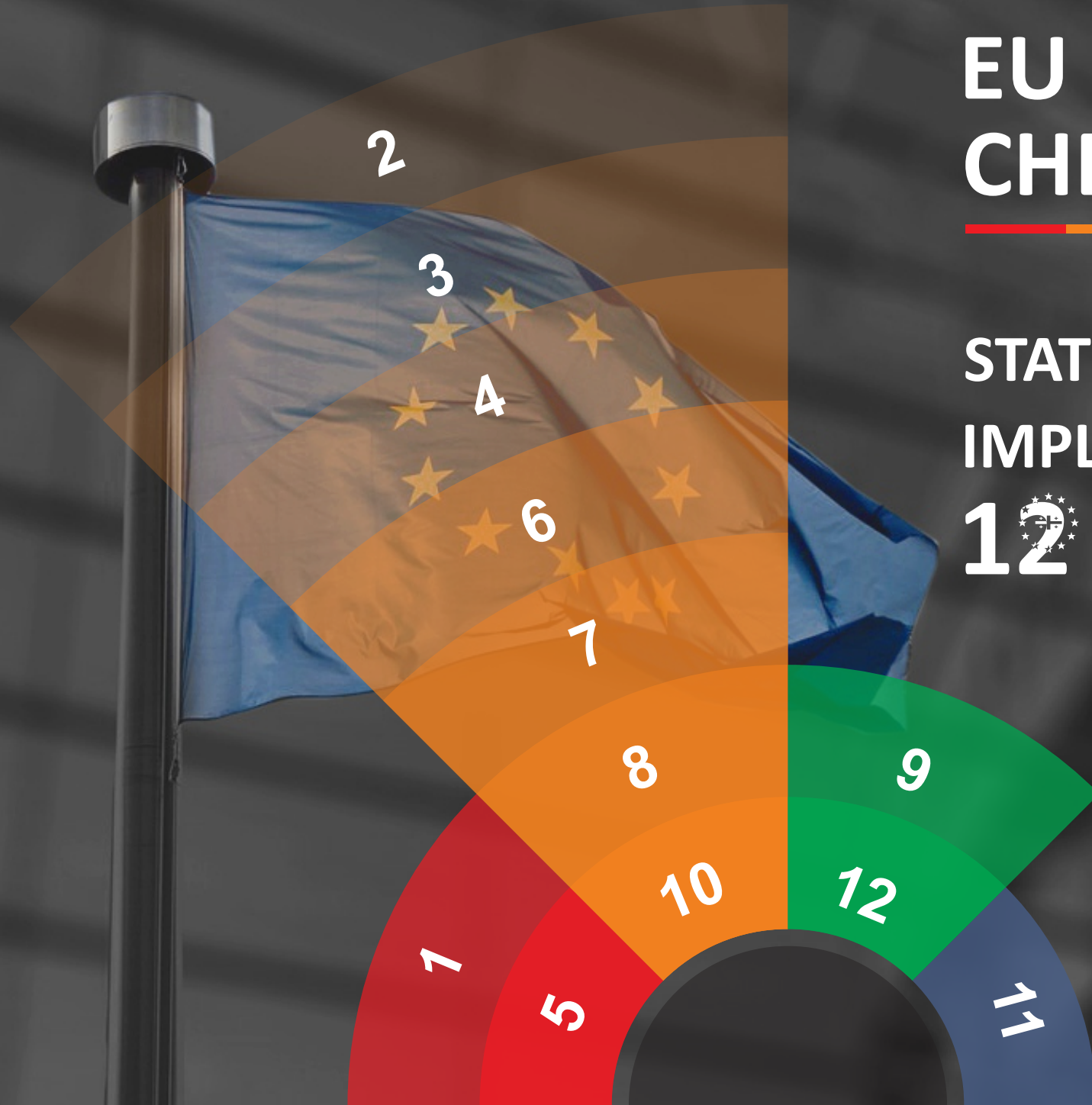


# EU CANDIDACY CHECK

STATE OF  
IMPLEMENTATION OF  
**12** PRIORITIES

16 JANUARY - 8 SEPTEMBER, 2023



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

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



# METHODOLOGY

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

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

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

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

**FULFILLED:** Priority is fully implemented;

**MOSTLY FULFILLED:** Substantial part of the priority is fulfilled, but some issues still remain to be addressed;

**PARTIALLY FULFILLED:** Some issues related to the priority have been addressed, but the essential part of the requirements still needs to be addressed;

**TO BE FULFILLED:** Priority is still to be fulfilled, or the situation related to this requirement is deteriorating, or only a minor and relatively insignificant part of the priority is fulfilled, which doesn't change the overall picture.

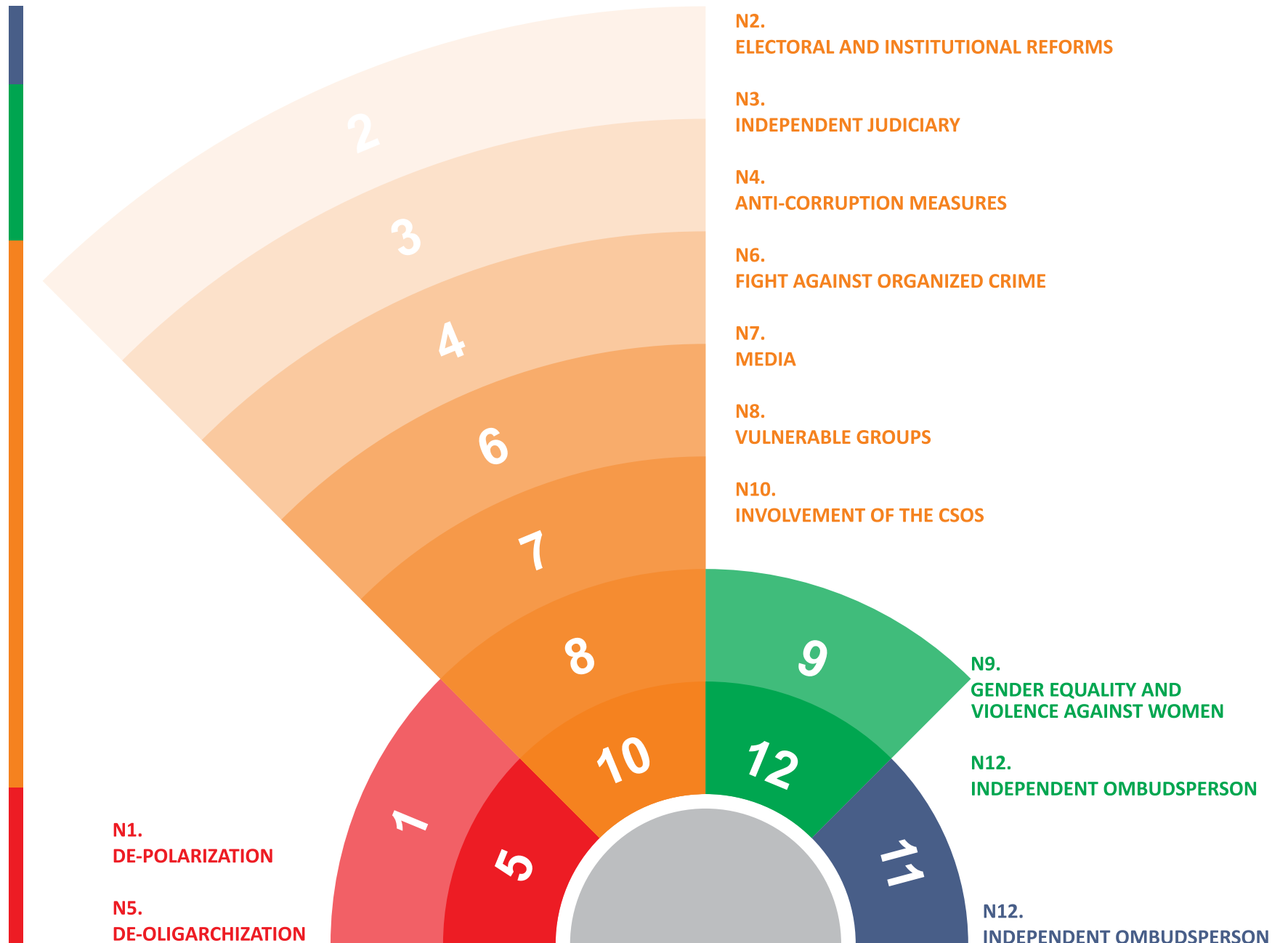
# STATUS

FULFILLED

MOSTLY FULFILLED

PARTIALLY FULFILLED

TO BE FULFILLED



# STATUS



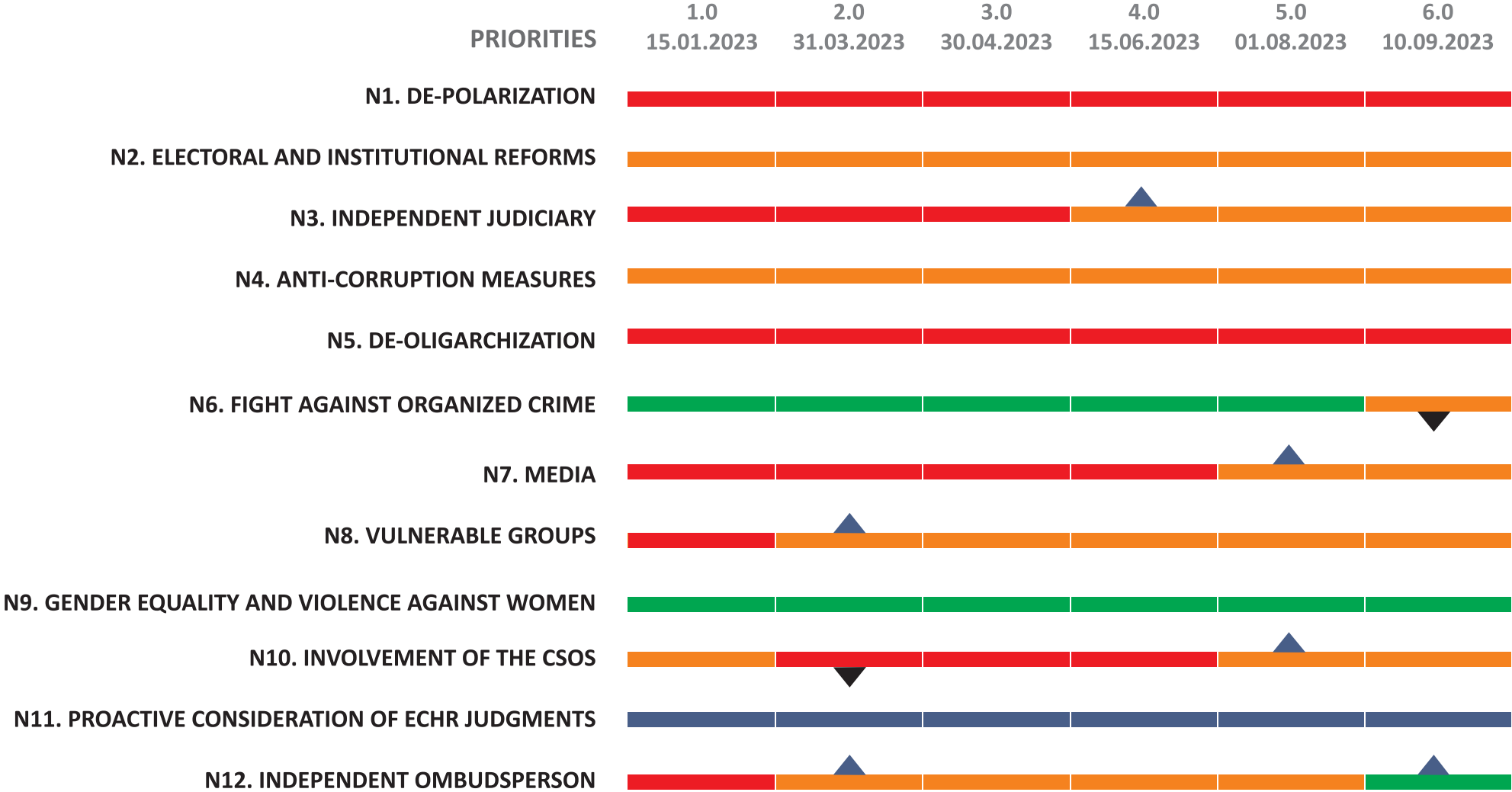
IMPROVED



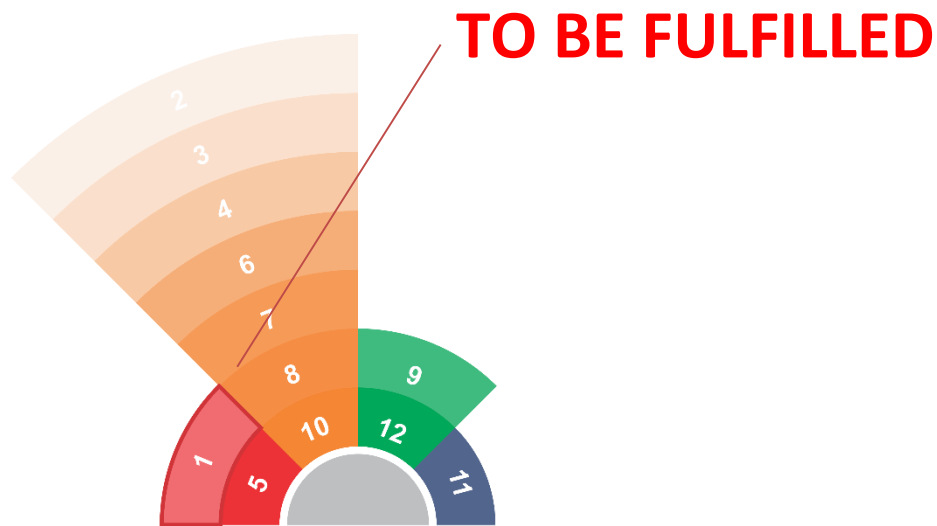
BACKSLIDE

EMPTY - UNCHANGED

## DYNAMICS ACCORDING TO THE SIX EDITIONS OF "EU CANDIDACY CHECK"



# PRIORITY N1: DE-POLARIZATION



## EU REQUESTS:

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

## EXPECTATIONS:

» According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- ensure efficient oversight of the Parliament
- end the use of harsh rhetoric
- honour past political agreements, notably key elements of the EU-mediated 19 April Agreement

» The April 19 (so-called Charles Michel) agreement covers, among others, the following issues:

- Reducing the electoral threshold to 2% for the 2024 elections

- Power-sharing in the Parliament in accordance with the Charles Michel April 19, 2021 agreement (opposition to chair several parliamentary committees);
- Election of the CEC chairman and professional members by  $\frac{2}{3}$  of the full composition of the Parliament;
- Electoral legislation and court reform, etc.
- » Consensus on the parliamentary appointments where a high quorum was needed (Ombudsperson, Head of CEC, lay members of the High Council of Justice);
- » Reduction of the bellicose rhetoric from the GD and the opposition;
- » Reduction of the hostile rhetoric against the civil society and independent media;
- » End politically motivated cases against the critical media and political opponents;
- » The ruling party to stop boycotting critical media channels and to engage in the TV debates;
- » Release of Nika Gvaramia, director of Mtavari TV;
- » Transfer of ex-President Saakashvili for treatment to a hospital abroad;
- » Refrain from the initiation and discussions on the legislation impeding CSOs and independent media activities.

## STATE OF PLAY:

- ✗ Adoption of the law on “Transparency of Foreign Influence” at the first hearing deepened political polarization between the Government and opposition, Government and media, Government and Civil society;
- ✗ According to the GD, the responsibility to fulfil this condition lies with the opposition, not with the Government;
- ✗ The leaders of the "Georgian Dream" blame for polarization not only on the opposition but also on international actors - the West, the European Union and a number of European politicians. That includes "funding of polarization", which means the financing of Georgian CSOs by European foundations and holding meetings with "radical opposition";
- ✗ After the presentation of the EC interim oral report, Irakli Kobakhidze stated that the main element of the April 19 agreement was ensuring the proper involvement of the opposition in the parliamentary work. According to the “Georgian Dream”, they've fulfilled their part of the obligation. However, the “Georgian Dream” considers the agreement “annulled, finished, a thing of the past” and refuses to reinvigorate it. The party alleges that the treaty was signed

under “blackmail and sabotage”, branding it as “an anomaly” and a “blatant attempt to change the government against the people's will. They assert that outside forces, including “the global war party”, were involved in creating the Agreement, with its true purpose being changing the Government rather than depolarization. Furthermore, according to his assessment, if the agreement were fulfilled,

“Russian tanks would be stationed in Tbilisi”;

✗ Georgian Dream stepped up anti-Western rhetoric, blames the West, opposition, CSOs and critical media for wanting to drag Georgia into the war with Russia;

✗ Everyone criticizing the Georgian Dream is called - “the global war party” and/or its agent, enemy and traitor;

✗ Opposition often calls the Georgian Dream – “Russian stooges” and “traitors”;

✗ The rhetoric between the political parties in the parliament became extremely harsh. The number of verbal and physical confrontations during parliamentary debates increased. The escalating rhetoric between the “Georgian Dream” and opposition parties is taking on a spiralling nature;

✗ After several harsh debates in the parliament, the “Georgian Dream” formulated a kind of policy that swearing for the title of pro-Russian is an adequate response, and according to GD representative, whoever calls them pro-Russians “will receive our punches, at first morally and if that's not effective, we might take further action”;

✗ Physical attacks against politicians, media and civil society representatives have become more frequent. Irakli Kobakhidze accused an ambassador of encouraging violence and supporting profanity and polarization in Georgia;

✗ Tbilisi Court of Appeals upheld the verdict of the Tbilisi City Court that denied to postpone the sentence of Mikheil Saakashvili to transfer him abroad for medical treatment;

⚡ On May 12, the European Court of Human Rights refused to apply an interim measure to transfer Saakashvili to Poland for medical treatment;

⚡ Polish doctors visited Mikheil Saakashvili at the “Vivamedi” clinic. According to the information and video footage published by the Special Penitentiary Service, one doctor wrapped a sample of Saakashvili in paper and attempted to secretly take it out by hiding it in his shoe. The Special Penitentiary Service clarified that such behaviour, “inconsistent with medical, ethical, and legal norms,” appears even more ambiguous, considering that the service allowed them to take the sample in an official manner. According to Irakli Kobakhidze, this behaviour could be motivated by an intention of forgery and manipulation;

⚡ The court cases against political opponents have entered a more passive phase.

✓ President pardoned Nika Gvaramia;

✗ However, the “Georgian Dream” was extremely critical of the decision. According to the party, this action was taken under pressure from outside forces and is meant to escalate polarization rather than decrease it.

✗ No power-sharing arrangements in the Parliament, as agreed in the Charles Michel document. Furthermore, according to the “Georgian Dream”, modern democracy is based on the rule of the majority rather than consensus.

✗ The electoral threshold hasn't been reduced to 2%, as agreed in Charles Michel's April 19, 2021 agreement; The “Georgian Dream” states that their promise was only conditional for obtaining the candidate status in 2022 and has expired as of 2023.

✗ Not all opposition parties participate in the working groups set up to elaborate laws for implementing the 12 priorities;

✗ Georgian Dream blames the EU for fostering polarization and radicalization and declares that the purpose of adopting the foreign influence law was depolarization. GD denies the role of Charles Michel's April 19, 2021, agreement in the process of depolarization;

✗ The members of the parliamentary majority of “Georgian Dream” didn't pass the mandatory registration for voting three times in a row to prevent the voting on the initiative of the opposition about the establishment of a parliamentary commission of inquiry for examination of the corruption cases and other illegal actions in the judiciary system and subsequently removed the issue from the bureau's agenda; “Georgian Dream” proceeded the same way regarding the initiative to establish a fact-finding commission related to the case of so-called call centres.

✗ The GD doesn't recognize the independent identity of the opposition parties and labels them as a “collective National Movement” that should be neutralized.

✗ According to the amendments to the Electoral Code, adopted by the Parliament in three readings on June 13, “Georgian Dream” will no longer have to cooperate with the parliamentary opposition to select the Chairman of the Central Election Commission and seven members of the CEC. According to the amendments, 76 votes, instead of 90, will be sufficient for the appointments. These changes contradict the Charles Michel April 19, 2021 agreement and are another deviation from it.

“Georgian Dream” announced the adoption of the revised draft Electoral Code, which envisages the election of the CEC chairman and its professional members with 90 votes, however, if the number of 90 votes cannot be reached, the threshold could be lowered to 76 votes in the second voting and CEC chairman and its professional members will be elected for a five years term. Accordingly,

the mentioned draft law was assessed negatively by the parliamentary opposition since it does not improve the existing practice;

✗ President Salome Zurbashvili vetoed the CEC-related amendments to the electoral code, but the veto was overridden in the Parliament by the ruling party, just as the presidential veto on Draft Amendments to the NBG Law. Polarization between the leading party and the president has recently increased sharply. This is evident through the overriding of vetoes, abridgement of the president's constitutional power, and harsh rhetoric, among other factors. The ruling party was particularly critical of the president's decision to pardon Nika Gvaramia.

The government of Georgia denied the President permission to conduct international visits, some of which aimed to advocate granting the EU candidate status to Georgia. Despite the lack of permission, the President still undertook the visits, which the ruling party assessed as violating the constitution. According to the "Georgian Dream", they will apply to the Constitutional Court with the impeachment procedure, even though the ruling majority does not possess the 100 votes necessary for the impeachment of the President.

## CHALLENGES:

! No reforms are implemented on the power-sharing and electoral threshold;

! The case of Mikheil Saakashvili remains unaddressed;

! Political processes become increasingly polarized in the run-up to the 2024 elections;

! No scaling down of the polarizing rhetoric;

! The inconsistent statements of Mikheil Saakashvili - first about his participation solely in the politics of Ukraine and later the recent announcement on his intention to be actively involved in the politics of Georgia - contribute to the deepening of polarization;

! No political will for consensus on the parliamentary appointments where a high quorum is needed. In some cases, the "Georgian Dream" unilaterally, without cooperation with the parliamentary opposition, adopts the legislation, which reduces the high quorum to a simple majority in favour of the government and therefore excludes the participation of the opposition in the parliamentary appointments;

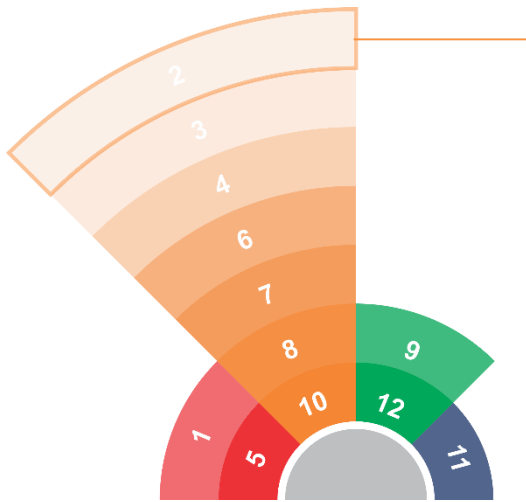
! Prevention of the vote on the establishment of a commission of inquiry into the judiciary further deepened polarization among the political actors;

! Adoption of legislation preventing activities of CSOs and media will deepen the polarization;

! The spirit of the April 19 agreement has not been taken into account and Georgian Dream opposes the agreement.



# PRIORITY N2: ELECTORAL AND INSTITUTIONAL REFORMS



**PARTIALLY  
FULFILLED**

## EU REQUESTS:

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

## EXPECTATIONS:

### IMPROVEMENT OF ELECTORAL ENVIRONMENT AND LEGISLATIVE FRAMEWORK

» According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- adequately investigate allegations of electoral malpractices as highlighted in ODIHR reports
- reverse the electoral amendments changing the appointment procedure of the CEC chairman

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

### STRENGTHENING DEMOCRATIC OVERSIGHT OF STATE INSTITUTIONS

» According to the interim report of the European Commission of June 22, 2023, Georgia needs to improve the parliamentary oversight.

- » Ensure a higher level of independence and accountability of state institutions;
- » Strengthen democratic parliamentary oversight on the state institutions, including by changing the rules of procedures;

## STATE OF PLAY:

### IMPROVEMENT OF ELECTORAL ENVIRONMENT AND LEGISLATIVE FRAMEWORK

✗ In 2022, GD linked reducing the electoral threshold to 2% with receiving the candidate status; however, later, they stated that this pledge no longer applies to receiving the candidate status in 2023 and was only relevant last year;

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

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

✓ According to the assessment of ISFED, the by-elections have been held in a largely non-competitive environment. The election day passed in a calm

environment without significant violations. The use of electronic technologies has simplified and accelerated the process of voter registration and vote counting;

✔ Some Venice Commission recommendations were incorporated into the draft Electoral Code. Changes are related to party financing, administrative resources, election administration, complaints, recounts and inking;

✘ Irakli Kobakhidze asserts that the requirement for adequately investigating electoral violations, according to ODIHR's reports, is ambiguous and needs clarification. He pointed

out that an investigative commission was established in the Parliament to investigate violations during the 2020 parliamentary elections and indicated that future possible violations would also be addressed.

✘ Despite the appeal of the EU, "Georgian Dream" approved in the third reading the amendments to the Electoral Code, according to which the prerogative of selection and nomination of the Chairman of the CEC and its professional members was transmitted from the President to the Chairman of the Parliament. The approval of the chairman of the CEC for a 5-year term will require a majority (76 votes) of the full composition of the Parliament instead of 90 votes (as defined by the current Election Code). The role of the President is limited to having a representative in the selection commission;

✘ After the President vetoed these amendments, the "Georgian Dream" ruling majority overcame the presidential veto. According to Irakli Kobakhidze, it was "fundamentally important" to prevent an "institutional crisis" from taking place in CEC;

✘ "After overcoming the veto, the "Georgian Dream" announced they would revise the procedures for electing the CEC chairman and its professional members. Their selection will now happen with 90 votes, however, if the number of 90 votes cannot be reached, the threshold will be lowered to 76 in the second vote. If 76 votes are not reached, the issue will be transmitted for the decision to the President, who will appoint the chairman/professional members of the CEC from the list of candidates participating in the competition. The proposed changes envisage the election of the CEC chairman and members for a 5-year term (with the possibility of reelection for another 5-year term). According to the "Georgian Dream" statement, the Parliament will consider the legislative changes through an expedited procedure and adopt them by the end of September.

✘ Parliament failed to elect a CEC chairperson. Currently CEC is headed by the acting chairperson since 2022 until new chairperson will not be elected;

✘ Following the amendments endorsed in the first hearing by the "Georgian Dream", a party won't be able to display the name of its leader on the bulletin.

## STRENGTHENING DEMOCRATIC OVERSIGHT OF STATE INSTITUTIONS

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

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

- The number of interpellations increased from 4 to 8;

- The Minister will be obliged to present a written report five days before the Minister's hour;

- The Government to appear more promptly in the Parliament per MPs' request;

- The deadline for answering MP's question will be reduced from 15 to 10 days;

- The committee's thematic inquiries can be established with a reduced majority - by the majority of MPs present in a committee instead of the majority of all MPs;

- A report of the State Security Service of Georgia can be presented before the Parliament only by its Head instead of the Deputy Head;

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

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

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

✘ Irakli Kobakhidze stated: "Legislation has already received positive evaluations. Now, we are focused on its implementation and improving practices. Of course, the primary responsibility lies with the opposition."

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

✘ "Georgian Dream" proceeded in a similar way in the case of the draft resolution initiated by the parliamentary opposition "on the establishment of a temporary investigation commission of the Parliament of Georgia to study the transnational crimes committed by organized criminal groups through fraudulent

"call centers" and possible inappropriate reactions on them", it did not pass the mandatory registration before the vote;

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

✗ State institutions often fail to respond to questions from MPs representing the parliamentary opposition in the appropriate timeframe, or they do not respond at all. According to the report of the Rules and Procedural Issues committee, from March 1, 2023, to May 31, 2023, a total of 514 questions from Members of Parliament were sent, of which 105 written questions have not been answered, representing 20% of the total number of questions

✗ The Government officials do not participate in the parliamentary committee meetings despite the requests to attend according to the Rules of Procedures;

✗ According to some opposition members, the composition of the permanent delegations of parliament leaves room for certain questions. The Rules and Procedure Issues Committee has not provided an answer to an MP's question regarding the principle based on which quotas are assigned to different political groups and parliamentary fractions in the permanent delegations of parliament;

✗ Despite the amendments to the Rules of Procedures of the Parliament, undertaken within the framework of the implementation of 12 priorities, according to which the authority to submit the report of the State Security Service to the Parliament of Georgia was granted exclusively to the head of the service, on July 7, 2023, the deputy head of the State Security Service presented the report to the members of the Parliament.

## CHALLENGES:

### IMPROVEMENT OF ELECTORAL ENVIRONMENT AND LEGISLATIVE FRAMEWORK

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

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

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

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

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

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

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

! According to the amendments adopted by the parliamentary majority, the majority of the full composition of the parliament (at least 76 votes) will be sufficient to elect the chairman of the CEC and its professional members.

! According to the draft law announced in September 2023, the number of necessary votes for electing the CEC chairperson and the professional members increases to 90, however, if 90 votes cannot be secured, 76 votes will still be enough to elect them for a 5-year term. Accordingly, the announced draft law does not substantially improve the existing practice because the parliamentary majority will still be able to elect the CEC chairman and professional members with 76 votes without the involvement of the parliamentary opposition.

### STRENGTHENING DEMOCRATIC OVERSIGHT OF STATE INSTITUTIONS

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

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

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

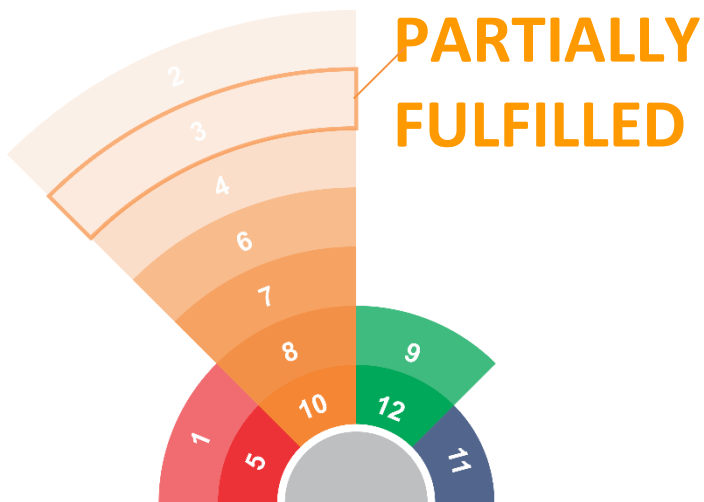
! Parliamentary majority doesn't give an opportunity to the parliamentary opposition to use the parliamentary oversight mechanisms (establishment of the commission of inquiry);

! Officials do not participate in the committee meetings despite the mandatory attendance requirement;

! The procedure of Q&A during the interpellation hasn't been changed

! Part of the changes adopted within the framework of implementing 12 priorities intended to improve parliamentary supervision are not implemented in practice.

# PRIORITY N3: INDEPENDENT JUDICIARY



## EU REQUESTS:

“Adopt and implement a transparent and effective judicial reform strategy and action.

plan post-2021 based on a broad, inclusive and cross-party consultation process; ensure a judiciary that is fully and truly independent, accountable and impartial along the entire judicial institutional chain, also to safeguard the separation of powers; notably ensure the proper functioning and integrity of all judicial and prosecutorial institutions, in particular, the Supreme Court and address any shortcomings identified including the nomination of judges at all levels and of the Prosecutor-General; undertake a thorough reform of the High Council of Justice and appoint the High Council's remaining members. All these measures need to be fully in line with European standards and the recommendations of the Venice Commission”.

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- submit amendments on judicial reform to the Venice Commission for a second opinion,
- adopt a broader reform of the judiciary, especially of the High Council of Justice,
- appoint the remaining non-judge High Council of Justice members.

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

## STATE OF PLAY:

✗ On July 27, 2023, the High Council of Justice elected Shota Kadagidze as an independent inspector with 11 votes, unanimously by all present members. His candidacy was also supported by three non-judge members of the High Council of Justice who were newly elected by the Parliament of Georgia (including several opposition MPs). Shota Kadagidze was a lay member of the High Council of Justice in 2017-2021 who was known for his loyalty to the influential group in the court. Accordingly, the election of Shota Kadagidze to the position of an independent inspector cannot ensure the trust towards the institution of the independent inspector because his connection with an influential group of judges raises questions of independence.

✗ The Monitoring Committee of the Council of Europe presented the legislative amendments to the Venice Commission for a second opinion;

✗ On June 16, 2023, the OSCE/ODIHR provided an opinion on judicial reform at the request of the Public Defender. The recommendations from OSCE/ODIHR are related to the decision-making procedure in the High Council of Justice, effective participation of lay members in the activities of the Council and their election as the chairperson of the High Council of Justice; change in the procedure for electing judge members; Ensuring broad representation, gender balance and diversity in the High Council of Justice. In addition, according to the opinion, changes in the electronic case distribution system are needed. The recommendations also put forward the importance of maintaining the judicial practice of court chairmen and judge members of the Council of Justice; the status, privileges and rules of their election as the chairman of the court; the system of verification of declarations about the property status of judges and their family members; Ensuring guarantees of independence of the body responsible for initiating disciplinary proceedings against judges;

✗ A year had passed after the EC presented the priorities, and it is clear that the Georgian government has not yet used the opportunity to consult with Brussels to comply with the conditions effectively. Georgian Dream chairman Irakli Kobakhidze says they need consultations with the European Commission to clarify issues related to the judiciary.

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

✗ Partially or entirely following the recommendations of the Venice Commission, the Georgian parliament made amendments to the Law on Common Courts, addressing the following issues: establishing equal criteria for judicial candidates in the second round; suspending first and second-instance judges only in case of criminal prosecution; increasing time limits for trials and filing appeals in the Disciplinary Chamber to 10 working days; maintaining the salary and other rights for judges during the suspension period; violation of the principle of political neutrality by judges; suspension of the member of the Council and re-evaluation of every Supreme Court candidate in the case of one of them filing an appeal in the qualification chamber; filing an appeal against the High Council of Justice at each relevant stage of candidate selection and accepting re-nominations; publication of court decisions;

✗ The Parliament of Georgia didn't take into account the recommendations of the Venice Commission on the Law on Common Courts concerning the following issues: secondment of judges, grounds for disciplinary liability, selection of lay members for the High Council of Justice, effective participation of lay members

in the HCoJ, addressing the problem of corporatism, restricting Council members from serving multiple terms, reforming the selection process, introducing age and experience requirements for Supreme Court candidates, implementing an anti-deadlock mechanism for nominating Supreme Court candidates, modifying the composition of the HCoJ, determining the term of office for the Chairmen of the Supreme Court, and initiating disciplinary procedures;

✗ On May 17, 2023, the Georgian Parliament appointed three lay members to the High Council of Justice, filling three of five vacant seats. Despite being supported by five opposition members, it has become apparent that the selection was not made through a broad consensus and failed to accurately reflect the views of the parliamentary opposition. Following the appointment of these non-judicial members, three Members of Parliament, namely Rostom Chkheidze, Nato Chkheidze, and Nika Machutadze, decided to leave the United National Movement - United Opposition "Strength in Unity" faction.

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

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

✗ "Georgian Dream" does not support the initiative of the parliamentary opposition to establish a special investigative commission to investigate corruption cases in the judicial system, which the civil society representatives request. In several plenary sessions, members of the parliamentary majority did not register, citing "solidarity" towards the judges as the reason. Therefore, although the opposition had enough votes to form the commission, the voting could not take place due to the lack of a quorum.



## CHALLENGES:

! Although corporatism in the court is already viewed as one of the main challenges, the election of a former lay member to the position of independent inspector by the High Council of Justice is another manifestation of corporatism.

! The amendments adopted by the Parliament to the Organic Law of Georgia "On Common Courts" do not provide the holistic reform of the judicial system and the High Council of Justice. Moreover, the changes presented by the "Georgian Dream" are insufficient to ensure an independent, accountable and impartial judiciary, as proved by the latest opinion of the Venice Commission

! The Parliament did not fully take into account the recommendations of the Venice Commission, and problems still remain regarding the secondment of judges, disciplinary proceedings against judges, election of judges and lay members in the High Council of Justice, functioning of the High Council of Justice, elimination of corporatism, term of office of the chairman of the Supreme Court, the criteria and nomination of candidates for the position of Supreme Court judge;

! The Parliament did not take into account a number of recommendations of OSCE/ODIHR of March 15 and June 16, 2023;

! The Parliament of Georgia elected three lay members out of five vacant positions of the High Council of Justice without broad consensus;

! The Parliament couldn't ensure broad involvement in the elaboration process of the Strategy and Action Plan on the judicial reform, which hinders the implementation of the EU requirement regarding inclusiveness and cross-party consultation;

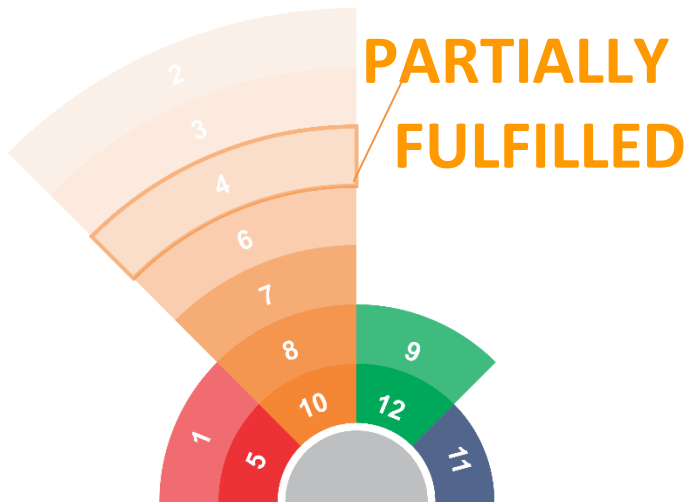
! The 2 lay members of the High Council of Justice are still not elected;

! Despite the approval of the high quorum appointment procedure for the Prosecutor General (at the first hearing), the ruling party declared only to use the deadlock-breaking mechanism and appoint the Prosecutor General for one-year terms eight times in a row;

! The ruling majority did not consider the recommendation to implement the procedure of double 2/3 majority voting in the High Council of Justice.

! Two judges, alleged leaders of the influential group (dubbed as "clan"), were appointed in the High Council of Justice before the reform of the appointment procedure, which leaves the fulfilment of this conditionality under question;

# PRIORITY N4: ANTI-CORRUPTION MEASURES



## EU REQUESTS:

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

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- Ensure that the anti-corruption bureau operates independently
- consult the Venice Commission on the draft legislation
- reconsider its decision to withdraw from the OECD Anti-Corruption network

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

## STATE OF PLAY:

- ✓ GD initiated the creation of the Anti-Corruption Bureau and adopted relevant legal changes in the Parliament with the three hearings;
- ✓ Anti-corruption Bureau was created, and the Prime Minister selected one of the three candidates as the Head of the Bureau;
- ✓ Anti-corruption Bureau will be tasked with overseeing the implementation of the policy and strategy documents concerning the fight against corruption, coordinating activities of the relevant state bodies, monitoring asset declarations of high public officials, improving the protection of whistleblowers, monitoring the party financing (from 1 September 2023);
- ✓ Anti-corruption Bureau will be accountable to the Parliament and interdepartmental anti-corruption council;
- ✓ On September 1, 2023, the mandate of the Anti-Corruption Bureau was expanded. The new website of the Bureau was launched.
- ✗ GD ignored the recommendation to equip the Anti-Corruption Bureau with investigative functions;
- ✗ Possibility to participate in the working process of the working group was not provided for all interested CSOs;
- ✗ The Georgian government refused to cooperate with the OECD's Anti-Corruption Network for Eastern Europe and Central Asia (ACN), the assessment of which is important in the context of European integration as well;

✗ After the release of the interim report of the European Commission, Irakli Kobakhidze stated that the withdrawal from the OECD anti-corruption network "had specific reasons, and if certain conditions are met, they will consider returning." It should be emphasized that none of the other countries left this network, except for Russia and Belarus, which the OECD suspended.

✗ Irakli Kobakhidze also noted that they are ready for future consultations with the Venice Commission. According to him, ensuring the independence of the anti-corruption bureau means properly implementing the new legislation in practice.

✔ The powers of the Special Investigation Service will increase as the list of offences the service can investigate is broadened. The breach of any right covered by the ECHR convention will be investigated by the Special Investigation Service instead of the office of the Prosecutor General;

✗ In July 2023, the Special Investigation Service became the object of criticism of the Georgian Young Lawyers' Association due to the lack of impartiality. According to GYLA, the service did not start an investigation into the case of Goga Razmadze, an employee of the Ministry of Internal Affairs, who accused the Deputy Head of the General Inspection of the Ministry of Internal Affairs of humiliating, insulting treatment and forcing him to explain. According to the decision of the Investigative Service, the application was sent for review to the very same agency implicated in wrongdoing.

✔ Social guarantees of the Personal Data Protection Service employees will be expanded.

## CHALLENGES:

! Lack of democratic accountability of the Anti-Corruption Bureau;

! Anti-corruption Bureau does not have investigative functions;

! Investigation of corruption crimes is still the competence of different investigative bodies, which doesn't correspond to the requirement to unite various essential anti-corruption functions under a single authority;

! Anti-corruption agency operates still under the State Security Service;

! Suspension of cooperation with the OECD's Anti-Corruption Network for Eastern Europe and Central Asia (ACN);

! A new National Anti-Corruption Strategy and relevant Action Plan have not been elaborated.



# PRIORITY N5: DE-OLIGARCHIZATION



## EU REQUESTS:

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

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- focus on and adopt a law setting out a systemic approach in line with the Venice Commission recommendations, including by reinforcing rules on competition policy and the financing of political parties

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

» European Union reaffirmed the Venice Commission’s recommendations against adopting the law on Deoligarchisation and expressed readiness to support the Georgian Government in finding a better solution using systemic approach;

» Venice Commission gives preference to the systemic approach, which encompasses:

- carrying out an in-depth and comprehensive analysis of the existing systemic measures and their shortcomings in terms of structure, powers and coordination;
- devising corrective, additional or complementary legislation or measures, which, inter alia, include:
  - establishing and implementing an effective competition policy;
  - strengthening the fight against high-level corruption and the prevention of corruption in line with GRECO’s recommendations;
  - upholding transparency and accountability in public procurement;
  - strengthening media pluralism and transparency of media ownership;
  - further enhancing the anti-money laundering policy, including the transparency of legal persons and arrangements and timely and effective access to beneficial ownership information, in line with MONEYVAL and FATF recommendations;
  - reinforcing rules on the financing of political parties and election campaigns and existing control mechanisms;
  - amending tax legislation.
- Strengthening the independence and effectiveness of the key regulatory and controlling authorities;
- Assessing the way various institutions (anti-corruption bodies, anti-monopoly committee, state audit, banking supervisory authorities etc.) can work better together in preventing and eliminating the influence of “oligarchs” over political, economic and public life;
- Carrying out an impact assessment of such measures at regular intervals;
- The Venice Commission underlines that, for the above-mentioned system to function effectively, the holistic reform of the judicial system aimed at ensuring its independence, integrity and impartiality, including of the High Council of Justice, fully in line with Venice Commission recommendations, should be relentlessly pursued

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

## STATE OF PLAY:

⌘ In its interim report, the European Commission welcomed the announcement made by the ruling party that this draft law will not be adopted as per the recommendation of the Venice Commission

⌘ Concerning the European Union's expectation of a systemic approach, Shalva Papualishvili stated that they will see what can be done regarding the topics outlined by the EU. But, according to him, "assessment regarding de-oligarchization showed that the inclusion of de-oligarchization as a separate item created ambiguity in 12 recommendations and was inappropriate, and the priority of de-oligarchization itself - "vague" and "improper". Irakli Kobakhidze stated that there is a need to define concretely what de-oligarchization means - "If a personalized approach is not implied, then de-oligarchization should not be discussed at all. If it is only a systemic approach that is being discussed, then there should be specific steps listed for the Georgian Parliament and the Government to follow." Also, according to him, Georgia already has achieved significant progress in the fields identified by the EU, and specifics will be needed from the European Commission regarding which they will have consultations. It is important to note that a year has passed since the priorities were presented by the EC, during which consultations with the EU could have taken place to specify the content of this priority;

On September 4, at the 67th meeting of the Commission for the Integration of Georgia into the European Union, the draft action plan for deoligarchization was approved in connection with the systematic approach to deoligarchization. According to Shalva Papuashvili, "in the nearest future, this action plan will be fully adopted", which will define the steps that will be in accordance with the conclusions of the Venice Commission and the requirements of the European Union.

### Developments regarding the draft law on de-oligarchization:

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

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

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

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

⌘ Recommendations of the Venice Commission refer to:

- Clarification of key provisions and procedures, such as "being involved in political life" and "exerting significant influence on mass media." The revised draft law contains the mentioned explanations, but some criteria are still vague;
- Elaboration of effective mechanisms for procedural safeguards and effective remedies. According to the revised draft law, a person will have the right to be represented in the process of his/her designation as an oligarch through a representative, and subsequently, he/she will be able to complain in the court of appeals;
- Ensuring the proportionality of legal consequences of designation as an "oligarch". According to the revised draft law, the person designated as an oligarch will no longer be restricted from financing political parties, political campaigns and demonstrations. A person designated as an oligarch is still prohibited from participating in the privatization process and, with exceptions, it will still be mandatory to declare communication with a person designated as an oligarch, which creates the risk of violating Article 8 of the European Convention on Human Rights (the right to privacy and family life).

✗ Venice Commission gives preference to the systemic approach, whereas the original draft law presented by Georgia, as well as the revised version, is still based on a personal approach;

✗ Given the risks identified above, the Venice Commission considers that the "personal approach" taken in the draft law, which defines and stigmatizes persons based on ambiguous criteria, poses a significant risk of human rights violations. According to the revised draft law, the designation and registration of the person as an oligarch doesn't automatically imply a violation of the law.

✘ According to the Venice Commission, the revised draft law cannot remedy the unavoidable frictions with Council of Europe standards on human rights, democracy and the rule of law and therefore, a “systemic” approach should be pursued. According to the Venice Commission, the revised draft law should not be adopted.

✘ The "Georgian Dream" claimed that the opinions of the European Commission and the Venice Commission contradict each other. They declare that the Venice Commission favours a systemic approach, whereas the European Commission insists on a personal one. As the party leaders explain, the "Georgian Dream" endorsed the draft law in its second reading in order to fulfil the priority set by the EC. The "Georgian Dream" also intended to adopt the draft law in the third reading, with the reservation that it would enter into force in March 2024. The "Georgian Dream" presented the EC with an ultimatum that it would not pass the law only if the Commission removed de-oligarchization from the list of priorities. Irakli Kobakhidze clarified later that they would consider the request of their European partners and would refrain from adopting the draft law until December, expecting the EC to remove de-oligarchization from the list of conditions.

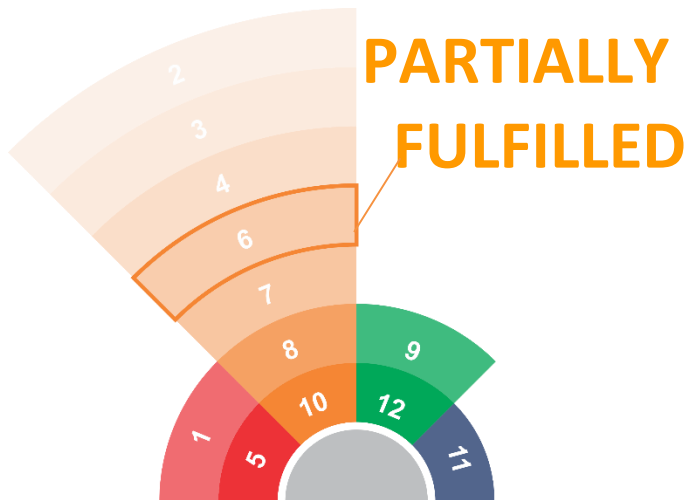
✘ CSOs and part of the opposition were against passing the Law on De-oligarchization, as they believed that passing the law would not solve the problem of de-oligarchization and would only be applied to the opposition supporters and critical media. Furthermore, according to the COSs and opposition, there is no need to adopt the law, and a systemic approach and implementation of other priorities can achieve this goal.

## **CHALLENGES:**

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

! It is necessary to solve the problem of de-oligarchization in a systematic way.

# PRIORITY N6: FIGHT AGAINST ORGANIZED CRIME



## EU REQUESTS:

“Strengthen the fight against organized crime based on detailed threat assessments, notably by ensuring rigorous investigations, prosecutions and a credible track record of prosecutions and convictions; guarantee accountability and oversight of the law enforcement agencies”.

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- address all the outstanding recommendations of the Council of Europe MONEYVAL

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

## STATE OF PLAY:

- ✓ Regarding the interim report and the recommendations of the European Commission, the chairman of the ruling party, Irakli Kobakhidze, stated that the ruling party will have consultations, and based on this, work will continue to approximate our legislation to the recommendations of MONEYVAL;
- ✓ The parliamentary working group conducted an overview and assessment of the situation regarding the fight against organized crime and held eight closed meetings;
- ✓ As a result of the working group meeting, the Defence and Security Committee adopted the document containing 76 specific steps that need to be taken, and responsible bodies and timelines for their fulfilment have been determined. The document covers organized criminal groups, trafficking and money laundering, cyber and drug crimes, financing of terrorism, etc.
- ✓ Parliament adopted the Action Plan for Combating Organized Crime 2022-2024;
- ✓ Parliament of Georgia adopted legislative amendments to the “Law on organizing lotteries, games of chance and other prize games”, “Law on facilitating the prevention of money laundering and the financing of terrorism”, and other legislative acts in order to address the deficiencies identified in the MONEYVAL fifth round evaluation report on Georgia
- ⚠ According to the MONEYVAL follow-up report on Georgia regarding technical compliance published in November 2022, Georgia is fully compliant with 6, largely compliant with 22, partially compliant with 11 and not compliant with one recommendation;
- ✗ The working group didn’t discuss the amendments to the Parliament’s rules of procedure on the strengthening of the accountability and oversight of the law enforcement agencies, with the argument that the work has been done under the second priority.
- ✗ The Defense and Security Committee of the Parliament does not allow the parliamentary opposition to participate in the work of the committee fully and doesn’t provide information to the representatives of the parliamentary opposition about the visits to the agencies of the defence and security sector;
- ✗ Annual Report of the State Security Service of Georgia was presented to the Parliament by the Deputy Head of the State Security Service instead of the Head of the Service, which violates the Rules of Procedures. The Report is superficial and doesn’t provide the members of the Parliament with necessary information about the activities of the state security service.

## CHALLENGES:

! The working group didn't discuss the issue of accountability and oversight of law enforcement agencies;

! Two CSOs suspended their participation in the working process due to the discriminatory decision against ISFED;

! Recommendations regarding the trust group at the Defence and Security Committee presented by the NGOs (DRI) have not been taken into account;

! The protocols of the working group meetings are not publicly accessible;

! Guaranteeing accountability and oversight of law enforcement agencies remains an open issue.

!"Trust Group" still does not have a fifth member from the parliamentary minority quota. On the other hand, the "Trust Group" is not accountable to the Parliament.

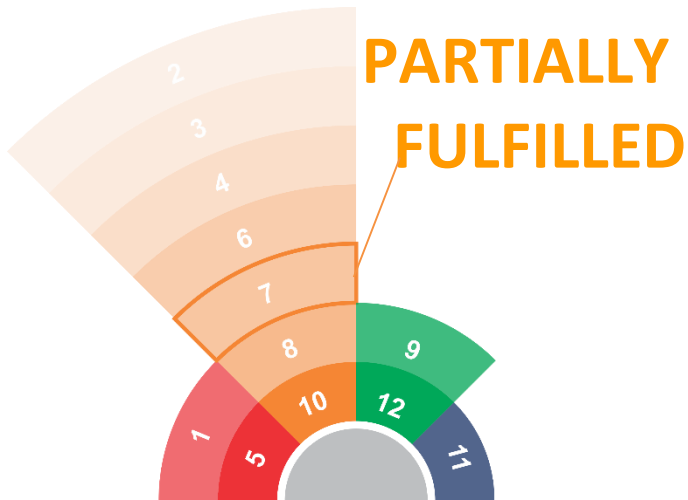
The parliamentary opposition does not have the right to summon the head of the state security service and the general prosecutor to the committee meeting;

! Part of MONEYVAL's recommendations remains to be implemented by the government

! The representatives of the law enforcement agencies respond with delay or incompletely to the questions of the parliamentary opposition;

! Despite the obligation according to the Rules of Procedure on mandatory attendance at the committee meetings, the Ministers of Internal Affairs and Defence of Georgia do not attend the Defence and Security Committee meetings.

# PRIORITY N7: MEDIA



## EU REQUESTS:

“To undertake stronger efforts to guarantee a free, professional and independent media environment, notably by ensuring that criminal procedures brought against media owners fulfil the highest legal standards, and by launching impartial, effective and timely investigations in cases of threats against safety of journalists and other media professionals”.

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- amend the Law on Broadcasting in line with the legal opinion of the Council of Europe
- ensure the safety of journalists
- raise the level of protection of the freedom of journalists and media owners

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

## STATE OF PLAY:

- ✓ On 23 June 2023, the President of Georgia, Salome Zurbashvili, pardoned Nika Gvaramia
- ✗ Georgian Dream pledges that the Parliament, in cooperation with the Prosecutor’s Office and the Interior Ministry, will ensure access to information about the current investigations in the cases of public interest;
- ✓ On 24th and 31st May of 2023, the ruling party initiated draft laws for amending the law of Georgia “On Broadcasting”. According to the explanatory note, the amendments aim to align the legislation with the recommendations provided in the legal opinion of the Council of Europe’s Directorate General for Human Rights and Rule of Law. Per proposed amendments, hate speech and incitement to terrorism are not within the Commission’s regulatory sphere. Commission’s decision will not be immediately put into effect when it concerns fines above 1% of a broadcaster’s annual income and, at the same time, more than 5000 GEL, or a decision that involves the suspension/termination of the broadcaster’s authorization. It is still unclear whether the “right to respond” remains regulated by the Commission or completely leaves its regulatory sphere.

On June 30, 2023, amendments were adopted by the Parliament at its third reading.

### **The following events preceded these changes:**

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

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

According to the amendments:

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

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

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

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

⌘ The draft law "On Broadcasting" of 17th May 2023, which had been adopted by the first hearing on 31 May 2023, would increase the number of members of The Georgian Public Broadcaster's (GPB) board of trustees from 9 to 11; furthermore, the Commission was granted the authority of nominating two candidates to be presented to the parliament as potential members of the board of trustees. Considering criticism on national and international levels concerning the Commission's activities and political bias, it was unclear what legitimate goal it served to introduce the Commission's influences and interests in the Board of GPB by the ruling party. There was a high probability that the amendments would increase political influence inside the broadcaster's board and put its independence at greater risk;

✗ On July 3 2023, the Parliament of Georgia adopted the draft law at its 3rd reading. The law's final version no longer provides for the Commission's authority to present two candidates for the membership of the board of trustees to the Parliament of Georgia.

✗ The Parliament of Georgia abolished the Advisory Board of Adjara Television and Radio of the Public Broadcaster on July 3, 2023, with amendments to the Law of Georgia "On Broadcasting". The powers of the Council were transferred to the Board of Trustees of the Public Broadcaster. The latter's composition increased

from 9 to 11 members, from which the Council of the Autonomous Republic of Adjara will present three members instead of one. The abolition of the Advisory Council did not serve any legitimate purpose. Its abolishment and allocation to the Public Broadcasting Board of Trustees strengthen the ruling party's influence in the broadcaster's governing body;

✗ Chairman of the Parliament issued a new code of conduct introducing new accreditation rules for representatives of media outlets, which partially contradicts the constitution of Georgia and violates the right of the media to fulfil its official duties in the Parliament. Based on the new code of conduct, on 6 April 2023, the Parliament of Georgia suspended the accreditation of three journalists and two cameramen from three critical TV channels – Mtavari Arkhi, Formula and TV Pirveli. On May 11, 2023, the Parliament also suspended the accreditation of a Formula journalist and cameraman based on the mentioned rules. Overall, the accreditation of 7 journalists/operators was suspended based on the new code of conduct;

✗ Parliamentary majority supported the law on "Transparency of Foreign Influence" at the first hearing, which, according to the EU representatives, was incompatible with EU values and standards and contradicted at least 2 of 12 recommendations of the EU Commission. After the massive protests, the draft law was retracted;

✗ Implementation of the Law would have caused the suspension of activities of the independent media.

⌘ According to the statement of the Chairmen of the ruling party, Irakli Kobakhidze, the EU Commission expected to amend the Law on Broadcasting in line with the legal opinion of the Council of Europe, which had already been fulfilled.

⌘ Even though, according to several organizations, the responsibility of the organizers in the case of 5 July 2021 is evidenced, Irakli Kobakhidze stated that identification of the organizers is impossible and there is no proof that the crimes committed on July 5 had an organizer;

✗ On 27 June 2023, co-founder of TV "Formula" Misha Mshvildadze was attacked. The evidence uncovered by the investigative journalists practically proved that the attack was an organized criminal act involving the state security service agents. Based on the decree of the general prosecutor of Georgia, the criminal case was transferred from the Ministry of Interior to the Special Investigation Service of Georgia.

✓ As of August 4, 2023, Davit Kezerashvili is no longer the owner of the control package of "Formula" TV company. The National Agency of Public Registry satisfied Davit Kezerashvili's request, and 25 per cent of the 51 per cent share was transferred to the employees' union - NNLE "Freedom Formula".



## CHALLENGES:

! Guilty verdict on a criminal case against the founder of TV Pirveli remained in force according to the appeal court's decision. Currently, the case is being considered by the Supreme Court;

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

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

! The safety of journalists and the effective response of the state to concrete cases remains a challenge;

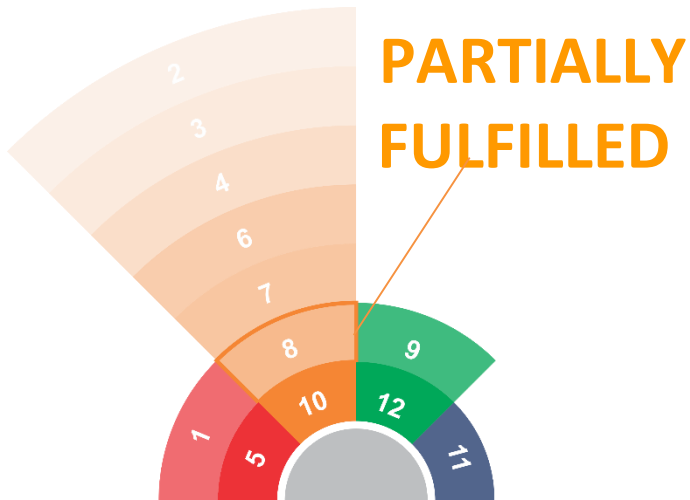
! Initiation, discussion and adoption of the legislation impeding activities of media will deteriorate the media environment in Georgia;

! Based on an unconstitutional new code of conduct issued by the Chairman of the Parliament, the media is restricted from fulfilling its official duties in the Parliament.

! The growing trend of libel suits (SLAPP cases) against critical media and its journalists threatens free media and freedom of speech.



# PRIORITY N8: VULNERABLE GROUPS



## EU REQUESTS:

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

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- Preparation of an Action Plan for the Human Rights Strategy in an inclusive manner
- freedom of assembly and protection for members of the LGBTQI community

- » Investigate July 5, 2021 violence and bring perpetrators and organizers to justice;
- » Enhance the protection of vulnerable groups
- » Adopt the National Human Rights strategy and action plan;
- » Conduct informative and educational campaigns aimed at reducing homophobia and xenophobia;

- » Establish special mechanisms to increase the political representation and participation of ethnic minorities;
- » Create democratic, inclusive and regular consultative mechanisms with the Government and Parliament of Georgia, involving independent civil society actors from the ethnic minority communities;

## STATE OF PLAY:

- ✗ Organizers of the July 5, 2021 violence have not been punished;
- ✓ 31 participants of the July 5, 2021 violence have been found guilty by the Tbilisi City Court;
- ✓ The Government of Georgia elaborated, and the Parliament approved the “National Strategy for Human Rights Protection 2022-2030.” Some opposition parties supported the document;
- ✗ The work has been launched to elaborate the National Action Plan for Human Rights Protection in the Administration of the Government of Georgia;
- ✗ After the release of the interim report of the EU Commission, Irakli Kobakhidze stated:  
“The Human Rights Strategy has already been approved, the Action Plan will be developed, and we are ready for inclusiveness”. Concerning the protection of the freedom of assembly of the LGBTQI+ community, he underlined that some gatherings are held already, and the police are mobilized to ensure safety;
- ✗ Georgian authorities failed to protect the rights of freedom of assembly, expression, and security of the LGBTQI+ group. In particular, despite the official assurance of the Ministry of Internal Affairs, the festival was not held in Tbilisi within the framework of the Tbilisi Pride Week because the police did not ensure the safety of the festival participants from the violent groups;
- ✗ Members of the European Parliament called for targeted sanctions against Alt-Info Group and its Leader, Konstantine Morgoshia, in the joint letter addressed to the President of the European Commission, Ursula von der Leyen, and the President of the European Council, Charles Michel, as well as the EU Commissioner for Equality, Helena Dalli, and Ambassador of the EU to Georgia Paweł Herczyński. The MEPs strongly encouraged the mentioned officials to condemn, to the highest degree, the LGBTQI+-phobic attacks on Tbilisi Pride;
- ✗ The issue of the protection of the LGBTQI+ community was excluded from the Human Rights Strategy. The CSOs have not been involved in the process of elaboration of the strategy. Recommendations submitted later by the CSOs, including concerning the chapter on LGBTQI+, have not been taken into account;

⚡ Government claims that it continues to implement the policies aimed at strengthening ethnic minorities, including supporting ethnic minorities to study the Georgian language, access education at all levels, enrol in internships in state institutions and have access to information in their mother language;

⚡ Persons convicted for violence against journalists and cameramen, including Lexo Lashkarava, have been found guilty by the decision of the appeal court as well, but no single person from the organizers has been punished;

✘ According to the Ministry of Interior, 31 persons are prosecuted for the July 5 case, but none of them are accused of organizing the violence;

✘ After the failed attempt to adopt the proposed law “On Transparency of Foreign Influence, “Georgian Dream” leadership unprecedentedly increased antagonistic rhetoric against LGBTQI+ groups. On 4th May 2023, Prime Minister Gharibashvili made a number of homophobic statements at the Conservative Political Action Conference (CPAC) in Hungary: “...we will not allow the violence of the minority against the majority, and we will not support the minorities’ attempts to change with aggressive propaganda the values which the majority of our population considers to be given by God...” He assessed conducting a Pride March in Tbilisi as “a very provocative event”. The Georgian Dream leader, Irakli Kobakhidze spoke of “LGBT propaganda” as an “anti-government activity”. He made derogatory comments about students critical of him: “Their orientation is completely mixed up, I believe these people should be put on the right tracks – boys should take wives, girls should get married, etc. Their orientation, starting from political, should be fixed; this is our goal; we will do everything for this, for saving the youth”. One of the Leaders of the Georgian Dream, Mamuka Mdinaradze believes that the “LGBT propaganda” could “dramatically increase the number of representatives of certain groups.” In the Parliament, “Georgian Dream’s” satellite opposition party “European Socialists” leader, Fridon Injia, stated that they plan to introduce the draft law about banning “LGBT propaganda”.

## CHALLENGES:

! Organizers and perpetrators of the July 5 violence remain unpunished;

! Protection of the rights of the LGBTQI+ groups disappeared from the agenda and was excluded from the Human Rights Strategy 2022-2030. LGBTQI+ community members, CSOs and international partners criticized this fact;

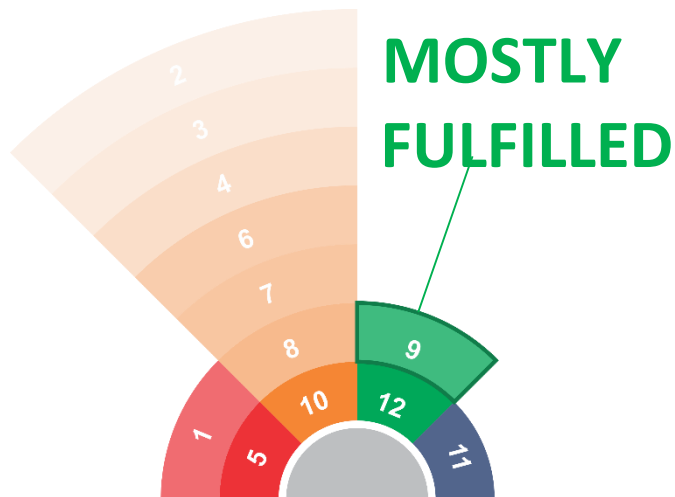
! The ruling party uses the LGBTQI+ issue as a political instrument and significantly steps up the hostile homophobic rhetoric

! The National Human Rights Action Plan has not yet been elaborated by the Government Administration, and public organizations are still not involved in the process;

! The Georgian authorities did not ensure the protection of the rights of freedom of assembly and expression and security of members of the LGBTQI+ community from violent groups;

! The Government and Parliament of Georgia did not create a democratic, inclusive and regular consultative mechanism to increase the political representation and participation of ethnic minorities.

# PRIORITY N9: GENDER EQUALITY AND VIOLENCE AGAINST WOMEN



## EU REQUESTS:

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

## EXPECTATIONS:

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

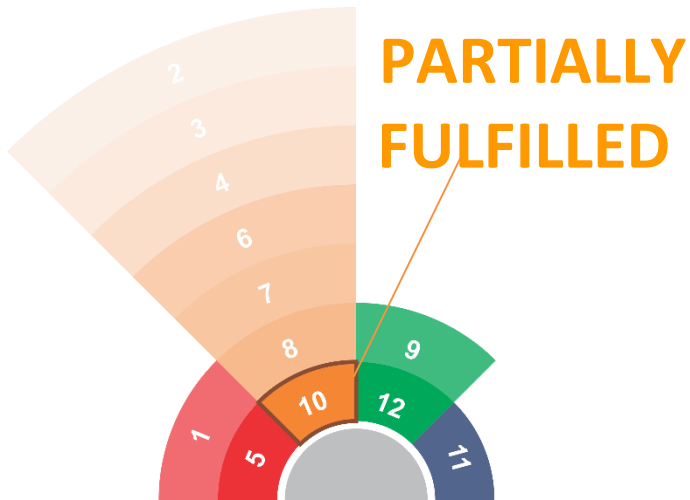
## STATE OF PLAY:

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

## CHALLENGES:

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

# PRIORITY N10: INVOLVEMENT OF THE CSOS



## EU REQUESTS:

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

## EXPECTATIONS:

According to the interim report of the European Commission of June 22, 2023, Georgia needs to:

- resume constructive dialogue with civil society and implement regular and transparent consultations.

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

## STATE OF PLAY:

- ⌘ GD pledged to involve NGOs in implementing 12 priorities and to create the mechanisms for NGOs' effective participation;
- ⌘ NGOs were invited to the parliamentary working groups, albeit with limited representation;
- ✗ GD blocked ISFED from participating in the election working group;
- ⌘ Under the coordination of the Chairman of the Parliament, sporadic meetings with the representatives of civil society have been conducted, but the actual involvement of civil society organizations was not ensured;
- ✓ Before initiating the law "On transparency of foreign influence" in February 2023, some useful work was done within the working groups. Some of the proposals of civil society organizations, including those related to the improvement of the electoral environment, the fight against crime, the functioning of the anti-corruption bureau, gender equality and the protection of vulnerable groups, were taken into account;
- ✗ After initiating the “Foreign Influence Transparency” draft law, the civil society expressed its clear negative position during the meeting with the Chairman of the Parliament due to its anti-European and anti-democratic nature, which the ruling party completely ignored. Civil society also tried to explain the negative aspects of the bill at the committee hearings;
- ✗ Despite the explicit negative position of civil society, media and international partners, the parliamentary majority supported the draft law “on the Transparency of Foreign Influence, “which is incompatible with EU values and standards and contradicts at least 2 of the 12 recommendations of the EU Commission.
- ✗ Implementation of the law could have caused the termination of the activities of the CSOs;
- ⌘ After the massive public protests and international criticism, the draft law was retracted in the second reading, which was positively evaluated by the international community. "Georgian Dream" promised that they would not revert to the bill;
- ✗ As a result of initiation and the first hearing of legislation impeding activities of CSOs, mistrust between the Government and civil society has been deepened;
- ✗ Due to the Government's support for so-called “foreign agent” law, the CSOs (Institute for Development of Freedom of Information IDFI, Transparency International Georgia TI, Civil Society Institute and Georgian Young Lawyers Association GYLA) suspended their membership in the Open Governance Permanent Parliamentary Council advisory group. Even before, the administration of the Parliament deprived this group of the right to use the working space at their disposal in the Parliament, thus worsening the conditions for their work.

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

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

✗ At the beginning of June, working subgroups created to fulfil the 12 priorities partially resumed functioning. More specifically, two meetings of the judiciary reform subgroup were held, intending to incorporate the Venice Commission recommendations in the Law on Common Courts. Some member organizations of the Georgian Civil Society National Platform participated in the working process, including the Liberal Academy, Democracy Index, Social Justice Center, Georgian Young Lawyers' Association, and several independent experts. Civil society organizations presented proposals regarding legislative amendments; however, none of them was reflected in the draft law adopted on June 13;

✔ The cooperation of environmental organizations with the Ministry of Agriculture and Environmental Protection and the Parliamentary Committee on Environmental Protection was fruitful. The outcome of this cooperation was the Law of Georgia on Water, adopted on June 30 in the third reading. The law was adopted in the context of ongoing legislative approximation within the framework of the Association Agreement with the European Union. The ruling party took into account three-quarters of the issues proposed by the civil society sector (28 proposals out of 36), and the law is practically harmonized with the relevant EU directive;

⌘ Regarding implementing the audio-visual directive on broadcasting, civil society representatives, namely the representatives of Georgian National Platform and Media Advocacy Coalition, participated in committee hearings, advocating for the necessary amendments to the law on broadcasting, which was also requested in the legal opinion of the Council of Europe experts published on February 21, 2023 (Opinion of the Council of Europe's Directorate General Human Rights and Rule of Law on The Law of Georgia on Broadcasting). The parliamentary majority accepted the proposals, and the new version of the draft law, which is closely aligned with the provisions of the EU audio-visual directive, was adopted at the third reading on 30 June 2023;

⌘ Civil society organizations also presented a proposal to the Speaker of Parliament regarding the participation of politicians in pre-electoral debates. This proposal aims to contribute to the depolarization of Georgian society.

✔ During June and July 2023, consultations were held between the Office of the Chairman of the Parliament and the Coordination Council of the Civil Society Platform of the Eastern Partnership regarding the possible signing of a memorandum of cooperation. The memorandum envisages the establishment of a mechanism for regular meetings of the civil society coalition with the representatives of the parliament, holding a joint conference to evaluate the progress of the reforms necessary for European integration and publicly discuss the problems. The text of the memorandum is still being consulted, but a joint conference was held on 25 July 2023;

⌘ At the conference, there was an exchange of views on the progress of the reforms carried out to fulfil the 12 priorities of the European Union, which can be evaluated positively. Although such a dialogue is generally useful for increasing the involvement of civil society, the views expressed by the authorities on a number of issues, including the role of civil society, contradict the goals of the tenth priority. Accusing "rich non-governmental organizations" of allegedly misinforming citizens about the law on "agents" and provoking tensions in the society for personal benefits continued;

✗ On June 2, 2023, representatives of civil society organizations, activists and human rights defenders were arrested for holding empty papers and posters at a peaceful demonstration in front of the Parliament of Georgia. Although the Ministry of Internal Affairs, contrary to the requirements of the law, could not validate the expediency of extending the administrative detention period, the representatives of CSOs were placed in the temporary detention centre for a maximum period of 48 hours. The Tbilisi City Court has not yet made a decision regarding their case.

## CHALLENGES:

! According to the CSOs, most of their recommendations on judiciary reform, anti-corruption measures, democratic oversight, media and vulnerable groups remain unaddressed;

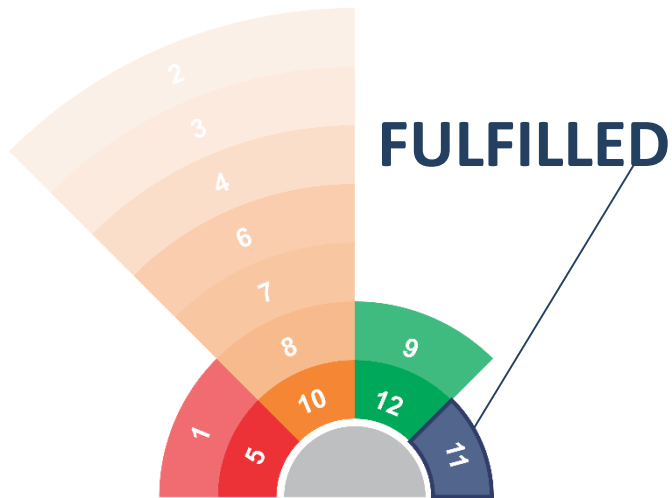
! GD continues a discrediting campaign against the CSOs;

! Initiation, discussion and adoption of legislation impeding activities of the CSOs will significantly deteriorate the conditions for civil society and will hamper their activities, as well as involvement in the decision-making process;

! Initiation and adoption of important legislative acts without the involvement of civil society;

! Recommendations of the CSOs on the Ombudsperson were ignored.

# PRIORITY N11: PROACTIVE CONSIDERATION OF ECHR JUDGMENTS



## EU REQUESTS:

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

## EXPECTATIONS:

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

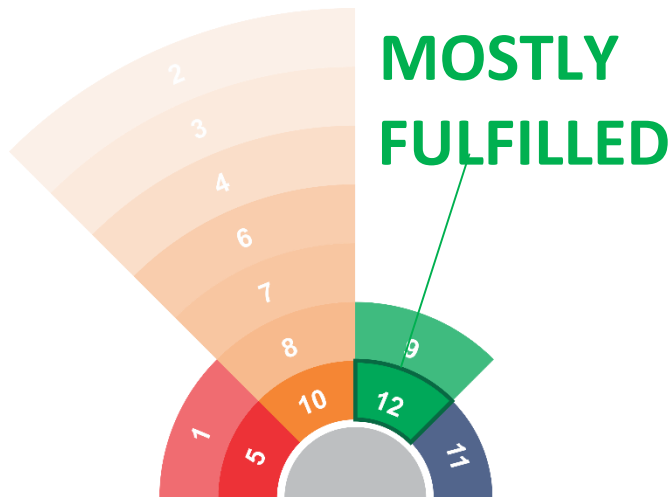
## STATE OF PLAY:

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

## CHALLENGES:

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

# PRIORITY N12: INDEPENDENT OMBUDSPERSON



## EU REQUESTS:

“Ensure that an independent person is given preference in the process of nominating a new Public Defender (Ombudsperson) and that this process is conducted in a transparent manner; ensure the Office's effective institutional independence”.

## EXPECTATIONS:

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

## STATE OF PLAY:

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

✓ During the spring session, GD supported the candidacy of the leaders of the opposition party - Citizens, Vice-Chairman of the Parliament Levan Ioseliani. His candidacy was supported by several MPs from the opposition, as well;

✗ During the spring session, the selection process of candidates for Public Defender was conducted without the involvement of civil society and was nontransparent;

✗ Parliament elected an active politician as a Public Defender;

✓ The Public Defender's Office staff has been maintained almost unchanged and continues to work efficiently.

## CHALLENGES:

! Demonstration of a high level of independence and swift and efficient reaction to instances of violations of human rights by the Public Defender.

