower plants in Racha-Lechkhumi, consumer safety control, the establishment of a state program for co-financing infertility treatment, granting the status of a borough to the village “Chkhari”, issues related to the Covid-19 testing and vaccination issues, the state funding program for spinal muscular atrophy medicine and the events surrounding the Shalva Amiranashvili Art Museum.

The authors of the petition were unions in 7 out of 5 cases and citizens in 2 cases.

Most of the petitions were directed by the Parliament to a specific agency, and the real desire and interest to respond to it are not seen by the legislature. Ignoring the involvement of citizens creates a deficit of democracy and undermines the effective functioning of state institutions.

2.3. Lobbying

Lobbying activities are underdeveloped in the Parliament, which could make a number of legislative processes non-transparent. Only 3 lobbyists were registered during the reporting period. Their interest was the following legislative acts: “On Weapons”, “On Compatriots Living Abroad and Diaspora Organizations” and the Tax Code of Georgia.

2.4. Cooperation with civil society (including trends highlighted in the review of shadow reports)

The observations revealed clear examples of civil society involvement. On the other hand, in response to the fierce protest against the issues of essential importance, there were cases of Parliament ignoring the activities of the civil sector. At the same time, the NGO’s shadow reports were not heard,

and civil society protests against the election of specific individuals to high positions were virtually ignored.

Judicial Reform

Since the signing of the Charles Michel Agreement between the government and the opposition parties, civil society has repeatedly called on the authorities to start working on reforming the judicial system promptly with the involvement of civil society organizations, professional groups and academia, ombudsman, and international partners.⁴⁸ Nevertheless, on 17th June 2021, 9 candidates to be elected to the High Council of Justice were selected to be nominated for Parliament.⁴⁹ The Coalition for an Independent and Transparent Judiciary refused to participate in the selection process of judges.⁵⁰ The majority appointed six of the nine candidates as a judge for life amid a lack of civil society involvement and against the background of a boycott of a large part of the opposition.

Election of the CEC Chairperson

After CEC Chairperson Tamar Zhvania resigned based on a personal application, NGOs believed this decision could significantly build trust in the 2021 local municipal elections and the election administration and electoral process. They called on the authorities to follow the competition's existing rules as openly and transparently as possible.⁵¹ Despite calls from the civil sector, the authorities have not shown readiness to elect a CEC chairperson by political consensus. Election of a CEC chairperson by political consensus – the process of selecting a candidate took place without the necessary political consultations to reach a consensus between the parties.⁵² As a result, the CEC chairperson was elected by the parliamentary majority with one-party support.

Treatment of female MPs

On 21st July 2021, representatives of the NGO sector and political parties wrote a letter to the Speaker of the Parliament,⁵³ stating that at the 18th July 2021 sitting, MPs Shalva Papuashvili and Irakli Zarkua had used violence against women politicians.⁵⁴

Other male members of Parliament, including Levan Mgaloblishvili, verbally abused MP Ana Tsitlidze. Furthermore, it should be noted that Levan Mgaloblishvili physically restricted the movement of Ana Tsitlidze and Tinatin Bokuchava and took away the protest poster from the latter. Due to the incident, the civil sector representatives called on the Speaker of the Parliament to use all

48 Transparency International Georgia Coalition calls on Parliament to start working on judicial reform. <https://bit.ly/3nWXdK0> [5.09.2021] Transparency International Georgia and Coalition for Independent and Transparent Judiciary responds to the competition of the Supreme Court Judges <https://bit.ly/3CyJXzL> [5.09.2021]

49 Website of the High Council of Justice, the Supreme Court nominees to the Parliament <https://bit.ly/35TqDzf> [5.09.2021]

50 Transparency International Georgia and the Coalition will not participate in the Working Group for selection of the Supreme Court Justices <https://bit.ly/2XBeLRw> [5.09.2021]

51 Transparency International Georgia, Organizations, working on Election topic, respond to the resignation of the Chairperson of the Central Election Commission of Georgia, <https://bit.ly/3hTUE8e>

52 "Democracy Index – Georgia", the parliamentary majority is trying to maintain control over the election administration, <https://bit.ly/3kvkH7n> [5.09.2021]

53 Letter to the Chairman of the Parliament – Kakha Kuchava. Transparency International-Georgia, letter to the Speaker of the Parliament of Georgia <https://bit.ly/3hXOKD7> [5.09.2021] [5.09.2021]

54 Ibid.

the mechanisms at his disposal for an adequate response.⁵⁵ However, despite the mentioned activity, there was no response to this fact.

Electoral Reform

On May 25, 2021, Transparency International Georgia called on Parliament to review some of the first-reading amendments to the election law:

1. Reducing the timeframes between parliamentary elections for the election of professionally nominated CEC candidates for municipal elections in 2021 also reduces the possibility of consensus between the parties and allows the ruling party to choose the candidate it desires easily;

2. The rules for appointing members to election commissions by political parties have been changed in favor of the European Socialists and to the detriment of the other party, the Georgian Patriots Alliance, which is fundamentally wrong and unfair;

3. Increasing the number of CEC deputies reduces the importance of a deputy appointed by opposition parties to some extent.⁵⁶ Despite the call, the Parliament passed the election changes in the same way and did not take into account the instructions of the civil sector in this case either.

The so-called Shadow Reports

Rules of Procedure of the Parliament allow submitting “Shadow Reports” of alternative opinions/assessments of stakeholders on several types of reports of the executive power.⁵⁷

Observations on the review of the “shadow reports” in recent years have revealed that members of parliament were almost absent from the committee hearing in the 2020 spring session. Consequently, their discussion was neither critical nor substantive. At the autumn session of 2020, the “shadow reports” were not submitted to the Parliament by the interested parties.

At the 2021 Spring and Extraordinary Session Committee on Human Rights and Civil Integration has received the GYLA Shadow Report on the 2020 report of the Ministry of Justice on the Execution of Judgments/Rulings of the European Court of Human Rights against Georgia. In addition, this committee received the so-called *shadow report* prepared by “Freedom of Information Development Institute” – so-called Results of Monitoring the Accuracy of December 10th Reports” of the public institutions; The submitted reports have not been reviewed yet.

2.5. The civil sector’s and citizens involvement in parliamentary activities

More than 10 thousand citizens have petitioned the Parliament regarding the construction of Racha-Lechkhumi (Namokhvani) HPPs. The report of the Committee on Sectoral Economics and Economic Policy was discussed at the March 9 joint sitting of the Committee on Sectoral Economics and Economic Policy and the Committee on Environmental Protection and Natural Resources. The meeting was attended by the Ministers of Economy and Sustainable Development and Agriculture, representatives of various non-governmental organizations, and the local population of the Rioni Valley.⁵⁸

The views of the ministers and the protesting public could not be reconciled. The parliamentary mechanism of the petition failed to be effective and problem-oriented. Despite the use of the

55 Ibid.

56 Transparency International Georgia, several amendments to the election legislation need to be revised <https://bit.ly/3u1fgQH> [5.09.2021]

57 Paragraph 3 of Article 175 of the Rules of Procedure of the Parliament of Georgia.

58 See Session agenda <https://bit.ly/3FtaBwy> [7.10.2021]

parliamentary platform, the protest spark has subsequently increased and escalated into large-scale rallies.⁵⁹

2.6. Exercise of parliamentary oversight by committees

“The balance of power in the parliamentary system is not reached even between the legislature and the executive, but between the ruling majority and the opposition. This means that the opposition must have the levers for this balance in order to resist the concentration of power.⁶⁰” The function of the opposition is not to govern. Instead, there are other important powers it may have to control policy consistency and legality.

The Venice Commission sets out those minimum capabilities that a parliamentary opposition must-have in a democratic state. These are: to offer political alternatives; to articulate and promote the interests of their voters; to improve parliamentary decision-making procedures by ensuring debate, reflection, and contradiction; to scrutinize the legislative and budgetary proposals of the government; Supervise and oversee executive bodies; to enhance stability, legitimacy, accountability, and transparency in the political processes by participation.⁶¹ The extent to which these mechanisms are used by the opposition determines the maturity of the country’s democracy.

At the same time, the frequency of communication between constitutional institutions (and not between closely related parliament-government) is essential in parliamentary governance. The effectiveness of the Parliament in the part of the overseeing powers of the bodies accountable to it significantly determines the effectiveness of policy-making. The oversight powers of Parliament are unfolded in several directions and the Committee is one of the important links. This stems from the powers and structure of Parliament.

In this regard, the standard of political communication – opposing-partnership with the opposition of the parliamentary majority is important. Unfortunately, in this regard, the communication in the Parliament of the X convocation does not serve as a model for creating a healthy political environment. The parliamentary majority has not been a partner in virtually any of the oversight initiatives coming out of the opposition factions. This concerns the establishment of an investigative commission, as well as the summoning of an official to a committee meeting. The latter was clearly revealed in the case of summoning the Minister of Internal Affairs at the Committee sitting. Exceptions to the government’s complicity with the opposition’s oversight initiatives have been reported in connection with initiatives by parliamentary political groups with which signs of political corruption had been outlined.⁶² This included discussing the issue of pensioners’ interest rates at Liberty Bank.⁶³

This part of the report will summarize, by each oversight authority, the oversight powers exercised by Parliament (subjects) and their effectiveness.

59 Numerous rallies were held against Namakhvani HPP in Kutaisi <https://bit.ly/3nXSBE2> [9.09.2021]

60 Vakhushiti Menabde, Functioning of state institutions in Georgia and their role in the process of democratic development of the country, 2021, 4. <https://www.academia.edu/37182258>) [9.09.2021]

61 Venice commission, Draft report on the role of the opposition in a democratic parliament, CDL(2010)100 2010, 4. <https://bit.ly/3CzMkSX> [9.09.2021]

62 We are talking about political corruption in chapter 3.3.1: Opinions Submitted by Democracy Index in Georgia for the Reporting Period – pg. 51

63 See in 1.1.2. Chapter: Discussing the issue of interest rate reduction on pension loans. pg. 13

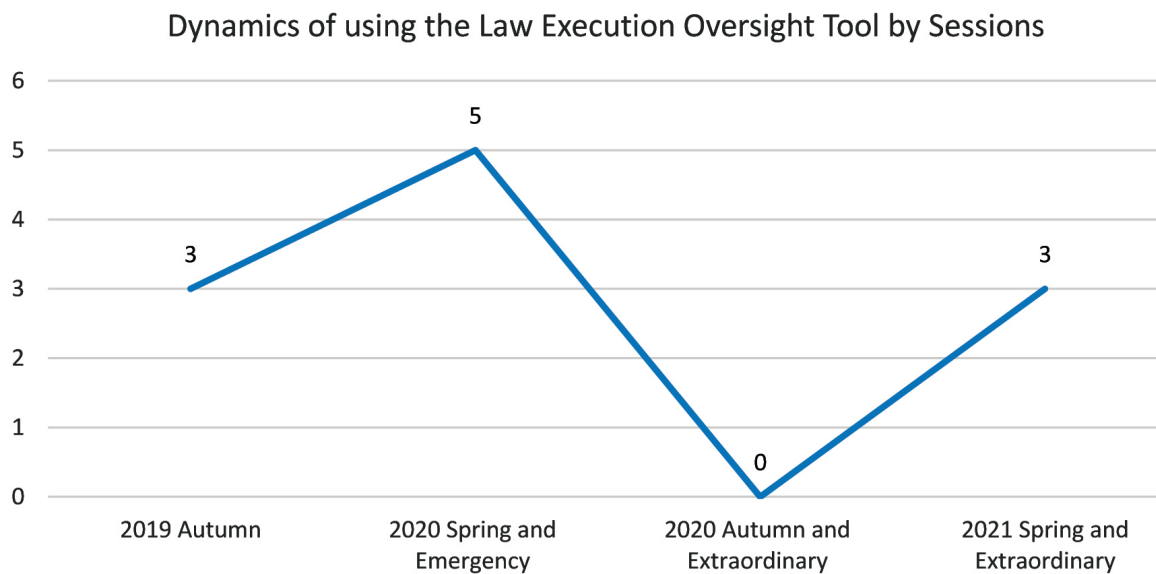
2.6.1. Control over the execution of normative acts

The legislature in parliamentary government is the supreme legislator of the country. Accordingly, in accordance with its powers and rules of operation, the Parliament as a whole and its committees oversee the activities of the executive and independent bodies, including the implementation of normative acts. With this form of oversight, Parliament scrutinizes the accuracy of the implementation of policies set by Parliament based on and within the law.

The committees study and analyze the effectiveness of the laws regulating the relevant field and the shortcomings identified during their period of validity. Accordingly, they consider the measures necessary to eliminate them, the various circumstances that prevent effective enforcement of the normative acts in daily life. The legislature may, at the request of the Committee, consider the identified problems related to the legality of the normative act.

The committees in the Spring Session of 2021, like the previous sessions, this time also in rare cases used the oversight of law execution. Unlike the previous Autumn and Extraordinary Sessions of 2020, when the committees never exercised oversight over the enforcement of normative acts, this function was used by three committees: the Committee on Agrarian Affairs, the Committee on Procedures and Rules, and the Committee on Health and Social Affairs. During the Spring and Emergency Sessions of 2020, this function was used by five committees, and during the Autumn Session of 2019, by 3 committees.

Chart N16



According to the information provided, the Committee on Procedural Issues and Rules – assessed the state of execution of the Rules of Procedure of the Parliament, analyzed the identified shortcomings, and responded to them accordingly. On February 4, 2021, the Committee on Agrarian Affairs started monitoring the enforcement of the Law on Agricultural Cooperatives and submitted a study report. During the reporting period, the Committee on Health and Social Affairs considered the draft resolution of the Parliament on the State of Enforcement of the Law on Tobacco Control, which was subsequently adopted by the Parliament.

The answer of the Finance and Budget Committee to our question is noteworthy, where its other power is considered to be the oversight over the enforcement of the law. In particular, it is indicated

that they listened to and reviewed the annual reports on the implementation of the state budget and the activities of the bodies accountable within the framework of control over the implementation of normative acts.⁶⁴

The named procedures, according to the Rules of Procedures, are the routine activities of the Finance and Budget Committee, through which it exercises oversight over the management of public funds.⁶⁵ As for the control of law execution – it is a separate procedure defined by the Rules of Procedure, by which the committees, on their own initiative, study the state of enforcement of various normative acts.⁶⁶ Consequently, these activities cannot be considered as part of the oversight procedure over the execution of the law.

In addition, we are informed that an analytical group has been set up in the Staff of the Legal Affairs Committee. The group aims to study and analyze the state of enforcement of normative acts among them.⁶⁷ Accordingly, the Committee on Legal Affairs has the capability to effectively monitor the state of enforcement of normative acts adopted by Parliament in the areas within its jurisdiction. However, at present no such results are known.

2.6.2. Verifying the compliance of the by-laws with the legislation of Georgia

Based on the principle of legislative supremacy of the Parliament, the committees have the quasi-judicial function of verifying the compliance of by-laws with the legislation. The committees did not use this function effectively.

2.6.3. Mandatory attendance of officials at the committee meeting

During the reporting period, none of the committees on their initiative requested the mandatory attendance of the accountable person on the committee. Opposition factions demanded that 5 ministers be summoned to various ministerial committees during the reporting period. At the same time, at the initiative of the opposition MP, Alexander Elisashvili, accountable persons were summoned to the Finance and Budget Committee regarding the interest on pension loans.⁶⁸

Within the framework of the powers defined by Article 40 of the Rules of Procedure, the Minister of Justice presented information to the Committees on Human Rights and Civil Integration, Defense and Security, Foreign Affairs, and Legal Affairs on the work performed by the government to represent state interests in the case of the August 2008 war at the European Court of Human Rights and the court judgment of 21 January 2021 in the same case.

Demands that the Committee to be attended by persons accountable were initiated by the opposition factions, namely:

The factions “Lelo – Partnership for Georgia” and “Charles Michel Reform Group” demanded

64 Letter N890/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia.

65 According to the second paragraph of Article 141 of the Rules of Procedure of the Parliament, the Ministry of Finance shall submit a report on the implementation of the budget to the Committee after each quarter. And, based on Article 165 paragraph 6, the permanent function of the audit team reviewing the accounts of the Audit Office is to review the audit reports.

66 Article 38 of the Rules of Procedure of the Parliament.

67 Letter N8897/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia. [22.09.2021]

68 The Parliament website, The Finance and Budget Committee has held a hearing on high-interest rates on pensioners' loans. <https://bit.ly/3nVdEqN> [9.09.2021]

the summoning of the Minister of Internal Affairs to the Committee on Human Rights and Civil Integration. According to the information provided, a request was sent by the committee to attend the committee meeting, however, given that the Spring Session was over for that period and the period set by the Rules of Procedure was suspended between sessions, there was no obligation that the ministers attend the committee meeting. Work on this issue will be resumed within the framework of the Autumn Session, taking into account the relevance of the issues before the ministers at that time.

On May 31, 2021, the parliamentary faction “Lelo – Partnership for Georgia” addressed the Committee on Sectoral Economics and Economic Policy, on summoning the following ministers the Minister of Economy and Sustainable Development, the Minister of Justice, and the Minister of Environmental Protection and Agriculture at the Committee meeting. Issues to be considered in connection with the construction of Namakhvani HPP were the economic justification of the project, its likely impact on the environment and the identification of potential risks, and the issue of a contract with the construction company.

On June 24, 2021, the faction “Charles Michel Reforms Group” addressed the Committee on Sectoral Economics and Economic Policy, on summoning the Minister of Economy and Sustainable Development at the Committee meeting. The issue of discussion was related to the activities of Georgian Manganese Ltd. According to the Committee on Sectoral Economics and Economic Policy, the requested committee hearings have not been held at Autumn Session as consultations are underway on the date.⁶⁹

On June 1, 2021, the “Lelo – Partnership for Georgia” faction applied to the Foreign Affairs Committee to summon the Minister of Foreign Affairs at the Committee meeting. However, at the request of the same parliamentary faction, the hearing of the Minister at the sitting of the Committee was postponed.

The parliamentary faction of the Charles Michel Reform Group addressed the Committee on Human Rights and Civil Integration on the summoning of the Minister of Internal Affairs. According to the information provided by the Committee, the Minister of Internal Affairs addressed the Parliament on 13 May 2021 under Article 154 of the Rules of Procedure. According to the information provided by the Committee, on May 13, 2021, the Minister of Internal Affairs addressed the Parliament of Georgia in accordance with Article 154 of the Rules of Procedure. Minister himself provided to be heard on a plenary session on the recent developments in the country, which is why the Committee did not deem it necessary to hear the minister.⁷⁰

Despite the demand of the opposition factions, the accountable persons did not appear before the committee. The reasons from the committees have, in some cases, not been named, and in part, the reason is inadequately substantiated.

The request of the committee on the invitation to the meeting is sent by the chairperson of the committee to the person to be summoned. The Rules of Procedure do not specify the dates of summoning a person to a committee meeting, which allows the chairperson of the committee to have indefinite discretion⁷¹ in resolving the issue of summoning an accountable person. Practice shows that the chairperson of the committee does not meet the demands of the opposition. The lack of precise deadlines in the Rules of Procedure is used for the benefit of the political goals of the majority.

69 Letter N8897/2-7-1/21 of the Acting Head of the Organizational Department of the Parliament of Georgia dated 23 August 2021 [22.09.2021]

70 Letter N8898/2-7-1/21 of the Acting Head of the Organizational Department of the Parliament of Georgia dated 23 August 2021 [22.09.2021]

71 Part 4 of Article 40 of the Rules of Procedure of the Parliament of Georgia.

2.6.4. Obligation to submit information

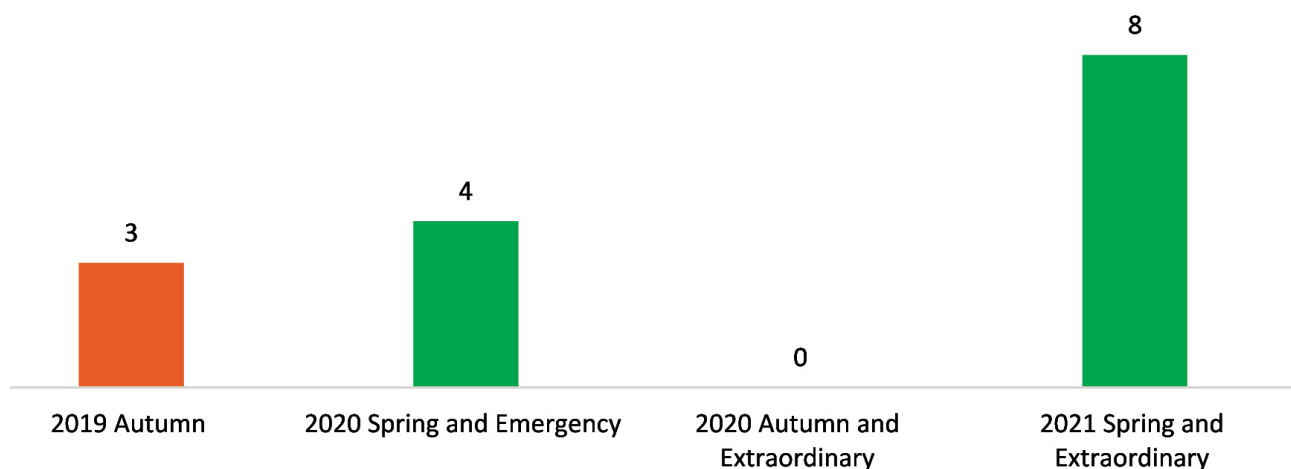
Committees make less use of the power to request information. According to the information provided by the Parliament, the powers provided for in Article 41 of the Rules of Procedure were not exercised by the Committees during the reporting period. The exception was the Finance and Budget Committee, which requested various documents from certain agencies and organizations.

2.6.5. Thematic Inquiry Group

To scrutinize the current issue and prepare a draft decision, a Thematic Inquiry Group may be appointed from among the members of Parliament, the Committee, or the Standing Council of Parliament, which shall select the main rapporteur from among its members.⁷²

Chart N17

Number of Committees that started Thematic Inquiries, by Sessions

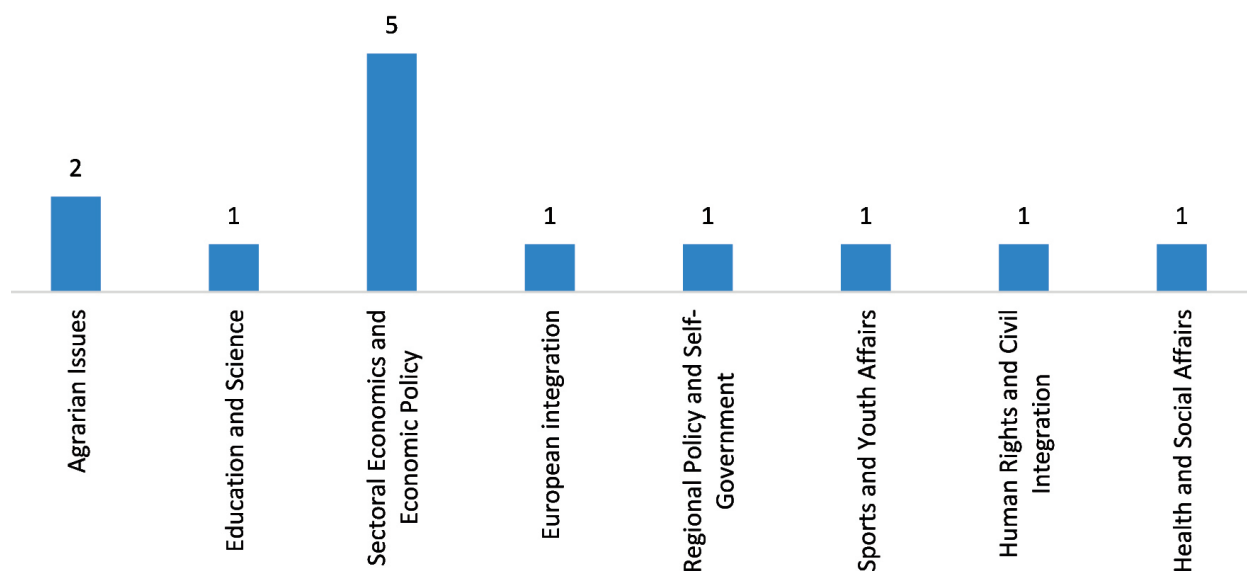


Compared to previous sessions, the statistics have improved. Thematic inquiry is used more actively by the committees in the given reporting period.

⁷² Article 155 of the Rules of Procedure of the Parliament of Georgia.

Chart N18

Number of Launched Thematic Inquiries by Committees



According to the information provided by the Parliament⁷³, 13 thematic inquiries were started by eight committees during the reporting period. The most five inquiries have been initiated by the Committee on Sectoral Economics and Economic Policy during this period. A total of 2 thematic inquiries have been completed: the inquiry of the Sports and Youth Affairs Committee on the topic – promoting youth employment; the Inquiry of the Committee on Agrarian Affairs on the issue – Challenges and opportunities for agricultural exports to the European market. Other inquiries are still ongoing, and the deadline set by the Rules of Procedure⁷⁴ for the preparation of the report has not yet expired.

The thematic inquiry into the ongoing periodic technical inspections of vehicles, which started as early as 2019 in the Committee on European Integration and the Committee on Sectoral Economics and Economic Policy, according to Parliament, has been completed. Although the final report has not been published.

In addition, on April 26, 2021, the Standing Parliamentary Council for Gender Equality launched a thematic inquiry on “Women’s Participation in the Shadow Economy and the Impact of COVID-19 on them”, and on June 21, 2021, a thematic inquiry on obligations of the Council of Europe Convention (Istanbul Convention) “Action Against Violence against Women and Domestic Violence” to be reflected in the legislation and the effectiveness of their implementation”.

The Committee on Agrarian Issues has launched two thematic inquiries, namely: Challenges and Opportunities for Exporting Agricultural Products to the European Market; Impact of the COVID-19 pandemic on the production and sale of agricultural products.

The thematic inquiry launched by the Education and Science Committee was on “The Impact of the COVID-19 Pandemic on the General Education System in Georgia.” The inquiry is still ongoing.

73 Letters N8897/2-7-1/21 and N8896/2-7-1/21 sent by the Parliament on 23 August 2021.

74 Part 8 of Article 155 of the Rules of Procedure of the Parliament.

The Committee on Sectoral Economics and Economic Policy has launched the following thematic inquiries: 1. “Key challenges for small and medium-sized businesses and support mechanisms in the crisis and post-crisis period”; 2. “Regarding the problems of renewable energy development”; 3. “Foreign direct investment – existing challenges and development prospects”; 4. “Prospects for benefits from the free trade agreements, current situation and future development”; 5. “Renewed strategy of the tourism sector in the crisis and post-crisis period and its economic consequences.” although on all of them the Terms of Reference (TOR) were published; however, the detailed schedule is only partially published.

The Committee on European Integration has launched a thematic inquiry on “EU labor market integration – opportunities and challenges”. The Terms of Reference of the inquiry were published by the committee. However, the detailed schedule was only partially present.

The Committee on Regional Policy and Municipal Bodies has launched a thematic inquiry: on the state of citizen involvement in the activities of the municipality. The Terms of Reference of the inquiry were published by the committee. The detailed schedule in this case was also partially spelled out.

The Committee on Sports and Youth Affairs has launched an inquiry into the topic: Promoting Youth Employment. The Terms of Reference of the committee have been published, which only partially provide for the schedule written in exact time.

The Committee on Human Rights and Civil Integration has launched one thematic inquiry on the issue of “the parliamentary oversight effectiveness over the submission of reports on access to public information by public institutions.”

The Committee on Health and Social Affairs has launched an inquiry on the topic: “In response to the challenges of COVID-19, the impact of the measures taken by the executive agencies on the effectiveness of the country’s social security system.”

2.6.6. Study of the activities of administrative bodies

The Committee, on its initiative or based on a relevant statement, appeal, petition, study the activities of the administrative bodies within its competence, if necessary, request the relevant materials and submit the conclusion to the Parliament for consideration.⁷⁵ This capability is one of the most important levers of parliamentary oversight over the executive branch.

The power to study the activities of administrative bodies is not exercised by the committees for the most part. This power was exercised by the Committee on Sectoral Economics and Economic Policy and the Committee on Defense and Security.⁷⁶ Although the situation has improved compared to previous reporting periods (when never used), the exercise of these powers by only two committees cannot be considered effective.

The Committee on Sectoral Economics and Economic Policy studied the activities of the administrative bodies, in particular, on its own initiative, at the March 2, 2021 meeting of the Committee, heard the report on the activities of the LEPL Georgian Innovation and Technology Agency. Based on the petition, at the March 9, 2021 meeting of the Committee, the reports of the Ministers of Economy and Sustainable Development and Environmental Protection, and Agriculture were heard on the construction of hydropower plants in Racha-Lechkhumi. Also, at the July 19, 2021 meeting, a report on the activities of the National Tourism Administration and the Civil Aviation

⁷⁵ Paragraph 3 of Article 37 of the Rules of Procedure of the Parliament.

⁷⁶ Letter N8901/2-7-1/21 of the Acting Head of the Organizational Department of the Parliament of Georgia dated 23 August 2021 [22.09.2021]

Agency was heard. The committee limited itself to these hearings and in no case did it submit a report to Parliament.⁷⁷

Also, the power to study the activities of administrative bodies during the reporting period was exercised by the Committee on Defense and Security. No more detailed information was provided by Parliament on the work done by this committee in the form of public information.⁷⁸

2.6.7. A study of case law

The shortcomings of the acts adopted by the Parliament are revealed in the court judgments. Consequently, case law is a valuable source for control over the enforcement of normative acts. Familiarity with such practices will greatly facilitate committees to oversee the execution.⁷⁹

The Committees are generally inert about the use of this tool.⁸⁰ Consequently, they do not have detailed information – how the norms discussed by the Parliament and then become law are implemented in practice and how the legal norm affects social relations.

2.6.8. Oversight over the fulfillment of the tasks defined for the executive authorities by transitional provisions within the established period

The Committee, in accordance with its oversight functions, verify the fulfillment of the tasks defined for the executive authorities by the transitional provisions of the Parliament in the field assigned to its governance within the established timeframe. This is important in order for the policy-making law passed by Parliament to acquire viability and to be able to fully regulate the relationship that was intended to be regulated.

77 Letters of the Acting Head of the Organizational Department of the Parliament of Georgia N8901/2-7-1/21 of August 23, 2021, and N8895/2-7-1/21 of August 23, 2021. [22.09.2021]

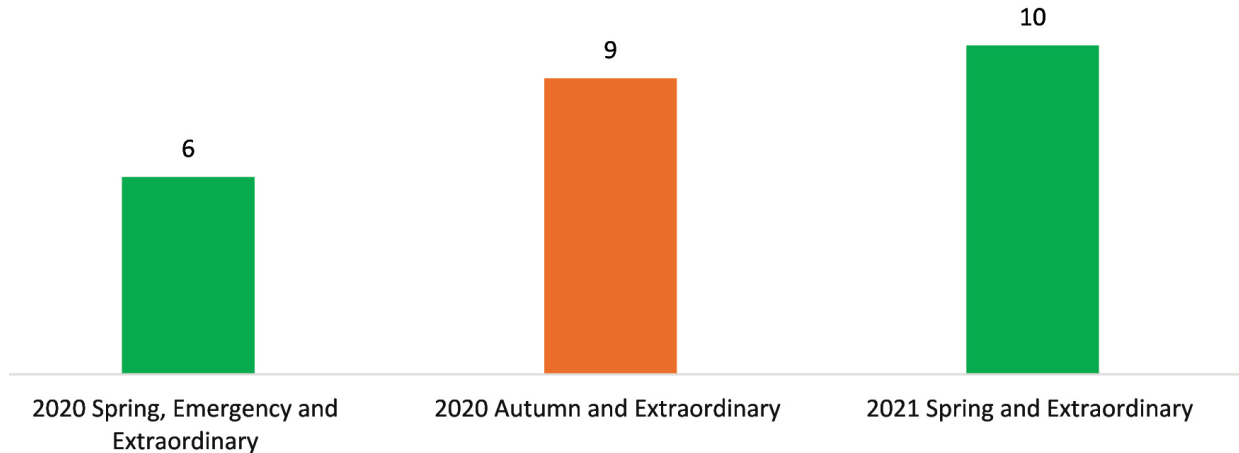
78 Letter N8895/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia. [22.09.2021]

79 Kakhaber Uriadmkopeli, Control over Enforcement of Normative Acts Guide for Parliament, 2019. 29. [22.09.2021]

80 Letter N8901/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia. [22.09.2021]

Chart N19

Number of committees overseeing the implementation of the tasks defined for the executive authorities by the transitional provisions, according to the sessions



Six committees used this leverage in the Spring Session of 2020, 9 in the Autumn, and 10 in the reporting period.⁸¹ The trend in this regard has been improving in recent years. These committees are:

- Committee on Agrarian Issues;
- Committee on Human Rights and Civil Integration;
- Committee on Education and Science;
- Committee on Environmental Protection and Natural Resources;
- Committee on Sectoral Economics and Economic Policy;
- Culture Committee;
- Committee on Procedural Issues and Rules;
- Finance and Budget Committee;
- Committee on Sports and Youth Affairs;
- Committee on Health and Social Affairs.

One of the main functions of the Committee on Procedural Issues and Rules is to oversight the implementation of the tasks set for the executive bodies within the established time by the transitional provisions of the normative act of the Parliament.⁸² The other committees used this authority on their own initiative, which should be assessed positively.

81 Letters N8895/2-7-1/21 and N8901/2-7-1/21 of August 23, 2021, of the Acting Head of the Organizational Department of the Parliament of Georgia. [22.09.2021]

82 Article 2, paragraph 2, subparagraph “c” of the Charter of the Committee on Procedural Issues and Rules.

Chapter 3. Plenary sittings of Parliament

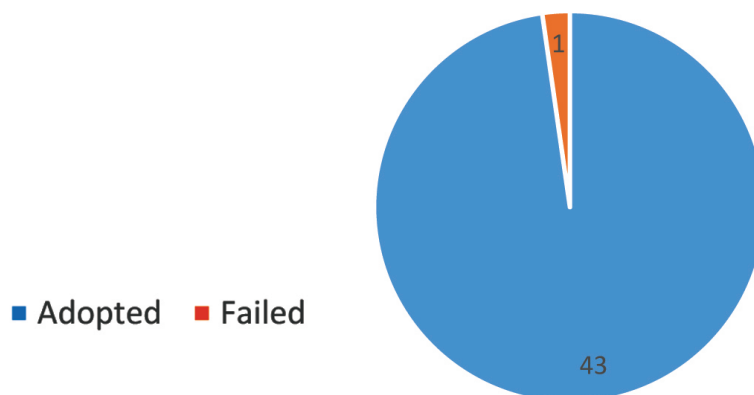
3.1. Legislative Process, Procedure For Reviewing Bills, Legislative Policy

3.1.1. Bills Submitted/Adopted/Failed at the Spring Session

Parliament supported a total of 43 legislative initiatives⁸³ that amended 132 laws. Among them, the legislative initiatives consisted of 16 packages⁸⁴ and 27 draft laws.⁸⁵ One legislative initiative was not supported by the Parliament.

Chart N20

Support for legislative initiatives discussed at the 2021 Spring Session



A total of 116 initiatives were submitted to Parliament during the session, including 5 by the Supreme Councils of the Autonomous Republics, 34 by government, and 77 – by parliamentary subjects.⁸⁶

- The majority MPs from the parliamentary subjects owned 50 legislative initiatives;
- 12 legislative initiatives – members of the opposition;
- 9 legislative initiatives – factions (“Georgian Dream” – 6; “Lelo-Partnership for Georgia” – 2 and “United National Movement – United Opposition” Power is in Unity “ – 1);
- 4 legislative initiatives were submitted by the committees.

During the current session, there were also 2 cases when the legislative initiative was submitted jointly by the majority and opposition members. This case was the draft law “On Amendments to the Organic Law of Georgia” Election Code of Georgia” and the package of attached draft laws (07-3/3902.03.21) and “On Amendments to the Constitution of Georgia”(07.03.1942) 24.03.2021). In the first case, the majority cooperated with the MPs of the “Citizens” party, and the draft constitutional law was submitted together with the “citizens” as well as to the “European Socialists”.

83 The initiative implies a bill or package of bills, which contains the draft law (s) attached to the main bill.

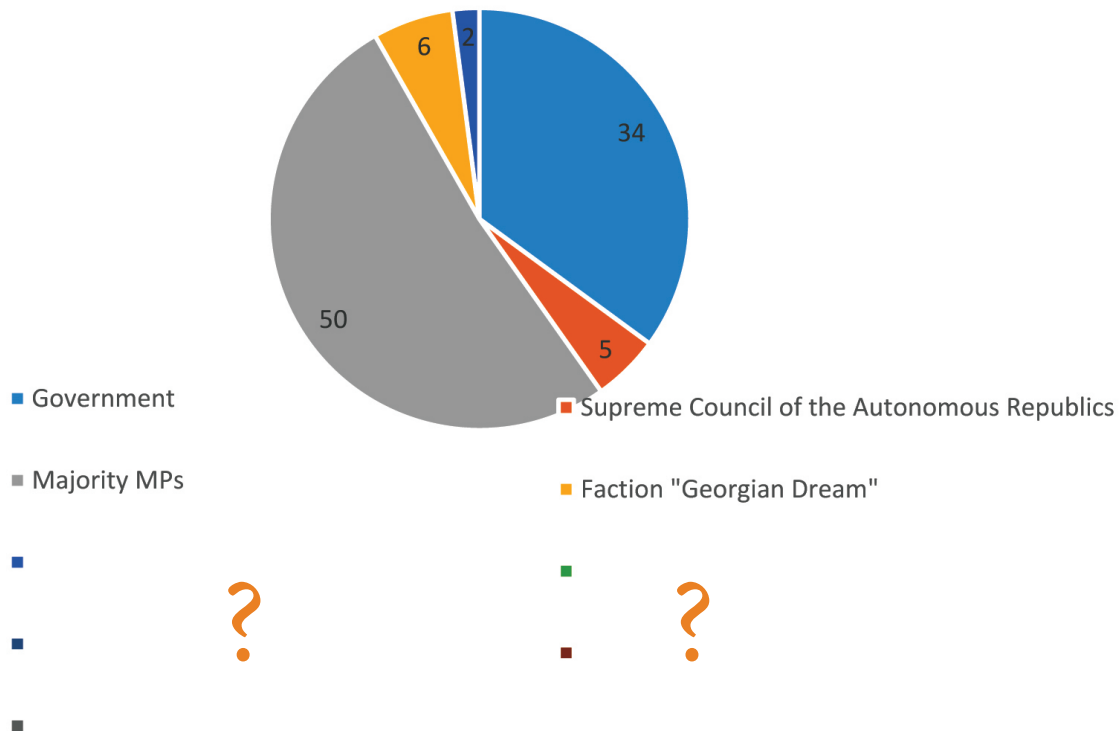
84 Which included more than one bill.

85 Letter N8510/2-7/21 of the Office of the Parliament of Georgia dated August 9, 2021

86 Statistical information published on the official website of the Parliament: <https://bit.ly/3nXXTiS> [30.09.2021]

Chart N21

Number of legislative initiatives submitted during the 2021 Spring Session by subjects



Out of the 116 legislative initiatives, 77 (66%) were submitted by parliamentary subjects. The government's 34 initiatives accounted for 29%. This ratio seems at first glance as if it reveals the priority position of the Parliament in the legislation. However, out of the total number of legislative initiatives submitted by parliamentary subjects, 56 were nominated by a majority of MPs and their faction. This figure is 72.72% of the 77 overall parliamentary initiatives. These 56 initiatives represent 48.27% of the 116 initiatives implemented.

This "advantage" of the Parliament over the executive branch is because most of the parliamentary initiatives were implemented by party leaders. These initiatives were not the result of a problem addressed by the relevant committee. Consequently, the burden of legislative initiatives shifted not to politically coordinated committee work, but the initiative of leaders. These initiatives were implemented without the involvement of other MPs and they adopted bills only after the initiation.

The legislative process stems from the initiative. Therefore, maximum involvement of parliamentary subjects is essential. In 116 legislative initiatives, the initiative of the committees was only 4 units. Conducting the legislative process with such narrow political interests substantially undermines the principle of collegial legislation in Parliament – making the process overly politically private.

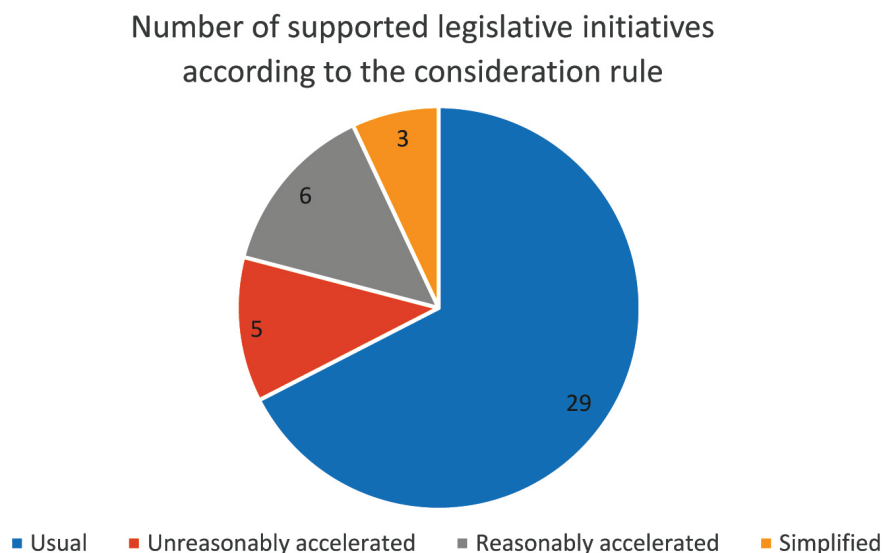
3.1.2. Trend of Expedited Consideration of the Bills

Of the 43 initiatives supported, 11 were considered in an expedited manner, and 3 in a simplified manner.⁸⁷ Only in one case of the consideration of the bills in an expedited manner was the opposition the initiator.⁸⁸ In the other 10 cases, the trend established in the previous sessions continues and the author of the request for expedited consideration was the members of the majority, the faction, or the government.

Expedited consideration of a bill in a democratic state is usually a limited opportunity and is the only reserved mechanism for an urgent necessity, without which a specific time delay in the regulatory area might cause specific harm. Insofar as the expedited procedure involves consideration of the legislative package under a tight timeframe, such a procedure clearly impedes the full involvement of both Members of Parliament and other stakeholders in the process, and obviously this, in turn, affects the quality of the legislative package. This is also confirmed by the Venice Commission in its opinion on the parameters of the relationship between the parliamentary majority and the opposition.⁸⁹

Examination of the relevant explanatory notes reveals that in 6 out of 11 cases the Bureau's decision to expedite consideration of the bill was unsubstantiated. The initiators did not indicate a specific reason why it is necessary to consider the initiative in a limited timeframe. They only emphasize the suitability of making change.⁹⁰

Chart N22



87 Information posted on the Parliament website: www.info.parliament.ge

88 Members of Parliament – Levan Ioseliani and Alexander Elisashvili Initiative on Amendments to the Rules of Procedure of the Parliament of Georgia (07-3/68/10)

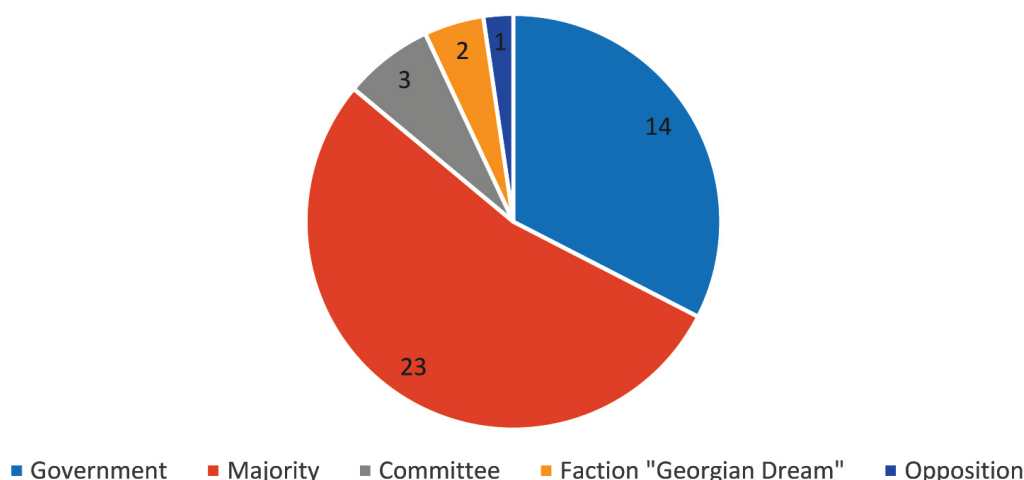
89 Venice Commission, *Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist*, CDL-AD(2019)015, 2019, 74-76, <https://bit.ly/39osjT3> [22.09.2021]

90 The mentioned legislative initiatives are as follows: 1. "On Amendments to the Organic Law of Georgia on "Local Self-Government Code" N413-IV M"-X MP; 2. "On Amendments to the Code of Administrative Offenses" of Georgia" N482-IV MS-X MP; 3. On Amendments to the Code of Administrative Offenses of Georgia N483-IV MS-X MP; 4. On Amendments to the Rules of Procedure of the Parliament of Georgia N528-IV MS-X MP; 5. On Amendments to the Rules of Procedure of the Parliament of Georgia N661-IV M"-X MP; 6. "On Amendments to the Rules of Procedure of the Parliament" of Georgia" N692-IV MS-X MP.

3.1.3. Supported Legislative Initiatives by Subjects

Chart N23

Number of supported legislative initiatives by initiators



Most of the supported legislative initiatives were submitted by the majority of MPs. It is also noteworthy that the majority MPs simultaneously exercised their authority to be the subject of a factional legislative initiative, and the two initiatives introduced on behalf of the faction became law.

During the Spring Session of 2021, the Parliament discussed 2 initiatives of the opposition in the plenary session. Out of them, the initiative of Aleksandre Elisashvili and Levan Ioseliani, members of the parliamentary group “Citizens” received support, by which the rules of procedure of the Parliament was amended and the need to unite at least two members of Parliament to form a political group in the Parliament had been established.⁹¹ The initiative was supported not only by the majority, but also by members of the “European Socialists” and “National Movement – Power in Unity” factions, but members of the “Lelo – Partnership for Georgia” faction were against.⁹²

The initiative of 13 opposition MPs⁹³ to declare amnesty for the violations committed in connection with the events of June 19-20, 2019 was not supported.⁹⁴ The bill was linked to the agreement concluded by EU mediation between political parties and was an alternative to a bill initiated by a majority of MPs. The bill was not supported by MPs from the Georgian Dream and National Movement – Power is in Unity factions.⁹⁵

91 Available at: <https://bit.ly/2ZaCDMn> [22.09.2021]

92 On the Draft-Law on Voting Results “On Amendments to the Rules of Procedure of the Parliament of Georgia” (7-3/68/10) <https://bit.ly/3IKHn37> [22.09.2021]

93 These MPs are: Armaz Akhvlediani, Teona Akubardia, Davit Bakradze, Giorgi Vashadze, Paata Manjgaladze, Ana Natsvlishvili, Salome Samadashvili, Khatuna Samnidze, Davit Usupashvili, Shalva Shavgulidze, Mamuka Khazardze, Badri Japaridze Japaridze Arzurdze, Teona Akubardia, Davit Bakradze, Giorgi Vashadze, Paata Manjgaladze, Ana Natsvlishvili, Salome Samadashvili, Khatuna Samnidze, Davit Usupashvili, Shalva Shavgulidze, Mamuka Khazardze, Badri Japaridze, Zurab Girchi Japaridze.

94 Available at: <https://bit.ly/3EGvUdC> [22.09.2021]

95 See Voting results at the plenary session of the draft law on amnesty (07-3/48/10). <https://bit.ly/3kvuLNN> [22.09.2021]

3.1.4. Regulatory Impact Assessment (RIA)

Effective legislative activity is a prerequisite for achieving the targeted benefits of regulation at a minimum cost and, consequently, increasing public welfare. One of the most important components of this practice is the Regulatory Impact Assessment (RIA), which is a systematic framework for assessing the expected positive and negative impact of the proposed regulation and is considered in international practice as one of the important elements of the evidence-based policy approach.⁹⁶ Therefore, the effective use of RIA in lawmaking is one of the prerequisites for good governance.

At the 2021 Spring Session, Parliament did not support the legislative initiative, which was accompanied by the Regulatory Impact Assessment Document (RIA).⁹⁷ It should be noted that among the 43 legislative initiatives supported, there were no such bills for the adoption of which would require mandatory preparation of the Regulatory Impact Assessments.

3.1.5. EU Approximation

At the Spring Session of 2021, Parliament supported only 2 legislative initiatives, which provided for the approximation of national legislation with the regulations of the European Union. specifically:

- The Law on Environmental Liability, with reference to the initiator, provides for harmonization with Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004;⁹⁸
- Amendments to the Code of Civil Procedure of Georgia, according to the initiator, provide for the fulfillment of the obligation under the Association Agreement, according to which Georgia must accede to the Hague Convention of 15 November 1965 on the „Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters”.⁹⁹

3.1.6. Research Substantiation of legislative Initiatives

Part of the legislative initiatives adopted at the 2021 Spring Session, according to the authors, was based on the recommendations of international organizations, and part on the decisions of international or local courts, or international acts. In total, this type of legislative initiative, where various research/studies or acts were cited as a source, amounted to 8 out of 43.

For example, the amendments¹⁰⁰ to the Law on Combating Human Trafficking were based on the report of the Council of Europe Anti-Trafficking Expert Group on the fulfillment of Georgia's obligations. When adopting amendments to the Organic Law on Common Courts, the initiators aimed to take into account the recommendations of the Venice Commission.

96 Regulatory Impact Assessment, Part 1, Parliamentary Budget Office, Introduction, p.4.

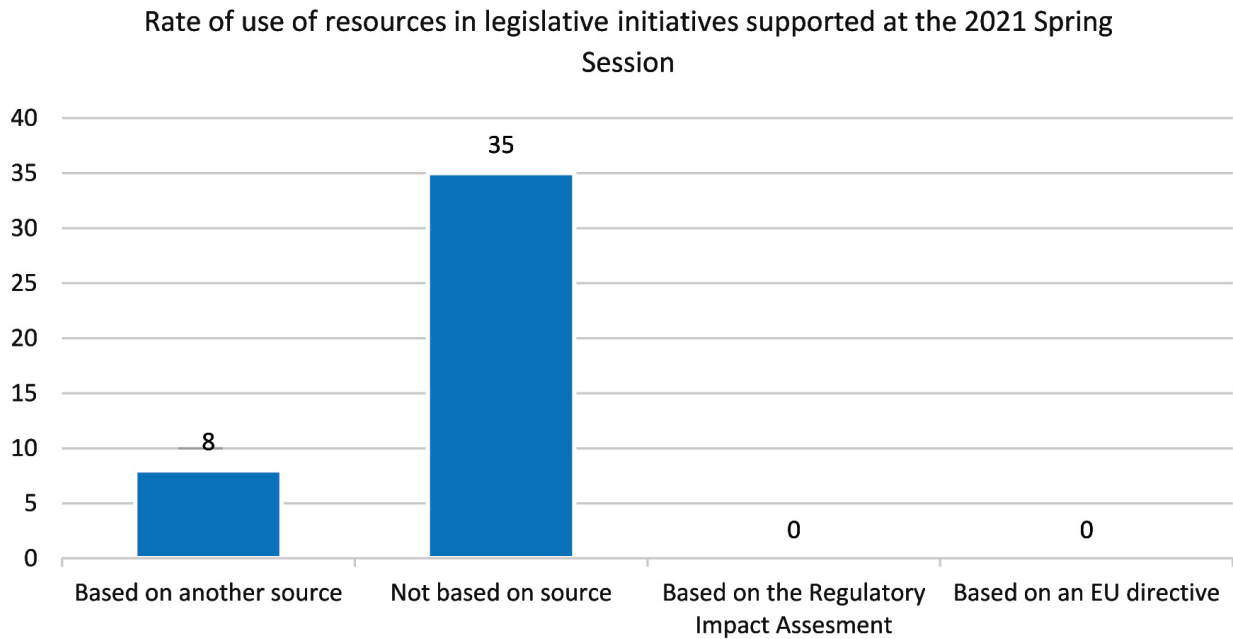
97 Information posted on the Parliament website: www.info.parliament.ge

98 Explanatory Note on the Draft Law on Environmental Liability(07-2/501/9 14.07.2020), pg.1 <https://bit.ly/2ZpY-rUF> 22.09.2021]

99 Explanatory Note on the Draft Law on Amendments to the Civil Procedure Code of Georgia (07-3/21/10 03.02.2021), pg.1. <https://bit.ly/2ZbN3ve> [22.09.2021]

100 Parliament website, <https://bit.ly/2XRTCCR> [22.09.2021]

Chart N24



3.2. Legislative initiatives implemented at the Extraordinary Session

An Extraordinary Session is, in essence, an exceptional form of Parliamentary activity. The Constitution strictly defines the procedures as for who has the authority to request the convening of a session, as well as which official should make the decision and how long time is needed for Parliament to be convened.¹⁰¹ The work of the Extraordinary Session of the Parliament is an indicator, on the one hand, of how effectively the regular session was used by the legislature, and, on the other hand, it emphasizes the priority of the issues on the agenda. During this period, the work of the Parliament is usually suspended and the MPs have to devote their political activities to communicate with the voters and other important issues.

Following the Spring Session, an Extraordinary Session began in Parliament. Unfortunately, the address to the President, which was the basis for the decree of the Head of State on convening the sitting, is not proactively published on the website of the Parliament.¹⁰² This prevents the public from being informed in advance about the activities of the Parliament. According to the Rules of Procedure, the appeal must be accompanied by a list of possible issues of the Extraordinary Session.¹⁰³ The non-transparent practice of the Parliament in this part is a clear manifestation of the severance of ties between the government and the population. Civil society is not informed in advance why the legislature convenes for an Extraordinary Session.

It should be noted that the Extraordinary Session was used by the Parliament only to support the initiatives on the agenda of the majority. All bills that received the form of law at the Extraordinary Session were initiated by the government, only with the participation of the majority or majority members. Among them, at an Extraordinary Session, with one-party support, the Georgian Dream

¹⁰¹ The second paragraph of Article 44 of the Constitution of Georgia.

¹⁰² Parliament website: <https://bit.ly/3EAv1Dj> [22.09.2021]

¹⁰³ Paragraph 8 of Article 82 of the Rules of Procedure of the Parliament.

elected Supreme Court justices and the CEC chairperson amid criticism from international and local political actors. Instead, the Extraordinary Session did not use oversight mechanisms, including not initiating interpellation and hearing the accountable person (discussed in the various chapters of the report). Such an approach once again blurs the line between the ruling party and the state institution.

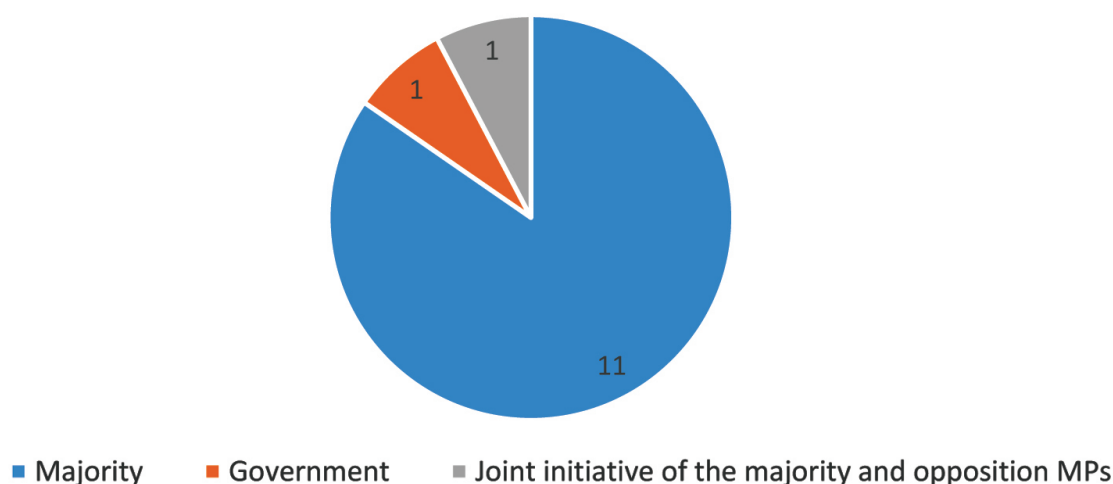
3.2.1. Initiators of Bills

At an Extraordinary Session, Parliament supported 13 initiatives that amended 49 laws. Of these, only two initiatives were initiated in the Extraordinary Session. The Extraordinary Session did not identify any initiatives or their bills that did not receive sufficient support.¹⁰⁴

Most of the bills supported were submitted by the government and the majority. Only one of the 13 supported initiatives was presented, which was submitted jointly by the majority and members of the opposition.

Chart N25

Number of legislative initiatives supported at the extraordinary session by initiators



The initiative presented by the government concerning changes in the state budget.¹⁰⁵ The initiative of the majority and opposition MPs was related to the electoral reform, which was initiated by the members of the “European Socialists” and “Aleko Elisashvili – Citizens” parliamentary group, along with the majority MPs.¹⁰⁶

3.2.2. Accelerated/Simplified Considerations

In an expedited and/or simplified procedure in the Extraordinary Session of the Parliament, no initiative was formally considered. However, one – the amendment to the Organic Law on Political Unions of Citizens – Amendment to the Organic Law was actually considered in a tight timeframe.

¹⁰⁴ Letter N9139/2-7/21 of the Head of the Organizational Department of the Parliament of Georgia, September 2, 2021

¹⁰⁵ Parliament website <https://bit.ly/3u1TnRs> [22.09.2021]

¹⁰⁶ Parliament website <https://bit.ly/3zublaT> [22.09.2021]

3.2.3. Approximation to the EU / Regulatory Impact Assessment

Out of 13 bills, one initiative by which the new law on Entrepreneurship was adopted, and the attached files were based on 7 EU directives. It was also accompanied by a Regulatory Impact Assessment document.¹⁰⁷ This package of bills was developed based on studies conducted by the Ministry of Justice over the years and funded by several international donors.¹⁰⁸ Moreover, in 2020, the government, authored by the Ministry of Justice, submitted a new draft law on entrepreneurs to the Parliament through a legislative initiative.¹⁰⁹ Nevertheless, this initiative was not discussed in the Parliament. In return, the initiative was re-registered by the former ruling political officials of the Ministry of Justice, which was supported by the Parliament already in the Extraordinary Session after the 2021 Spring Session.

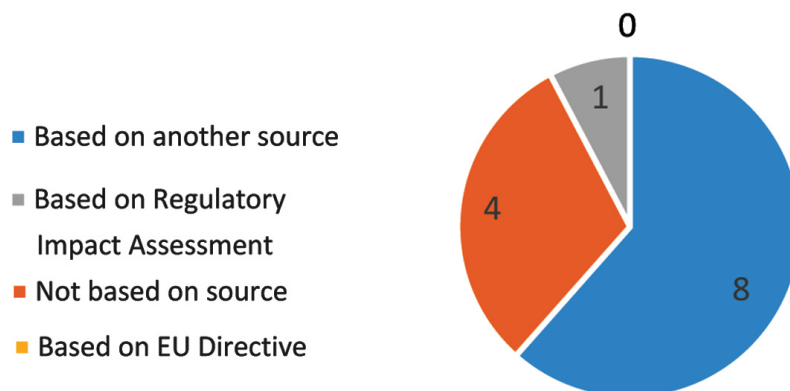
The amendments to the Law on Weapons, which established new regulations on the use of acoustic weapons, were based on rapprochement with the European Union. Specifically, the initiative was based on 2 EU directives.¹¹⁰

3.2.4. Application of Studies in Legislative Initiatives

At the Extraordinary Session, 4 of the 13 initiatives were related to the enforcement of the Constitutional Court's judgment. It was also based on OSCE/ODIHR recommendations and various studies. It should be noted that the session introduced changes in the state budget, the draft of which, according to the legislation, provides for the submission of attached documents, which review various fiscal issues.

Chart N26

The application rate of sources in the legislative initiatives supported by an extraordinary session



107 Parliament website <https://bit.ly/3hWn3KN> [22.09.2021]

108 Explanatory Note on the Draft Law of Georgia on Entrepreneurs (07-3/29/10) p. 2-3. <https://bit.ly/3kweM21> [22.09.2021]

109 Parliament website <https://bit.ly/3nW7O8x> [22.09.2021]

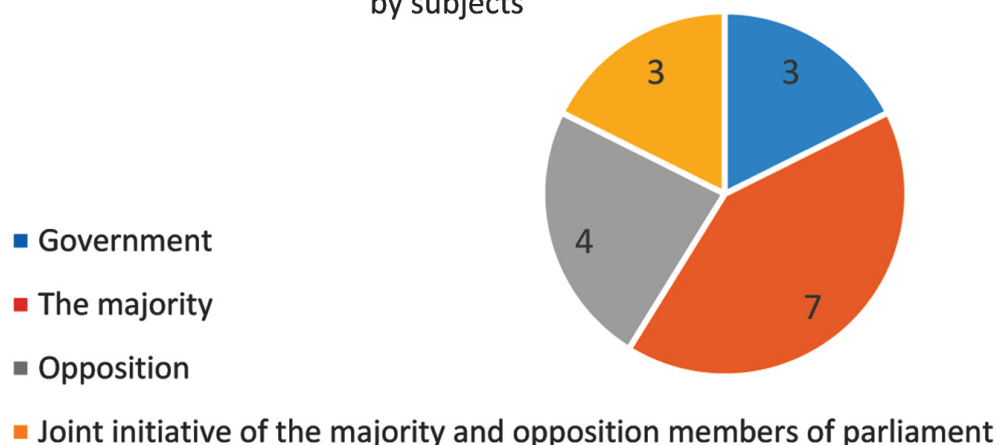
110 Parliament website <https://bit.ly/3hU91JI> [22.09.2021]

3.2.5. Draft initiatives presented at the Extraordinary Session

A total of 17 legislative initiatives have been submitted to the Parliament at an Extraordinary Session. Among them, 14 were nominated by parliamentary subjects and 3 by the government.¹¹¹

Chart N27

Number of legislative initiatives submitted during the extraordinary session
by subjects



One of the joint initiatives of the majority and opposition MPs is the constitutional amendments, which were submitted by almost all parliamentary parties along with the majority MPs.¹¹²

3.3. Taking into account the opinions submitted by the organization Democracy Index Georgia on the bills during the reporting period

3.3.1. Opinions submitted by “Democracy Index – Georgia” on Bills

During the reporting period, the organization submitted its opinion to the Parliament on 6 legislative initiatives:

On Amendments to the Code of Administrative Offenses of Georgia, which provided for increased liability for petty hooliganism (Article 166) and disobedience to a lawful demand of a police official (Article 173).

We considered the mentioned changes to harm the human rights situation in the country from the very beginning. Tightening sanctions for petty hooliganism and disobedience to the lawful demands of the police have a detrimental/stinging effect on freedom of expression, hampering civil society’s freedom of expression and increasing the risk of arbitrary interference by law enforcement officials in the rights of protesters.

The bill provided for a significant tightening of liability for petty hooliganism and disobedience to police demands. Finally, the adopted law imposed an administrative penalty for repeated action of petty hooliganism – a fine of GEL 1,500 to GEL 2,000 or administrative imprisonment for a period

¹¹¹ Letter N9139/2-7/21 of September 2, 2021, from the Head of the Organizational Department of the Staff of the Parliament of Georgia

¹¹² Parliament website <https://bit.ly/3zufz80> [22.09.2021]

of 7 days to 15 days. The lower limit of the fine has been increased to 2000 GEL for disobeying or insulting a lawful demand of a law enforcement agency. A fine of GEL 3,500 to GEL 4,500 or imprisonment for a term of 7 to 15 days was imposed for repeated actions.

However, the bill was unreasonably considered in an expedited manner. Parliament has once again resorted to harmful practices. Lack of public involvement was one of the issues assessed by The Group of States against Corruption (GRECO)¹¹³ of the Council of Europe as one of the shortcomings of the Parliament. Our organization has repeatedly pointed this out to the Parliament.¹¹⁴

Explaining the need for change, the Explanatory Note highlights the increased rate of violations mentioned in recent years.¹¹⁵ However, the reports of a number of objective observers indicate that establishing the unjustified liability of citizens in the name of these violations is one of the harmful practices used by law enforcers during protests. The ombudsman notes that “for years, law enforcement officials in the country in assemblies’ management have been actively conducting administrative detentions of protesters for petty hooliganism and disobeying a law enforcement officer’s lawful demand, which has largely failed to comply with the requirement of urgent necessity and takes the form of an unjustified interference with the freedom of assembly”.¹¹⁶

GYLA states that “when using the definition of petty hooliganism, the court defines the scope of administrative misconduct very broadly – against the right to freedom of speech and expression.” An act is considered petty hooliganism when the purpose of a person is not to insult a particular person/group or community and there is no immediate threat of retaliation”.¹¹⁷

According to the Constitutional Court, when regulating freedom of expression, the legislator is obliged to take into account the influence of the norm defining liability on the right of a person. The right to freedom of expression has a “stinging effect” if a person, for fear of impending sanction, is forced to refrain from fully exercising the right. Under the influence of the “stinging effect”, the impact of the norm on the realization of freedom of expression may go beyond its scope of regulation and limit the relations, the regulation of which was not even the goal of the legislator.¹¹⁸

The same approach is shared by the European Court of Human Rights. According to the case law, in specific cases, the focus should be on whether the state action will have a “stinging effect” on freedom of expression. Among them, this circumstance could be the arrest of protesters and their leaving in detention.¹¹⁹

The organization believes that in the light of the ongoing political processes and the announced protests,¹²⁰ the tightening of sanctions will promote establishing self-censorship in the country.

113 See the statement of our organization about it: <https://bit.ly/3CDIEQ3> [22.09.2021]

114 Ibid.

115 Draft Law of Georgia on Amendments to the Code of Administrative Offenses of Georgia: <https://bit.ly/3u4POtU> [22.09.2021]

116 See. Public Defender's 2020 Report on the Situation of Human Rights in the Country, 2021, p. 19. <https://bit.ly/3sN-IXUh>; EMC, “Political Neutrality in the Police System”, . 82, 2016 <https://bit.ly/3u3jdEQ> [22.09.2021]

117 GYLA, Protest Considered to be an Offence, 2017, p.5 <https://bit.ly/3njBPNo> [22.09.2021]

118 Judgment of the Constitutional Court of Georgia N2/2/516,542 of 14 May 2013 in the case of “Citizens of Georgia – Alexander Baramidze, Lasha Tugushi, Vakhtang Khmaladze and Vakhtang Maisaia v. Parliament of Georgia”, II-8.

119 See among many others, *Schweizerische Radio – und Fernsehgesellschaft and Others v. Switzerland*, § 72, *Steel and Others v. the United Kingdom*, § 92; *Açık and Others v. Turkey*, §40.

120 It should be noted that during the discussion of the bill, protests were actively held in front of the Parliament Palace, as well as in the Rioni Valley. Also, part of the opposition in Tbilisi scheduled the rally for May 15 <https://bit.ly/2QZwzSM> [22.09.2021] and the protest of the opponents of Namokhvanhes was scheduled for May 23. <https://bit.ly/3eAfIEW> [22.09.2021]

Citizens are substantially motivated to refrain from participating in protests or, in the event of participation, from expressing their own protests, even within the framework of the Constitution.

Accordingly, the organization Democracy Index – Georgia called on the Parliament not to support the proposed amendments, although the law was adopted on May 7, 2021, in the present form.

On Amendments to the Code of Administrative Offenses of Georgia

Parliament also considered this bill in an expedited manner.¹²¹ The initiative concerned an amendment to Article 247 of the Code of Administrative Offenses and provided for an extension of the term of administrative detention. In particular, the draft allows law enforcement agencies to detain a person for up to 48 hours, instead of 12 hours, both on weekends and weekdays. The amendment was contrary to the Constitutional Court Judgment, which states that the reasonable period for detention of a person is 24 hours instead of 48 hours. Also, the initiative had a “stinging effect” on participation in protests; Consequently, the initiative violated human rights and harmed democratic principles.

More specifically, we considered the change problematic due to the following circumstances:

Contradicting the Constitutional Court Judgment and unjustifiably restricting human rights – Although Anri Okhanashvili, the author of the initiative and the chairman of the Legal Affairs Committee, indicated in the Explanatory Note¹²² that the bill aimed to enforce the judgment of the Constitutional Court, his initiative contradicted the mentioned Constitutional Court Judgment. The Constitutional Court has established discriminatory treatment in respect of persons to whom the law extends the period of detention from 12 to 48 hours without any rational justification when it was possible to bring a person before the court within a maximum of 24 hours. Nevertheless, the author of the initiative sets a total term of 48 hours for all persons detained under administrative rules, instead of the 24 hours deemed reasonable by the Constitutional Court.

The initiator of the bill did not present an argument as to why this approach should be changed and the detention period extended from 12 to 48 hours even when a person can appear in court within 24 hours during working hours.

Eventually, Parliament partially shared the organization’s views, and the general rule for bringing a person under administrative detention to court was set at 24 hours. Nevertheless, the law still provides for an extension of the time limit to 48 hours if this was required to obtain evidence, and this is substantiated in writing by the competent authority.¹²³

The groundless of its expedited consideration and the re-creation of a threat to democratic law-making – The consideration of the bill was going on in an expedited manner. Against the background of the fact that the Constitutional Court set a five-month term¹²⁴ for the Parliament on December 29, 2020, the Parliament started discussing the execution of the judgment of the Constitutional Court within a strictly tight time frame only after 4 months.

The discussion and adoption of the bill were scheduled for a period of one week. And the draft

121 The legislative initiative and the attached files are available on the Parliament website <https://bit.ly/39rgJGz> [22.09.2021]

122 Explanatory note on the draft law "On Amendments to the Code of Administrative Offenses of Georgia. <https://bit.ly/3lQ20uC> [22.09.2021]

123 The legislative initiative and the attached files are available on the Parliament website <https://bit.ly/39rgJGz> [22.09.2021]

124 Judgment of the Constitutional Court of Georgia 292/4/1412 of December 29, 2020 in the case "Irakli Jugheli v. Parliament of Georgia" III-2.

was available to civil society only after the April 26 Bureau sitting, less than an hour before the committee hearing on the same day.

Parliament once again resorted to harmful practices and thus did not allow civil society to engage.¹²⁵

Its “stinging effect” on freedom of expression – The Code of Administrative Offenses has been used for years as a weapon of political struggle against protesters. The discussion of the bill was going on in an expedited manner ahead of the protests announced in May.¹²⁶ This posed a threat that the legislative mechanism is used by the parliamentary majority against political opponents; On the other hand, it promoted establishing self-censorship. “Democracy Index – Georgia” called on members of Parliament not to support the bill.

Amendments to the Organic Law on Citizens’ Political Associations initiated by the majority MPs

The draft contained signs of political corruption. If the initiative was supported, part of the opposition parties would receive budget funding before the 2021 municipal elections, which does not belong to them under current legislation. The right to receive budget funds arise to the following: the party “Aleko Elisashvili – Citizens” – in the amount of 497,406 GEL and the party “Girchi” – in the amount of 777,990 GEL.¹²⁷

These parties refused to receive budget funding based on a political boycott. Legislation before the amendment could only restore their funding from 2022 onwards.¹²⁸ According to the bill, the right to receive budget funding instead of 2022, would be restored from August 1, 2021.¹²⁹

The initiators did not substantiate the objective circumstances that led to the transfer of funding to some of the opposition parties 5 months earlier than provided by the current legislation.¹³⁰ The initiative contained risks of political corruption as funding was linked to the run-up to municipal elections and was initiated by the ruling political power. The signs of a deal were outlined between the parties to use the pre-election state budget for narrow partisan interests. Against this background, the purpose of the Electoral Code the budget funds not to be used to provide any benefits before the elections,¹³¹ may not be fulfilled.

“Democracy Index – Georgia” called on the Parliament not to support this bill, as the use of budget resources for partisan purposes blurs the line between the state and the ruling party. However, the Parliament passed this law on July 26, the entry into force date was determined 1st of August. Consequently, it was handed over to the president with the accelerated procedure and also signed and published in an expedited manner. She was restricted from using the 14-day (two-week) term

125 See the statement of our organization about it: <https://bit.ly/39yy1S5> [22.09.2021]

126 For more information on the named issue, see the statement of our organization: <https://bit.ly/3kv5XW7> [22.09.2021]

127 Explanatory Note on the Draft Organic Law of Georgia on Amendments to the Organic Law of Georgia on Political Unions of Citizens “On Amendments to the Organic Law of Georgia”, 07-3 / 93/10, p. 3-4. <https://bit.ly/3kv8Hmi> [22.09.2021]

128 Ibid. Also, according to the second article of the amendments to the Organic Law on June 22, 2021, the mentioned funding will be automatically restored from 2022. <https://bit.ly/2XLRg8w> [22.09.2021]

129 On Amendments to the Organic Law of Georgia on Political Unions of Citizens Article 1 of the Draft Organic Law of Georgia on Amendments to the Organic Law of Georgia, 07-3/93/10. Available: <https://bit.ly/3zAfnE6> [22.09.2021]

130 Explanatory Note on the Draft Organic Law of Georgia on Amendments to the Organic Law of Georgia on Political Unions of Citizens “On Amendments to the Organic Law of Georgia”, 07-3 / 93/10, p. 3-4. <https://bit.ly/3kv8Hmi> [22.09.2021]

131 Paragraph 4 of Article 49 of the Organic Law of Georgia “Election Code of Georgia”.

and was compelled not to use this deliberative time limit for publication and to sign the law within the shortest possible time with a purpose to enter the law in force in the indicated timeframe. By doing so, Parliament restricted the President, violated the specific constitutional implementation of the principle of separation of powers, and made the President subject to its political interests in this particular case.

Electoral Reform

In the October 31, 2020, parliamentary elections, the opposition took the position that the elections were conducted with such substantial irregularities that it had an impact on the final outcome of the elections. The OSCE report on the merge of the ruling party with the authorities was also mentioned in the report.¹³² On this basis, the Charles Michel Agreement reached a compromise on “ambitious electoral reform¹³³.” Within its framework, a package of legislative changes should have been developed, which would eliminate alleged irregularities in the electoral process and ensure the proper and stable development of democratic processes.

The package of changes was registered in the Parliament of Georgia on March 2, 2021, initiated by the Georgian Dream, Aleko Elisashvili – Citizens, and the European Socialists.¹³⁴ During this period, other political groups still refused to participate in parliamentary activities. On April 19, 2021, under the agreement signed between the government and part of the opposition, most of the opposition became engaged in parliamentary activities. Accordingly, work has begun to reflect the changes in the agreement reached with the opposition in this draft. Electoral amendments were adopted by Parliament in the first reading on May 25, 2021, with multi-party support.¹³⁵ In the process of discussing the bill, the package was modified in such a way that it contradicted several agreements reached with the opposition parties which deprived the opposition of the opportunity to support it. The parliamentary faction “Lelo for Georgia” pointed out the changes in the issue of women’s quotas, the introduction of a 40% threshold in the majoritarian elections, and the unacceptability of the abolition of the representative in the election commissions for the “Labor Party”, therefore did not support the final form of the package.¹³⁶

The amendments were adopted by the Parliament of Georgia in the third reading on June 26, 2021, with the support of the Georgian Dream, the European Socialists, Girchi, Citizens, and the Charles Michel Reform Group. The largest opposition force – the United National Movement, the faction “Lelo – Partnership for Georgia” and non-factional MPs did not support the changes.¹³⁷

The changes concerned the rules of staffing the Central, District and Precinct Election Commissions, the procedure for electing the CEC chairperson, the issue of electoral threshold and electoral system in Sakrebulo elections, campaigning restriction rules, filing a complaint, counting the results, setting up an advisory group and other technical issues.

In this report, we present the directions for the implemented changes.

132 OSCE/ODIHR EOM Final Report of the October 31, 2020, parliamentary elections <https://bit.ly/3CDosOC> [22.09.2021]

133 Charles Michel Agreement <https://bit.ly/3EGutLX> [22.09.2021]

134 On Amendments to the Organic Law of Georgia on the Election Code of Georgia <https://bit.ly/3nWenYX> [22.09.2021]

135 Results of the first reading of the draft law <https://bit.ly/3AyTLt0> [22.09.2021]

136 Lelo refrained from supporting the changes – <https://bit.ly/3nSAW0x> [22.09.2021]
Plenary Session Link – <https://bit.ly/3zxH4gX> [22.09.2021]

137 Voting Results, 3rd Hearing <https://bit.ly/3ArVTCV> [22.09.2021]

We will also assess, at first glance, the changes aimed at improving democracy and, in fact, how effective each of them will be in terms of practical application.

Rules for staffing the CEC – With the changes, the number of CEC members has increased from 12 to 17. The number of parties appointing members has increased from 6 to 9, and the number elected by Parliament has increased from 5 to 7. Parliament elects members by the first two attempts, by 2/3 of the total number of the Members of Parliament. If none of the candidates receives this number of votes, then the Parliament will try to elect a member by 3/5 of the total number of the Members of Parliament. In case of inability to be elected in this way – lastly by a majority of the total number of the Members of Parliament (76 votes). The Parliament also elects the chairperson following the established procedure for electing a CEC member.

In addition, the ruling party attempted to draft legislation in such a way that it did not allow a particular opposition party to exercise its privilege. By the adopted amendments, instead of giving quotas to the political party that overcomes the threshold (Labor Party) in the parliamentary elections these quotas in election commissions was given to European Democrats, adoption of such rules are aimed at weakening one particular party and creating a perception, that the ruling party has tried to “punish” the Labor Party because it declared distrust to the results of the parliamentary elections and boycotted the parliamentary activities. In addition, the ruling power has consolidated positions on election commissions by transferring privileges to the political party for which the law was tailored.

According to the agreement between the political parties, the CEC chairperson had to have a deputy nominated by the opposition parties; however, the number of deputies was increased to two, one of whom is elected from among the professional members of the CEC. Such an approach has simplified the important initiative by which the existence of a deputy with an oppositional disposition should have earned a reputation for the institution public credibility of which has been shattered.

Staffing of District and Precinct Election Commissions – Like the CEC, the composition of District and Precinct Election Commissions has increased from 12 to 17 members, of which the party quota is 9 members and 8 are professional. The professional members of the District Election Commission are elected by the CEC by 2/3. If the member is not elected by 2/3 of the vote, they will be elected by the majority. The procedure for selecting the members of the Precinct Election Commission by the District Election Commission is identical.

Change of the rule for electing the City Council Sakrebulo – The opposition parties desired to increase the proportional component in the composition of the City Council. The share of MPs elected under the majoritarian system among the 50 members of the Tbilisi City Council has been reduced from 25 to 10. The election threshold was set at 2.5% instead of 4. The rules for staffing the councils of other municipalities have also been modified, in particular: the distribution by the majoritarian and proportional system has been determined in proportion one to three. The electoral threshold for political parties has been reduced from 4 to 3%.

An increase in the proportion of MPs elected under the proportional system is an expression of the principle of acceptance and democracy, although the development of the party system by increasing the boundaries of majoritarian election district and decreasing its number leaves the independent candidates at the local level with less chance of success.

Also, at the City Council Sakrebulo level, the Parliament rejected integration of the so-called “anti-deadlock mechanism”, by using the MPs elected by the majoritarian rule which would not give a disproportionate advantage to the party in the conditions of less than 40% support.¹³⁸

138 Faction Lelo – Partnership for Georgia Refrains from Voting for Electoral Changes <https://bit.ly/3hYVY9V> [22.09.2021]

In addition, if until now there was no threshold for the election of a majoritarian member of the City Council, with the existing changes, for a candidate to be considered a winner, he/she must get more than 40% of the vote. For a large part of the parliamentary opposition, setting a threshold in majoritarian elections proved unacceptable.¹³⁹

Restriction of the use of administrative resources – International organizations has often pointed to the problem of blurring the line between the ruling party and the state in assessing the elections in Georgia and have called on the legislature to make changes that would insure against the risk of misuse of administrative resources.¹⁴⁰

Amendments to the Electoral Code have significantly increased the area of restriction of the right to campaign.

Such regulations are welcome and reduce the risk of misuse of administrative resources. Nevertheless, the OSCE/ODIHR recommendation to strictly regulate the pre-election campaign of high-ranking officials, including mayors, remained open.¹⁴¹

Changes in the appeal procedure – the OSCE/ODIHR called on the legislature to review the legal deadlines for filing and resolving complaints and appeals, including post-election day complaints and appeals, to increase the timeframe.¹⁴² The amendments have somewhat increased the deadlines for appealing and adjudicating decisions made by the commission to a higher commission or a court, in addition, to allowing submitting complaints to both the CEC and District Election Commissions electronically.

While electronic complaints will cause the commissions to overload this change is welcome. A slight extension of the time limits for appeal and adjudication will, on the one hand, provide a timely resolution of cases and, on the other hand, provide sufficient time for effective preparation of specific cases and their resolution.

Prohibition of voter registration at the polling station – the implemented changes prohibit gathering at a distance of 100 meters from the polling station and registering voters on the polling day. In addition to opposition parties, international observer organizations often referred to the fact of voter registration at polling stations, which also served to intimidate them.¹⁴³ The adopted changes insure the risk of unacceptable actions reflected in the reports.

Mandatory recount of precincts by the District Election Commission – If so far the recount of ballot papers summarized in the Precinct Election Commission based on the submission of a complaint, was the discretion of the higher commission, the amendments set out two different grounds for opening ballot boxes and counting votes: the first relates to the lack of an amendment protocol in the event of a revision of the summary protocol, while the second obliges the District Election Commission to randomly select 5 polling stations from its electoral precincts within its borders, open and re-count ballot papers.

Change in the functional distribution of PEC members – if until now any member of the Precinct Election Commission could have been a registrar, only the members elected by the district commission will be able to perform this function with the changes. The registrar has access to the voter table list, personal information, monitors the list of citizens who turn out to the polls, has the opportunity to give the ballot paper to a voter without the signature and seal, which will invalidate their

139 Ibid.

140 OSCE Final Report on Georgia's 2020 Parliamentary Elections, 66. <https://bit.ly/3nT7bg9> [22.09.2021]

141 OSCE Final Report on the 2020 Parliamentary Elections in Georgia, 29. <https://bit.ly/3nWD6w7> [22.09.2021]

142 OSCE Final Report on the 2020 Parliamentary Elections in Georgia, 47. <https://bit.ly/3ECsEjr> [22.09.2021]

143 OSCE Final Report on Georgia's 2020 Parliamentary Elections, 53. <https://bit.ly/3ktBXtD> [22.09.2021]

vote. Carrying out a function of this scale carries some risks from the party's commission members; however, as practice shows, the members of the district election commission are not selected by consensus and are controlled by the ruling party. Consequently, depriving the party members of the function of the registrar and its transfer to so-called professional members only creates the feeling that the government, through the registrars, will have the opportunity to influence the voting results.

Advisory Group – With the changes, the Advisory Group is established during the election period, with a minimum of 9 and no more than 15 members. The group consists of a representative of the Public Defender's Office of Georgia and international and/or local experts selected by observer organizations. The CEC Advisory Group submits recommendations to the CEC regarding the dispute resolution process. In addition, this group may be assigned additional functions by the CEC resolution, particularly recounting the voting results.

The effectiveness of the mechanism depends on the effective implementation of its functions. The advisory group is recommendatory and will not be able to intervene in the activities of the CEC.

Amendments to the Law on Public Health

“Democracy Index – Georgia” presented its opinion on this draft to the Parliament. According to the organization, the legislature should take into account the experience of European countries and provide strong parliamentary and judicial oversight mechanisms in the bill.

According to the bill, until January 1, 2022, the government will still be authorized to impose so-called Covid-regulations on the country without parliamentary and judicial oversight.¹⁴⁴ The “Democracy Index – Georgia” studied and combined the experience of the Parliaments of Germany, France, and the United Kingdom in this type of legislative activity in the opinion submitted to the Parliament. The organization's remarks covered the following issues:

- Due to its high importance, the bill should have been considered not in a simplified manner but after substantial revision. The so-called Covid-regulations have a profound effect on citizens' daily lives, including mental health and economic income. In the current format, despite the high public interest, the bill was considered in only one reading. Such a form does not provide for the possibility of making changes to the draft. Such an approach does not allow for its substantive discussion and sharing of best available foreign experiences;

- Parliament should have thoroughly defined all the regulations that the government may need to introduce to prevent the spread of the virus;

- Regulations introduced by the government should have been limited to a specific period of time, not more than 4 weeks;

- The introduction of regulations should have been based on the dynamics of the spread of the virus, including the rate of positive cases and the trend of increase or decrease;

- Members of the government, particularly the Prime Minister and the Minister of Health, should be required to appear before Parliament at regular intervals, not less than once every two months. In addition, they should report to the legislators and the general public on the epidemiological situation and the regulations introduced.

The bill was passed by Parliament on June 21 without any significant changes.

During the monitoring of the legislative activity of the Parliament, initiatives were identified that were not in the action plan of the committees. Such were the amendments to the Code of

144 Available at: <https://bit.ly/3zqOhiR> [22.09.2021]

See also “Georgian Parliament Still Refuses to Perform Its Functions”, Democracy Index – Georgia. <https://bit.ly/3hXzjuz> [22.09.2021]

Administrative Offenses, which increased the sanctions for disobedience to the police and petty hooliganism, as well as the amendments to the Law on Political Associations of Citizens, which allowed some political parties to receive budget funds ahead of schedule.

3.3.2. Trends outlined in the process of working on bills

The Spring Session was a kind of test for the new convocation Parliament, which met for the first time in almost full composition in the middle of the work period. As we have mentioned,¹⁴⁵ it was preceded by a long boycott by the opposition, which weakened the institutional development of the Parliament. Nevertheless, despite the end of the boycott, the implementation of legislative policy with narrow political interests was sharply expressed, where there was less compromise between the political parties, and the political arbitrariness of the majority prevailed.

A clear example of the problem was the two-fold change in the Code of Administrative Offenses, which was a successful attempt by the majority to bring the legislation under its own party interests. Also, it became a matter of narrow party interest to receive budget funding for a particular part of the opposition.

The Parliament of the tenth convocation at the Spring Session of 2021 failed to become a place of policy-making in the country. Amendments to the Law on Public Health have become a precondition for weakening parliamentary supremacy. Parliament once again refused to perform its function, defining the so-called Covid-regulations and have been a strong controller of the executive.

It is a matter of concern to expedite the consideration of such laws in parallel with the strengthening of the repressive function in the laws. Against the background that Parliament is not interested in why a particular offense is on the rise and sees the deterrent only as a sanction, such high-importance drafts are considered in an expedited manner. There are attempts to so-called “passing the issues” to be under less critical questioning and consideration by initiatives tailored only to partisan interests.

The most obvious example of the narrowing of opportunities for democratic involvement was the amendments to the Electoral Code. Not only public actors but even parliamentary political parties were not adequately informed about the changes in the legislation.

In terms of procedure, a positive example of legislative activity is the constitutional amendments related to the procedure for electing the Prosecutor General and the election threshold. Furthermore, despite the pandemic, Parliament ensured involvement in the public debate and dialogue based on a compromise between the parties.¹⁴⁶

Finally, the monitoring of the 2021 Spring Session revealed significant gaps in legislative activity, mainly related to the political landscape in the country. Adoption of the legislation depended primarily on the party will of the majority and not on compromise, so that the decision taken by the Parliament would have had a high legitimacy and promoted the establishment of a European-type parliamentary democracy in the country.

The lack of a purely legislative political process in the committees was evident in this part, which, in turn, led to uncompromising politics – political subjectivism. Initiating bills by MPs without processing the issue in the committee does not serve as a high standard of communication between political forces.

¹⁴⁵ You can see more about this in the context description section. Pg. 7-10.

¹⁴⁶ The draft is currently under review, and the final assessment is expected to be published in the Autumn 2021 Report.

3.4. A confidence vote in Government, the accountability of the Prime Minister and ministers to Parliament

3.4.1. A confidence vote in Government

During the reporting period, the procedure for declaring a confidence vote to the government was conducted twice. After the 2020 parliamentary elections, the Parliament of Georgia, under the leadership of Giorgi Gakharia, declared a confidence vote in the government and the government program for 2021-2024 – “Towards Building a European State”.¹⁴⁷ Two months after that, on February 18, Giorgi Gakharia announced his resignation in the first half of the day.¹⁴⁸ The ruling party nominated Irakli Gharibashvili on the same evening, who was officially nominated to the Parliament on February 19. The Parliament expressed a vote of confidence in the cabinet and the program presented by Irakli Gharibashvili at the February 22 Plenary Session.¹⁴⁹

Regarding the government program itself, it should be noted that it does not envisage the implementation of reforms in several essential areas. The effectiveness of the government program should be based on the expression of a confidence vote in the government by the Parliament because the government program determines the main directions of the country’s development over the next four years and the well-being of each citizen. The government’s plan with regards to strengthening human rights, unlike previous government programs¹⁵⁰ and in response to current challenges, did not address such essential aspects as the following: an independent and fair judiciary; Strengthening the individual role of a judge; Independence of the Prosecution Service; Liberalization of punishment; Prevention of criminal subculture in the penitentiary system; Improving internal control mechanisms in the law enforcement system; Transparency in the field of defense and protection of the rights of military personnel; Strengthening the role of primary health care and family physician; Improving the support of socially vulnerable families in the field of social protection; Restriction of access of minors to gambling. The government’s plan for governance no longer includes the reduction of bureaucracy, vehicle fleets, and state structures within the concept of “small government”. It also envisages strengthening local municipal bodies through fiscal decentralization.¹⁵¹

The monitoring revealed the inability of the Parliament to do the following: the questions of the members of Parliament during the discussion of the government team and the program were politically shallow, which did not correspond to the status of the Parliament as a policy-making body of the state. Most of them started with words of praise for the previous activities of the government; Part of the questions was absolutely irrelevant; Members of Parliament ignored a number of issues essential to the country; The political component was deficient, against this background the process of civil society attendance at committee meetings was not appropriate.¹⁵² All of this meant that the issue of a vote of confidence in the government was not a politically active process. Against the backdrop of the weak parliamentary opposition, the Georgian Dream made the process politically

147 The Parliament of Georgia, headed by Giorgi Gakharia, declared a vote of confidence in the Government on December 24, 2020. <https://bit.ly/3zqxLZG> [22.09.2021]

148 Giorgi Gakharia resigned, 18.02.2021. <https://bit.ly/3nWDv1B> [22.09.2021]

149 Parliament has declared a vote of confidence in Irakli Gharibashvili's cabinet <https://bit.ly/3m4Hxmb> [22.09.2021]

150 Government programs for 2016-2020 and 2018-2020.

151 See in detail the statement of the Democracy Index Georgia: The government program does not envisage the implementation of reforms in several important areas; 21.12.2020. <https://bit.ly/3u2SnMX> [22.09.2021]

152 See in detail the statement of "Democracy Index – Georgia": "Democracy Index – Georgia" evaluates the process of declaring a vote of confidence in the government, 30.12.2020. <https://bit.ly/3zzOnEG> [22.09.2021]

comfortable. However, regarding the declaration of a vote of confidence in the government headed by Giorgi Gakharia, it should be noted that at that time, even the formal procedures for reviewing the composition of a one-party government by a one-party Parliament clearly showed how incapable the newly convened Parliament was in overseeing the executive.

Georgian Dream nominated Irakli Gharibashvili's candidacy to the Parliament on the second day of Giorgi Gakharia's resignation.¹⁵³ In the wake of this change, the mood of the ruling political party with the former Prime Minister was aggravated.¹⁵⁴ Irakli Kobakhidze expressed suspicion that Giorgi Gakharia, together with one of the de facto leaders of the United National Movement (former president), Mikheil Saakashvili, was attempting to stage a coup.¹⁵⁵ First Deputy Speaker of Parliament Gia Volski said he was "in some sort of conspiracy agreement" with the United National Movement, and called his appointment as prime minister a mistake.¹⁵⁶ Such a sharp form of political divorce has not led to a change in the core composition of the government and its program. On the other hand, even though no substantial changes have taken place in the cabinet and the government program, the government's attitude towards the policy of balance between the Covid-19 pandemic and the economy has changed substantially; With the measures taken by the government of Irakli Gharibashvili, priority was given to the rehabilitation of the economy. However, it should also be taken into account that the 2021 municipal elections were already approaching at that time. According to the Charles Michel Agreement, the prospect of calling early parliamentary elections was linked to the proportional results of municipal elections. With the Georgian Dream unilaterally withdrawing from the agreement a few days before the election, the Georgian Dream has set an economic priority at the election campaign stage.¹⁵⁷ However, this fundamentally different approach was not reflected in the government program. This proves that the government did not feel political responsibility before the Parliament, which weakens the political authority of the Parliament.

Following the prime minister's resignation, the issue of renewing the confidence of the ruling party has not been raised. Moreover, despite the drastically different approaches to the pandemic and economic rehabilitation, along with the government program, its composition has not changed – except for two mandatory changes – as the post of Prime Minister has been filled by the Minister of Defense, accordingly filling this vacancy. Minister of Infrastructure and Regional Development Maia Tskitishvili also resigned.

According to the constitution, in the event of the resignation of the Prime Minister, within 2 weeks from the resignation, the Parliament shall hold a vote of confidence in the Government proposed by the candidate for the office of the Prime Minister nominated by the political party that secured the best result in the parliamentary elections. Along with the composition of the Government, a government program shall be submitted to the Parliament.¹⁵⁸

The process was accelerated, and the Parliament declared a vote of confidence in the Prime

153 Available at: <https://bit.ly/3zB2xW1> [22.09.2021]

154 This aggravation has been the leitmotif of the entire pre-election campaign of the 2021 local government elections.

155 Kobakhidze suspects Gakharia was planning a coup with Saakashvili in February <https://tabula.ge/ge/news/668307-kobakhidze-echvobs-rom-tebervalshi-gakharia> Verified: 7.09.2021

156 Gia Volski – George Gakharia was in some conspiracy agreement – his appointment as Prime Minister was a mistake. <https://bit.ly/3lHX1fw> [22.09.2021]

157 Public Defender Nino Lomjaria also noted that the government was trying to "achieve economic growth at the expense of public health and the risk to the lives of many people" in the run-up to the elections. The ombudsman criticizes the state policy for managing COVID-19 <https://netgazeti.ge/news/560152/?fbclid=IwAR3-5S7q8njOFzJJunm9fwIekL3lh3X1yiUtwMrCjfh4o028mthjGCAb-I>

158 Paragraph 2 of Article 56 of the Constitution.

Minister Irakli Gharibashvili and his government team at the February 22 plenary session.¹⁵⁹ Thus the process was completed in four days. For comparison, the previous version¹⁶⁰ of the Constitution provided for 7-day sections for nominating a candidate for Prime Minister, forming a government and government program, and declaring a vote of confidence by Parliament. Although two weeks are now set for a single term, it takes a reasonable amount of time to go through each of these stages and decide. The fact that the Parliament declared a vote of confidence in the new composition of the Government in 4 days – in a forced mode – shows the strong dominance of the executive power towards the Parliament and, consequently, the institutional weakness of the latter.

In a speech to Parliament, prime ministerial candidate Irakli Gharibashvili said he would present the country's 10-year development plan for the country in 100 days.¹⁶¹ Some ministries have already fulfilled this obligation by submitting a detailed plan.¹⁶² The initial document of the government plan should indeed have been made public no later than May 31, but at this stage, only the main directions of the preliminary version are known.

Although the Georgian Parliament declared a vote of confidence during the reporting period in two prime ministers whose approaches to the economy and the pandemic policy differed markedly, the government program, as a key document defining the government's activities, remained virtually unchanged. As the primary policy-making body, Parliament came under the executive branch's political domination thanks to party discipline.

3.4.2. Annual Report and Report of the Prime Minister

The annual report of the Prime Minister was held in compliance with the requirements of the Rules of Procedure. The report on the implementation of the government program was sent to the Parliament within the established time and in the appropriate manner. The report cited achievements in various areas, including challenges, which were largely blamed for the impact of the pandemic.¹⁶³

Speaking at the plenary session, the Prime Minister was asked questions in various directions. Due to the large number of opposition MPs in Parliament, the number of critical questions and clarifying questions were large, although some of them, in some cases, did not contain substantive discussion on the issue. Much of the majority members' questions were directed at praising the government cabinet. Consequently, most of the questions asked by them served to portray the activities of the Government positively.

Following the consideration of the issue, the Parliament did not adopt a Resolution, which is an important legal lever of the Parliament to get concrete results. A document of such importance as the Prime Minister's annual report – had not been evaluated by the Parliament; neither it identified problems nor made any recommendations to the Government.

During the reporting period, the Prime Minister did not report to Parliament.

159 Parliament declared a vote of confidence in Irakli Gharibashvili's cabinet 22.02.2021. <https://bit.ly/3Cy8MvS> [22.09.2021]

160 Articles 80 and 80¹ of the Constitution of Georgia. <https://bit.ly/3o1YKiJ>

161 Irakli Gharibashvili presented a government plan 22.02.2021. <https://bit.ly/3EJCG1Z> [22.09.2021]

162 What can we expect from the government's 10-year plan, 20.07.2021. <https://bit.ly/3kvAQKj> [22.09.2021]

163 Annual report of the Prime Minister of Georgia on the implementation of the government program <https://bit.ly/3hYc1oB> [22.09.2021]

3.4.3. Attendance of an Official at the Plenary Session

Parliament has never summoned a member of the Government, an official accountable to it, and the head of the body to the Plenary Session during the reporting period.¹⁶⁴ This power is one of the most effective and vital mechanisms at the disposal of the MPs for the exercise of parliamentary oversight. The fact that Parliament does not actively use the leverage provided by law may indicate poor political culture and qualifications or a weak political will. This mechanism has not been used in previous reporting periods either.

3.4.4. A Minister's Hour

A Minister's Hour means that once a year individual members of the Government (except the Prime Minister) address the plenary session of the Parliament on the relevant direction of the implementation of the Government Program.¹⁶⁵ The schedule for the presentation of individual members of the Government to the Parliament shall be determined by the Bureau of the Parliament in agreement with the members of the Government and taking into account the initiatives of the parliamentary committees before the beginning of the Spring Session.¹⁶⁶

On February 1, 2021, the Parliamentary Bureau established a schedule for holding Ministerial Hours.¹⁶⁷ This document has been amended several times in the following period. The changes were largely based on the demands of the ministers themselves – to change the date of the plenary session. One such minister was Ekaterine Tikaradze, who wrote a letter to Parliament demanding a change in the date of the hearing.¹⁶⁸ No specific circumstances have been named as the reason for this, so it is unknown what became the reason for the postponement of the hearing. In contrast, the written request for a change in the Minister's Hour schedule by the State Minister for Reconciliation and Civic Equality was reasoned and contained the circumstances necessitating the postponement.¹⁶⁹

Parliament was scheduled to hear the Minister of Education, Science, Culture, and Sports on March 16-19, according to the 2021 schedule of ministerial hearings in the Ministerial Hour format. At the March 17, 2021, Bureau meeting, it was decided not to listen to Minister Chkhenkel. The reason for the cancellation of the report was the division of the Ministry. When one of the largest ministries ceases to exist, it becomes the subject of increasing interest for the Parliament to hear about its work – achievements and challenges, how effectively the ministry has implemented the Government Program.

The Rules of Procedure indeed allow for changes in the schedule of the Minister's hearing, however, the law does not provide for the complete removal of the Minister's Hour from the schedule. In the updated plan approved by the Bureau,¹⁷⁰ the ministries are still united – it is mentioned as the Ministry of Education, Science, Culture, and Sports, although the Ministry no longer exists under this name.

To change the schedule of the Minister's Hour of Parliamentary Bureau the legislation does not

164 According to the rule established by Article 152 of the Rules of Procedure.

165 The first paragraph of Article 153 of the Rules of Procedure of the Parliament.

166 Paragraph 2 of Article 153 of the Rules of Procedure of the Parliament.

167 The schedule is available at the link: <https://bit.ly/2XG3kbD> [22.09.2021]

168 See letter: <https://bit.ly/3CAA0a5> [22.09.2021]

169 See Letter from the State Minister for Reconciliation and Civic Equality: <https://bit.ly/39pc5ZK> Also Letter from the Minister of Education, Science, Culture and Sports of Georgia <https://bit.ly/2XD0Qdw> [22.09.2021]

170 Schedule for holding a Minister's Hour, see: <https://bit.ly/2Znf9nu> [22.09.2021]

provide a strict framework, which allows the majority to maneuver politically. The Bureau must have a solid argument for the change in the Minister's Hour schedule, which will ensure that the narrow party interests of the majority cannot be pursued in its modification.¹⁷¹

A total of 6 Minister's Hours were held during the reporting period. Some of them were limited to the superficial discussion.

The Minister of Internal Affairs' hour was held on March 5 against the background of the boycott of the large majority of the opposition, which made the whole procedure meaningless, a formality. The Minister was hardly asked critical questions about the challenges in the field of the Ministry of Internal Affairs. Although there were 6 representatives of opposition parties in the Parliament, their number was not enough for the Parliament to be considered multi-party. The main part of the MPs was the majority. The procedure of reviewing the Minister's Hour, which they declared confidence, clearly showed how the opposition lacks the capacity of having a deficient Parliament to oversee the executive branch. The answers to the questions were mostly satisfactory for the MPs. Practically no clarifying questions were asked. Against the backdrop of the lack of opposition, a critical opinion in Parliament was significantly reduced. Most of the questions asked by members of Parliament were aimed at presenting the activities of the ministerial candidates in a positive light.

The Minister of Finance Hour was held on 11 June. The full composition of the opposition was represented in Parliament at that time. The questions asked covered a wide range of issues, which showed that important questions had been accumulated towards the Minister of Finance. The Minister's report was mainly dedicated to talking about achievements in the financial field. The challenges or problems were not focused on.

The Minister of Regional Development and Infrastructure Hour was held on 17 February. Only a small part of the opposition was represented in Parliament at that time. Clearly, this circumstance substantially affected the quality of the Minister's Hour procedure. Most of the questions were about the timeframe of the implementation or completion of this or that infrastructure project. A small number of clarifying questions were asked by the majority, which indicates that the Georgian Dream MPs were largely satisfied with the answers given by the Minister and did not criticize him.

Despite the above, a problematic issue was raised by a Georgian Dream MP on the one hand¹⁷² and a representative of the opposition on the other.

The Minister of Environment and Agriculture Hour was held on 18 March. By this time, a small part of the opposition was represented in the Parliament, which obviously harmed the process, so much so that a large part of the oversight over the government, which had a vote of confidence by the one-party majority, should come from the opposition. Questions were often asked about the reclamation problem. Practically no clarifying questions were asked to the speaker.

The Minister of Health Hour was held on 28 April. Representation of the opposition wing at the session was still scarce. Georgian Dream MPs positively assessed the report on the activities of the Minister. Most of the questions related to the Covid pandemic. In some cases, MPs demanded the naming of indicators that would determine the removal or imposition of this or that restriction. This has once again shown that Parliament is completely distanced from the reins of pandemic management. Clarifying questions were also asked. In general, the questions asked concerned a wide range of issues, indicating that many questions had been accumulated towards the Minister. The Minister's hour is held once a year due to the procedure. Thus, the one-time mandatory procedure,

171 Statement of "Democracy Index – Georgia". See: <https://bit.ly/3IMkP1U> [22.09.2021]

172 The question asked by Dimitri Khundadze is available on the profiles of the members of parliament produced by the organization. See the video: <https://bit.ly/3kwFUhk> [22.09.2021]

especially when other tools of parliamentary oversight are not actually used, is not exhaustive and does not allow for in-depth discussions.

The Minister of Defense Hour was held on 13 May. By this time, the representation of the opposition forces in the Parliament had increased, which provided some attention to a variety of issues, including critical and clarifying questions.

3.4.5. Hearing of a Government Member and Other Officials

The Member of the Government, other officials accountable to the Parliament, the head of the body accountable to the Parliament, the Public Defender will be heard by the Parliament upon request.¹⁷³ During the reporting period, there was an attempt to use this mechanism only once (it was done in an extraordinary session) and it did not happen in the end.¹⁷⁴

Minister of Internal Affairs himself addressed the Parliament to be presented in front of the plenary session in connection with the issue of high public interest – the response of the Ministry of Internal Affairs to the violence in “Pride Week”, thus obliging the Parliament to listen to the Minister. This obligation has not been fulfilled.

The plenary session was preceded by a photo exhibition of protest banners and photos of the deceased cameraman demanding the resignation of the Prime Minister and the Minister of Internal Affairs by members of the media and the parliamentary opposition. Although this form of expression did not interfere with the conduct of the sitting, the parliamentary majority did not want to hear the minister amid protests.

The desire to postpone the sitting voiced by the parliamentary majority, which was subsequently granted by the Speaker of Parliament, is a violation of the Constitution. The mechanism of termination of the sitting on this ground and in this form is not recognized by the legislation and the initiative of the ruling party, and then the decision of the Speaker of the Parliament went beyond the rules established by the Constitution and the Rules of Procedure.

¹⁷³ Article 154 of the Rules of Procedure of the Parliament.

¹⁷⁴ See the statement of the organization: By terminating the hearing at the plenary session of the Minister of Internal Affairs, the Parliament violated the constitutional obligation. 20.07.2021. <https://bit.ly/2XDw0kU> [22.09.2021]

4.1. Constitutional Amendments

A draft constitutional law was registered on June 29 under the Charles Michel Agreement.¹⁷⁵ The initiative, along with the majority, was signed by a large number of members of the opposition factions, except the National Movement and independent MPs. The Democracy Index of Georgia submitted a relevant report on the draft to the chairmen of the Parliamentary Committee on Legal Affairs and the Universal Consideration Commission.¹⁷⁶ The organization essentially agrees with the direction of the changes, at the same time submitting opinions on the improvement of all issues:

1. Parliamentary electoral system;
2. Minimum threshold number of faction members;
3. Rules for electing the Prosecutor General;
4. As a result of the first amendment, the norm concerning the rules (system) for holding possible extraordinary elections until 2024 was removed.

Given the reality created by the pandemic, the general/universal discussion of changes has not been intense and has been limited to two meetings. The first meeting was held on August 16 in Kutaisi at A. Tsereteli State University, and the second one on August 17 in the Parliament.

The unilateral withdrawal of the Georgian Dream from the Charles Michel agreement before the general/universal debate changed the context of the changes. Following the withdrawal from the agreement, the Georgian Dream has begun to blur the prospect of its adoption, despite the initiation of a draft law revising the constitution.¹⁷⁷

1. According to the first paragraph of the amendment, the 2% election threshold will apply only to the next two parliamentary elections. Regarding the threshold, the organization's conclusion identified several arguments:

- Within the 5% threshold, with the experience of both Georgia and European countries, a large number of votes are lost – sometimes even within the 20% threshold. This leads to the recommendation of authoritative international organizations to set a 2-3% threshold for member states;
- Determining the electoral threshold by 2% temporarily, just for two election cycles will not help to create a stable electoral environment, and returning to the 5% threshold again will result in a large number of vote losses;

Given the circumstances described, the definitions of the functioning of the political system should be as stable as possible and not frequently variable. Accordingly, the electoral threshold should be set at 3% and this provision should be not temporary but permanent.

2. The draft proposes to determine the number of members of the faction in the Parliament elected in the next two elections by 4 members. Within the 2% electoral threshold proposed by the

¹⁷⁵ The draft law can be found at the link: <https://bit.ly/3IPnzLL> [22.09.2021]

¹⁷⁶ The conclusion can be found on the Parliament website: <https://bit.ly/3II0FWK> [22.09.2021]

¹⁷⁷ Due to changing circumstances, the Georgian Dream may change the draft constitutional amendments <https://bit.ly/3tZq2Ha> [22.09.2021]

Mikheil Sarjveladze – It is difficult to make preliminary predictions about the constitutional amendments – it is difficult to know in advance what the outcome of the review process will be. <https://bit.ly/3Awjq5J> [22.09.2021]

draft, sometimes the representation of a small party represented in Parliament may not amount to 4 members.

Such a small party can be used by the majority not in good faith for some political purposes. Therefore, to minimize these risks, we consider it necessary to overcome the threshold to ensure the possibility of creating a faction.

If overcoming the threshold will be the guarantee for the formation of a faction, it will not force small parties to make artificial compromises to gain the rights of the faction, to seek refuge with the parliamentary representation of another party, which limits their free political creativity. A faction is nothing more than a form of parliamentary activity of a party – organizing parties into parliamentary groups for the purpose of their parliamentary activities.

3. The rule of electing the Prosecutor General, even though the Charles Michel Agreement does not provide for its temporary nature, has at least been proposed as a temporary measure. According to the position of our organization, in case of inability to elect a Prosecutor General by two 3/5 of the full composition, the one-year term of the Prosecutor General elected by a majority of the full composition is very long. Within this period, there is a risk of establishing political control over them. Accordingly, the term of office of the Prosecutor General elected under this rule should be no more than 6 months and this time should be used to reach a compromise. Also, in order to avoid political influence over the Prosecutor General, the possibility of applying the simplified rule of his election twice in a row should be prohibited.

After the universal public debate, the Parliament considered the draft at the sitting of the Legal Committee on September 6, under the rules and deadlines established by the Rules of Procedure. At this meeting, the discussion mainly focused on the procedure for electing the Prosecutor General. On the morning of September 6, a statement was issued by a member of the majority, Aluda Ghudushauri, in which he expressed skepticism about the compromise rule envisaged by the draft election of the Prosecutor General.¹⁷⁸ Skepticism was heightened by the committee sitting, where the Georgian Dream was not naming the arguments for its position but demanded that the reasoning be named behind the change. Finally, the draft submitted to the committee meeting was voted on except for the procedure for electing a prosecutor, and it was said that the discussion on this issue would continue at the plenary session.¹⁷⁹ Our organization made a statement the same day.¹⁸⁰ However, it should be noted that during the universal public discussion of the amendments to the Constitution, there was no discussion on withdrawal of the issue of the rule of the election of the Prosecutor General. The removal of the issue from the bill at this stage of the constitutional amendments is contrary to the purpose and rules of universal public discussion.¹⁸¹ With this decision, the Parliament acted against a kind of socio-political fiber of the supremacy of the legislative sovereignty, which is to share the founding power with the people as a source of power.

178 Aluda Ghudushauri – The procedure for selecting the Prosecutor General may cause fluctuations – a change that fails to protect the country from political volatility will not be correct to be reflected in the Constitution <https://bit.ly/3hVTwRG> [22.09.2021]

179 Discussion on the record related to the procedure for electing the Prosecutor General in the draft constitutional law will continue at the plenary session <https://bit.ly/39rXBbB> [22.09.2021]

180 The statement said: "The model proposed by the draft constitutional law, based on a compromise on the selection of a prosecutor, makes the political process healthier and creates the possibility of selecting a politically impartial prosecutor. The refusal to share power with the political minority means that the General Prosecutor will again be elected by one party in the future. In turn, this means leaving the process of electing a prosecutor in a narrow party framework and not depoliticizing it." See: Parliamentary Majority Seeks to Maintain Full Control over the Selection of the General Prosecutor <https://bit.ly/2XM19Da> [22.09.2021]

181 Ibid.

4.2. Interim Fact-Finding Commissions of Inquiry

At the spring and Extraordinary Session of 2021, the establishment of 3 Fact-Finding Commissions of inquiry was initiated in the Parliament. Among them, one was initiated by the majority and two by the parliamentary opposition. The Charles Michel Reform Group initiated the creation of an Interim Fact-Finding Commission of inquiry into the events of July 5-6, 2021 in Tbilisi.¹⁸² The date of initiation is July 22, 2021. However, the issue did not continue after the initiation. At the moment of preparing the report, the Parliament has not yet discussed the establishment of a commission. The issue of establishing an “Elite Corruption Investigation Commission” initiated by the parliamentary faction “Lelo Partnership for Georgia” is at the same procedural level. The issue was initiated on June 16, 2021.¹⁸³

The fate of the “Interim Fact-Finding Commission of Inquiry on the Parliamentary Elections of October 31, 2020” created at the initiative of the parliamentary majority developed differently.

“Interim Fact-Finding Commission of Inquiry on the Parliamentary Elections of October 31, 2020” of the Parliament of Georgia

Significant problems were identified during the work of the Fact-Finding Commission of Inquiry into the October 31, 2020, Parliamentary Elections. The opposition did not participate in the process. The methodology for counting polling stations and selecting polling stations was developed without involvement. Credibility and, in some cases, transparency in the recount process was not ensured. The Commission has examined the evidence incompletely.

Observations on the work of the commission gave the impression that the purpose of the ruling power was in the political interests of their party, and the creation of the commission was only to conclude a pre-announced result.

The commission of inquiry was set up in parallel with the shaky confidence in the election administration and the desire of the political power that won the election amid the opposition protest. Initiation by the parliamentary majority of the Commission from the very beginning contained suspicions that the government intended to artificially overlay question marks on an issue of high interest. This was pointed out by our organization as soon as the commission was established.¹⁸⁴ Political parties that did not trust the results of the parliamentary elections did not consider it effective to make legal-political discussion of election-related irregularities within the Commission of Inquiry three months after the elections. They have indicated that the authorities had the opportunity to change the election documentation during this time.¹⁸⁵

The Commission did not start carrying out the mandated activities for three months after its establishment. The reason given was that a large part of the opposition, which had question marks regarding the October 31, 2020, parliamentary elections, was in a boycott mode and did not get involved in the activities of the Parliament. The commission considered it expedient to involve the parliamentary opposition in the activities of the commission, start their activities actively only after they enter the Parliament.

The first meeting was held on 13 May. The duration of the commission’s work was postponed three times for various reasons (from May 13 to June 17, the commission was unable to interview the

182 See Parliament website. <https://bit.ly/3kxw7Yc> [22.09.2021]

183 See Parliament website <https://bit.ly/3kvgQqX> [22.09.2021]

184 Democracy Index – Georgia, the work of the commission of inquiry will be fruitless without the opposition that is in a boycott mode <https://bit.ly/3EIIiK7> [22.09.2021]

185 Parties assessment in connection with the establishment of the commission <https://bit.ly/2XGQIQQ> [22.09.2021]

summoned persons, requesting a one-month extension of its mandate, and then the third extension due to lack of time to draft a final report). The commission held a total of 16 working meetings, one of the organizational and one introductory. To request information and provide technical support to the Commission of Inquiry, the Commission addressed 12 letters to the CEC, 3 letters to the Prosecutor's Office, 2 letters to the Ministry of Internal Affairs, and one letter to the High Council of Justice.

A methodology was developed according to which the rule of re-counting and selection of precincts to be counted was established. Neither the non-governmental organizations nor any other group of the society participated in the development of the methodology; "Multinational Georgia" presented its opinion, which clearly stated that 6 months after the elections, assessment of election irregularities in the legal context could not be done and it can only be the subject of political discussion.¹⁸⁶ Neither did the opposition parties running in the election expect its effectiveness.

According to the methodology, those precincts were selected for re-count, which were appealed by NGOs for imbalances observed. 20 precincts were randomly selected, in which the ballots for both majoritarian and proportional systems were recounted.

The tellers were randomly identified (by the drum) from up to 300 members sent by the CEC whose polling stations had no complaints. Twelve tellers/counters were selected, and also 12 spare tellers/counters. In this regard, the non-governmental sector indicated that it would be better for neutral, qualified individuals to conduct the recount process instead of election administration officials¹⁸⁷ whose credibility had already been shaken.

The recount process was divided into 2 rooms, using 6-6 tellers. Each room was monitored by 2-2 members of the commission of inquiry: one from the opposition, the other from the majority, and the process was constantly live on Parliament's website;

Although the commission requested information on election-related criminal or administrative violations from the CEC, the Ministry of Internal Affairs, and the Prosecutor's Office, and analyzed the requested information, the area of study was insufficient to examine the legitimacy of the election.

The members of the disputed Precinct and District Election Commissions and the CEC chairman were interviewed. By asking them questions, the commission sought to demonstrate that the irregularities recorded in the organizations' reports or statements were solely the fault of human error on the part of the staff and had nothing to do with the purpose of distorting the election results.

Representatives of local non-governmental organizations working on election issues (Transparency International Georgia, GYLA, ISFED, and Multinational Georgia) were interviewed by the Commission. The questions asked to them were indicative and contained a specific subjective position. Givi Mikanadze to Nika Simonishvili – „complaints of political subjects were considered faulty and was not admitted for consideration, did you (GYLA) have such a case and what was the reason for that?“. The question shows that the chairperson of the Commission of Inquiry indicated alleging that the opposition parties had deliberately submitted such complaints, which were considered faulty, after which, emphasizing a large number of unconsidered complaints, they received political benefits. The abovementioned indicates that the Commission of Inquiry was trying to show the correct action of the relevant link of the election commissions, which was aimed at covering up the facts of other violations.

In several cases, transparency was not ensured in the work of the commission. During the commission's work, due to the updating of the Parliament website, important information (including

186 Letter of Multinational Georgia <https://bit.ly/3tZS4SW> [22.09.2021]

187 Letter of Multinational Georgia <https://bit.ly/3tZS4SW> [22.09.2021]

the methodology of the work of the commission) was published with a delay. The minutes of the sitting of the commission are not posted on the website of the Parliament, and at this time, the video recordings of the sitting of the commission are no longer searchable. At the same time, as of today, a separate link for the commission is no longer searchable on the website of the Parliament, where it would be possible to view the materials of the commission systematically.

The principles of openness and transparency of the activities of the Interim Fact-Finding Commission of Inquiry are defined by international standards, recommendations, and state practice. The public should have confidence in the institution, for which the official website of the legislature (except in cases of confidentiality) should publish documents related to the investigation, including the agenda of the commission, the testimony of witnesses, the minutes of the hearings.¹⁸⁸

Without the parity of political groups, the ruling party tried to act as if objectively. However, at the same time, the commission could not touch substantially and, due to the expiration of a large period, could no longer address the substantive irregularities that may have had a direct and immediate impact on the final election results. This approach was also reflected in the Commission's report, where it mentions for virtually every problematic issue insufficient arguments.¹⁸⁹ The Commission thus created a lack of confidence in the parliamentary inquiry mechanism and, for a large part of the public distrustful of the election results, left the work of the parliamentary instrument beyond any interest. In addition, it deepened the nihilistic attitude towards state institutions.

Democracies create one of the real platforms for the work of the parliamentary opposition with the existence of a Commission of Inquiry. Although the interim commission has important investigative functions, its activities would not have been effective in the absence of a real opposition representation. The activities of the commission composed of the ruling party and groups of MPs loyal to it could not ensure the achievement of the main spirit of this mechanism, which should be created on a parity basis and reach an objective result by a decision made by consensus.

As a result, the Parliament in its final conclusion¹⁹⁰ pointed out the insignificance of the irregularities expressed by the international and observer organizations, some of which blamed the opposition, (for example, most of the alleged voter buying cases reported by GYLA they linked to opposition parties), the allegation of alleged misuse of administrative resources was assessed as unfounded and devoid of any basis, was questioning the credible account of the allegations of pressure and threats on voters, as well as the inaccuracy of voter lists.

The report of the Parliament emphasized the inaccuracy of the results of the parallel counting of "ISFED". Without examining and analyzing court judgments or rulings, it was determined that the reasons for leaving election disputes unresolved were in accordance with the law; The imbalance in the summary protocols was speculation to create a perception of election fraud.

The final report stated that the parliamentary elections were held in accordance with the current legislation, the CEC provided a Covid-safe environment at the election precincts, and the free will expressed by the citizens was proportionally reflected in the summary protocol published by the CEC. With the resolution passed, the Parliament tried to create a feeling for the protesting public that, on the one hand, the elections were fair and free, and on the other hand, the instructions given

188 OSCE Office for Democratic Institutions and Human Rights, Note on parliamentary inquiries into judicial activities. (Warsaw: 2020), 3. <https://bit.ly/3hShmxy> [22.09.2021]

189 Resolution of the Parliament of Georgia on the Results of the Activities of the "Interim Fact-Finding Commission of Inquiry on the Parliamentary Elections of October 31, 2020" <https://bit.ly/3nXAw9i> [22.09.2021]

190 Resolution of the Parliament of Georgia on the Results of the Activities of the "Interim Fact-Finding Commission of Inquiry on the Parliamentary Elections of October 31, 2020" <https://bit.ly/3nXAw9i> [22.09.2021]

by the opposition, the non-governmental sector, and international observer organizations were not objective.

In order to have credibility towards any state institution, it is necessary to ensure the involvement of people with different positions in it. In the present case, when it was not in the interest of any member of the Commission to establish any violation, it was less credible for them to conduct an investigation convincingly and impartially.

4.3. Ninotsminda Boarding School

According to the Public Defender's statement on April 16,¹⁹¹ on April 15, 2021, the Public Defender's representatives were not allowed to carry out monitoring at the NNLE Boarding school of St. Nino Orphanage operating under the Patriarchate of the Georgian Orthodox Church in Javakheti. The Public Defender stated that she had applied to the Ministry of Health and the LEPL – Agency of State Care and assistance for the (Statutory) Victims of Human Trafficking, however, they did not have timely and effective communication with the Public Defender's Office and did not take effective measures to protect the rights and interests of Boarding School beneficiaries.¹⁹²

From the moment the problem was identified, Parliament did not respond to the issue. Only after a number of statements were made by civil society and the ombudsman, but the issue attracted widespread attention did several members of Parliament respond to the issue with statements¹⁹³, and on June 5, two MPs arrived directly at the Ninotsminda Boarding School.¹⁹⁴ Finally, the Public Defender visited the Ninotsminda Children's Boarding School. Notwithstanding the above, Parliament's response to this issue was inappropriate and delayed. Parliament had a number of opportunities to study the issue and eliminate the problem in a timely manner. Nevertheless, it has not used a mechanism such as the Permanent Parliamentary Council for the Protection of the Rights of the Child in Parliament. Council is authorized to invite representatives of ministries and other agencies and receive information from them¹⁹⁵; however, the authority to request a representative of the accountable body to attend the committee was not exercised by the committees either.

Letter N10056/2-7-1/21 of the Acting Head of the Organizational Department dated 30 September 2021 states that no effective action has been taken by the Parliament to date, which would have had subsequent consequences in resolving the problem.

4.4. Election / Appointment issues of Officials

During the reporting period, Parliament appointed important officials, including: despite the critical domestic and international attitudes described in the introductory part of the report, six

191 The Public Defender of Georgia was not allowed to monitor the Ninotsminda Children's Boarding School again – <https://bit.ly/3hFac0v> [22.09.2021]

192 Statement of the Public Defender regarding the Ninotsminda Children's Boarding School, 19.05.2021. <https://bit.ly/39yJYXX> [22.09.2021]

193 The situation must change, closing the information is harmful in every way – Sarjveladze at Ninotsminda boarding house, 25.05.2021. <https://bit.ly/3CfOc3l> Last verified: 14.09.2021. Mikheil Sarjveladze: None of the children in Ninotsminda boarding school are in danger; 04.06.2021. <https://bit.ly/3EAMCuR> [22.09.2021]

194 The case of the children's boarding house: MPs are in Ninotsminda 04.06.2021. <https://bit.ly/3CEb2l4> [22.09.2021]

195 Paragraph "b" of the first part of Article 4 of the Statute of the Permanent Parliamentary Council for the Protection of the Rights of the Child.

Supreme Court justices were appointed for life,¹⁹⁶ and three new members of the National Bank Board were elected.¹⁹⁷ In addition, two members the CEC and the chairperson were elected for a term of 6 months.¹⁹⁸

Election of the Supreme Court justices

Under current law, a Supreme Court justice is elected by a majority of the full composition of Parliament, nominated by the High Council of Justice. The current rule for electing justices to the Supreme Court is locked directly between the corps of judges and a narrow political interest group – the parliamentary majority. Especially when the parliamentary majority holds a monolithic majority in the hands of one party, this rule of election does not encourage and does not ensure consensus between the parties. As a result, in the current parliamentary composition, it is possible to make a unilateral decision on the election of an important independent official for life, by party decision and not objectively. To be a justice of the Supreme Court is not a political position, therefore, a judge/justice must be politically neutral. The current rule of electing a Supreme Court justice does not make the issue resolution either apolitical or leaves no room for political compromise. Thus, in the future, we shall probably at least think that the decision to select such a politically neutral official should be made by consensus. Nevertheless, the selection and appointment of Supreme Court justices took place against the backdrop of an opposition boycott. The selection and appointment of judges have not been the result of inclusive work. The majority of parliamentary subjects, as well as the Public Defender and most of the public organizations, refused to participate in the process.¹⁹⁹ Parliament elected judges with one-party support, raising suspicions that the persons who received a confidence vote would seek to pursue the political interests of the ruling government in the judiciary. The politicization of the process is indicated by the OSCE's critical assessment of the process.²⁰⁰ The independence of the election administration is of great importance for the strengthening of democracy in the country. "According to the Election Code, for the 2021 municipal elections (in a short period of time), the Georgian Dream has not held active public consultations with the opposition to select candidates for the position of chairperson and members of the Central Election Commission, nor has it even taken such an initiative. In addition, it did not take into account the assessments and recommendations of the vast majority of NGOs involved in the selection process and supported the candidate selected without consensus."²⁰¹ However, the real involvement of the civil sector and the opposition in the selection process of officials is essential for the promotion of democratic processes and the development of state institutions.

4.5. COVID-19 Pandemic and related Parliamentary Policies

196 Parliament has elected 6 Supreme Court justices of Georgia. <https://bit.ly/3CEb2l4> [22.09.2021]

197 The Parliament of Georgia has elected the members of the Board of the National Bank <https://bit.ly/3Cz89Cf> [22.09.2021]

198 The Parliament of Georgia has elected the CEC members and the CEC chairperson. <https://bit.ly/3AyRIoP> [22.09.2021]

199 Coalition Statement on Refusal to Participate in the Qualifying Working Group of Supreme Court Justices. <https://bit.ly/3lMpmkW> [22.09.2021]

200 OSCE/ODIHR Report. The fourth report on the nomination and appointment of judges of the Supreme Court of Georgia. August 2021. <https://bit.ly/3u6BT6q> [22.09.2021]

201 Democracy Index – Georgia, Parliamentary Majority Seeks to Remain Control over Election Administration <https://bit.ly/3zvtVoG> [22.09.2021]

The activities of the Committee on Health and Social Affairs in connection with the Law on Public Health deserve a separate allocation. During the session, the Committee, once again, did not take the time to refine and implement the criteria in Article 45³ of the law, which gave the Government a number of powers indefinitely, amid criticism from public organizations.²⁰²

The committee only discussed the extension of the law in a simplified manner at the end of the session, when the possibility of amending it was not even provided for in the Rules of Procedure. As a result, when introducing the so-called Covid-regulations, the Parliament once again refused to put the government under strict parliamentary and judicial oversight.

The numerous thematic inquiries initiated by the committees regarding the distribution of Covid-19 and the reflection of its results in various sectors are commendable. These issues are discussed in detail in the Thematic Inquiries section.

Recommendations

The findings and conclusions of the reporting period dictate the following recommendations:

- To ensure the accountability of the members and their activation, the Parliament should ensure the continuous development of the individual profiles of the parliamentary activities of the MPs on the website, including taking into account the recommendations outlined in our previous reports;
- To increase the effective feedback and sensitivity of the members of the Parliament towards the problems of the citizens, adopt an act regulating the rules of processing the letters/applications of the citizens;
- Provide software for classifying letters sent by a Member of Parliament;
- Parliament, with the purpose to determine future policy, should begin analyzing the possible political and economic impact of the aftermath of the Nagorno-Karabakh conflict on Georgia, including through intensive use of forms of communication with the government and thematic inquiry;
- The Parliament should timely adopt the draft amendments to the Law of Georgia on Rules for Planning and Coordination of National Security Policy, registered on June 9, 2021. Also timely approve an updated Concept of National Security;
- Properly substantiate the need for expedited consideration of bills for each time;
- To intensify the work on the reform of the Code of Administrative Offenses with wide involvement;
- Before each committee discussion, publish the version of the bill to be reviewed within a reasonable time;
- Refine standards for delegating regulatory authority, including making amendments to Article 45³ of the Public Health Law, taking into account the opinions submitted by the organization;
- To monitor the degree of public involvement in legislative activities, regularly publish information on the submission of legislative proposals and the final results;
- Relevant committees to increase interest in the so-called “Shadow reports” presented by the civil sector and with high involvement of MPs to discuss them in the committee sittings. However, if the committee decides to adopt a conclusion/recommendation, it should also

202 "Democracy Index-Georgia", Parliament again gives indefinite powers to the government with a purpose to fight the pandemic, <https://bit.ly/3zHXWBA> [24.09.2021]

evaluate and reflect the committee's position on the government report and the relevant "shadow reports";

- Parliament shall increase its effectiveness in both the formation of government and the implementation of the oversight. To this end, complete the ongoing constitutional reform, including our recommendations;
- The Rules of Procedure shall specify the time limit for the Chairperson of the Committee to send a request for summoning accountable persons to the Committee sitting;
- To make effective use of the Minister's Hour, establish an obligation for the Minister to submit a written report at least two days before the Plenary Session, and for the Parliament to evaluate the report by a Resolution;
- To continuously monitor the degree of opposition involvement, proactively publish the Opposition Involvement Index (analysis of their demands and final decisions of the Parliament) and information on the opposition's legislative initiatives and demands, their results;
- To continuously monitor the activity of the committees, proactively publish the quantities of committee meetings at the end of each month, and at the end of each session:
 - ▣ Number of law execution control mechanisms in place;
 - ▣ Number of studies on compliance of by-laws with the legislation;
 - ▣ The number of applications for control of the implementation of the tasks defined by the transitional provisions of the normative act of the Parliament for the institutions of executive power within the established period;
 - ▣ Data on the study of the activities of the administrative body;
 - ▣ Number of hearings of reports of persons accountable;
 - ▣ Data on the beginning and end of the thematic inquiry;
 - ▣ Number of submitted legislative proposals;
 - ▣ Number of case studies examined;
 - ▣ Number of legislative initiatives submitted by the committees;
 - ▣ Information on the officials summoned to appear at the meeting of the Committee;
- To improve the thematic inquiry, establish a reporting mechanism for the implementation of the recommendations made as a result of the thematic inquiry:
 - ▣ – Develop a unified format for formulating recommendations and other documentation;
 - ▣ – Determine the obligation of the Parliament to adopt a Resolution, which reflects the information on the implementation of the recommendations;
- Consistently meet the requirements of the Charles-Michel Agreement;
- Strengthen the continuing education of Members of Parliament to promote intra-party democracy, political culture, and education.