



Strasbourg, 24 June 2024

CDL-AD(2024)023

Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

OPINION

**ON AMENDMENTS TO THE ELECTION CODE
WHICH ABOLISH GENDER QUOTAS**

**Approved by the Council for Democratic Elections
at its 80th meeting (Venice, 20 June 2024) and
adopted by the Venice Commission at its 139th Plenary Session
(Venice, 21-22 June 2024)**

On the basis of comments by

**Mr Nicos ALIVIZATOS (Member, Greece)
Mr Michael FRENDI (Member, Malta)
Ms Katharina PABEL (Substitute member, Austria)**

I. Introduction

1. By letter of 16 April 2024, Ms Zanda Kalnina-Lukasevica, the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, requested an Opinion of the Venice Commission on amendments to the Election Code as adopted by the Georgian Parliament on 4 April 2024, which abolish gender quotas ([CDL-REF\(2024\)014](#), hereafter referred to as “the amendments”).

2. Mr Nicos Alivizatos, Mr Michael Frendo and Ms Katharina Pabel acted as rapporteurs for this Opinion.

3. On 22 and 23 May 2024, a delegation of the Commission composed of Mr Alivizatos, Mr Frendo and Ms Pabel, assisted by Mr Michael Janssen from the Secretariat of the Venice Commission, had online meetings with representatives of the Public Defender’s Office, of majority and opposition parties represented in the Parliament of Georgia, of the Central Election Commission (CEC), the Parliamentary Secretary of the President of Georgia, as well as representatives of several non-governmental organisations and of UN Women. The Commission is grateful to the Georgian authorities and the Council of Europe Office in Georgia for the excellent organisation of these meetings.

4. This Opinion was prepared in reliance on the English translation of the amendments. The translation may not accurately reflect the original version on all points.

5. This Opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings on 22 and 23 May 2024. The authorities of Georgia submitted their comments on the draft opinion on 5 June 2024. The Opinion was approved by the Council for Democratic Elections at its 80th meeting (Venice, 20 June 2024) and adopted by the Venice Commission at its 139th Plenary Session (Venice, 21-22 June 2024).

II. Background

6. Elections in Georgia are primarily regulated by the 1995 Constitution, the 2011 Election Code and the 1997 Law on Political Associations of Citizens. This legal framework overall underwent significant and repeated amendments in recent years.

7. According to Article 37 of the Constitution of Georgia, two chambers shall be established within Parliament “following the full restoration of Georgia’s jurisdiction throughout the entire territory of Georgia”. Before this condition is fulfilled, Parliament is composed of 150 members elected in a single multi-mandate electoral district for a term of four years by a proportional system on the basis of universal, free, equal and direct suffrage, by secret ballot.

8. Legislative amendments of 2020 which followed a year-long, broad and inclusive consultation process, applied to various aspects of the electoral process, some of which entered into force only after the 2020 parliamentary elections. The next parliamentary elections, due on 26 October 2024, will be the first to be held under a fully proportional system. The mandates of MPs will be distributed only to those political parties that receive at least 5% of valid votes cast in the elections.

9. According to Article 74 of the Constitution, representative bodies of local self-government shall be elected by citizens on the basis of universal, equal and direct suffrage by secret ballot. Under the Election Code, members of local councils (*Sakrebulo*s) are directly elected for four-year terms, under a mixed proportional-majoritarian system.

10. By way of the 2020 amendments to the Election Code, a mandatory gender quota for candidate lists was introduced for the first time in Georgia,¹ establishing a temporary mechanism to increase women's political representation.² The reform put in place a 1/2 gender quota ("one in two of different genders") for proportional lists in local council elections and a 1/4 gender quota ("one in four of different genders") for proportional lists in parliamentary elections; later, in 2021, quotas for local self-government elections changed to 1/3 ("one in three of different genders") of the proportional lists. Furthermore, a detailed procedure was prescribed to deal with the possible withdrawal of female MPs during a parliamentary term to guarantee the gender quota in that case.

11. On 25 September 2020, the Constitutional Court upheld the application of the quotas to women, stating that the quotas served the legitimate aim to ensure gender equality and that the Constitution foresaw a positive obligation for the State to take special measures to mitigate existing inequalities based on sex. At the same time, the Court held that the application of the quotas to men was unconstitutional, as it was not needed and would restrict women's rights to political participation and their maximum representation in Parliament. In February 2023, Parliament extended the validity period of gender quotas in proportional party lists until 2032. In addition, the amendments stipulated a) that every fourth person on the party lists for the parliamentary elections of 26 October 2024, as well as for the next parliamentary elections to be held before 2028, should be a *woman* (not, as it was specified before, "a person of another sex"); and b) that every *third* person on the party lists for the parliamentary elections of 28 October 2028, as well as for the next parliamentary elections to be held before 2032, should be a woman.

12. Also in 2020, in parallel with the above-mentioned amendments to the Election Code, a new provision was introduced into the Law on Political Associations of Citizens, according to which political parties entitled to public funding should receive an additional 30% increase in funding if they included at least three candidates of each gender within every 10 candidates on their lists; the additional funding should be used for the activities of the parties' women's organisations.³ This rule was also reflected in the provisions of the Election Code on the submission of party lists for parliamentary and local council elections.⁴

13. On 4 April 2024, the Parliament of Georgia abolished the above-mentioned mandatory gender quotas for political parties' electoral lists under the Election Code and the gender-related funding rule under the Law on Political Associations of Citizens, in an accelerated procedure (third and final reading).⁵ 85 MPs voted in favour of the abolishment, while 22 voted against.

14. On 17 April 2024, the President of Georgia vetoed the amendments⁶ and noted that the issue of gender quotas was included in the ninth part of the European Commission's 12-point plan, which the European Commission had considered fulfilled.⁷ On 15 May 2024, the Georgian Parliament overrode the President's veto, and on 21 May 2024, the law on the amendments was signed by the Speaker of Parliament and entered into force.

¹ In 2018, a legislative initiative to introduce gender quotas was not supported by the necessary majority in the Parliament.

² Cf. Article 203 of the Election Code.

³ Cf. Article 39¹ of the Law on Political Associations of Citizens.

⁴ Cf. Articles 115(6) and 143(5) of the Election Code.

⁵ In addition, the minimum number of candidates on party lists was reduced from 60 to 30, cf. Article 115(3) of the Election Code.

⁶ See [Civil Georgia | President Vetoes Abolition of Quotas for Women MPs](#).

⁷ See [European Commission Georgia Report 2023](#), under Priority 9.

III. Analysis

A. Procedural aspects and Stability of electoral law

15. The Venice Commission has consistently expressed the view that any successful changes to electoral legislation should be built on at least the following three essential elements:

- 1) clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations;
- 2) the adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and
- 3) the political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means by which to timely evaluate any alleged failure to do so.

16. In this regard, the Venice Commission has stated that “[i]f the process of changing the electoral rules is not sufficiently inclusive and transparent, that is if all relevant stakeholders are not involved in the proper way, new electoral rules risk being seen as intended more at favouring incumbents than at improving the electoral system”.⁸

17. Concerning the legislative process of the amendments to the Election Code and to the Law on Political Associations of Citizens, the Venice Commission wishes to reiterate the comments it made on other recent electoral reforms that “the legal framework for carrying out elections should be based on as wide a consensus as possible amongst all the parties participating in an election and that every effort should be made to achieve this shared confidence in the process; at the same time, the ownership of the process can only take place by dialogue amongst all the stakeholders driven by a genuine desire to safeguard and enhance Georgian democracy.”⁹

18. Those statements are also valid in the current context, even more as the amendments have been adopted in an accelerated procedure and without prior public consultations, without taking into account any of the concerns raised by the President of Georgia, the Public Defender of Georgia,¹⁰ several representatives of the opposition and of the civil society, and by international organisations. According to the explanatory report on the amendments, the accelerated procedure was applied because of the short time before the forthcoming parliamentary elections. However, the Venice Commission cannot see that there was an urgent need to abolish the gender quotas, whose validity had even been prolonged in 2023. In case of a real need for reform – which has not been clearly established in the explanatory report – the process should have been launched early enough to ensure comprehensive and inclusive discussions.

19. During the meetings with representatives of the political parties, the rapporteurs were informed that the abolishment of the gender quotas were part of a political agreement between

⁸ Venice Commission and ODIHR, Türkiye - Joint Opinion on the amendments to the electoral legislation by Law No. 7393 of 31 March 2022, [CDL-AD\(2022\)016](#), para. 21.

⁹ Venice Commission and ODIHR, [CDL-AD\(2023\)047](#), Joint Opinion on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 15.

¹⁰ On 2 April 2024, the Public Defender published a statement in which he negatively assessed the draft law and noted, *inter alia*, that “women face invisible barriers every day” and that “the gender quota mechanism is not a privilege granted to women, but an important tool for eliminating discriminatory attitudes towards women, fighting stereotypes, and fulfilling international obligations”, see [Public Defender's Statement on Legislative Changes relating to Abolition of Gender Quotas \(ombudsman.ge\)](#). Concerning barriers to women's political participation in Georgia, see also the following studies: <https://rm.coe.int/eng-study-barriers-to-women-s-women-candidates-political-participation/1680a95e53>; https://georgia.unwomen.org/sites/default/files/2023-08/violence_against_women_in_politics_in_georgia_final.pdf.

the party currently in government and one opposition party.¹¹ The latter proposed the draft amendments and, in exchange for the support by the government party, backed their candidate for the position of the CEC Chairperson. The draft amendments were registered in Parliament on 22 March 2024, became public on 1 April, were subject to a first hearing at the Legal Issues Committee on 2 April, to a first plenary hearing on 3 April and finally adopted on 4 April, by 85 votes in Parliament; the President's veto was also overridden by 85 votes (on 15 May 2024), while Parliament is composed of 150 members.¹² Under the circumstances described above, the Venice Commission cannot conclude that the amendments were adopted by broad consensus after extensive public consultations with all relevant stakeholders and addressing prior recommendations.¹³

20. Furthermore, as the Venice Commission has also stressed in several previous Opinions, “the electoral law must enjoy a certain stability, which is a crucial aspect of legal certainty; on the one hand, such stability allows for the understanding of the electoral rules by all the stakeholders: the candidates, the voters, the electoral administration, the observers, the public; on the other hand, it represents a guarantee against party political manipulation.”¹⁴ The Code of Good Practice in Electoral Matters makes it clear that “[s]tability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy. Rules which change frequently – and especially rules which are complicated – may confuse voters. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections.”¹⁵

21. The practice in Georgia of frequently amending the electoral legislation risks undermining the integrity of the electoral process and the state's ongoing efforts to consolidate democracy. It also risks confusing voters, parties and candidates, and makes it difficult for the competent electoral authorities to apply the law, which may lead to mistakes in the electoral process and, as a consequence, distrust in the elected bodies. Given that several recommendations by the Venice Commission and ODIHR are still pending, the call for a more comprehensive and systemic reform of the Georgian electoral law, well in advance of elections within an inclusive consultation process, is therefore once again reiterated. Care should be taken to address the remaining concerns and outstanding recommendations in such a future reform, to prevent frequent changes and to achieve stability.

22. Finally, regarding the timing of electoral reforms, the Code of Good Practice in Electoral Matters¹⁶ recommends that the fundamental elements of electoral law should not be open to amendment less than one year before an election or should be written in the Constitution or at a level higher than ordinary law. In reference to this recommendation, the Code's Explanatory Note cautions that in adopting amendments, “care must be taken to avoid not only manipulation for the advantage of the party in power, but even the mere semblance of manipulation [...] Even

¹¹ This information was confirmed by the political parties in question. See also [Civil Georgia | GD, Girchi Deal to Abolish Women's Quotas](#).

¹² Article 37(2) of the Constitution.

¹³ Regarding prior recommendations made by the Venice Commission and ODIHR in relation to gender quotas and other recognised methods for facilitating the election of women candidates, see further below in chapter B.

¹⁴ Venice Commission and ODIHR, [CDL-AD\(2023\)047](#), Joint Opinion on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 45. See also, *inter alia*, Venice Commission and ODIHR, [CDL-AD\(2022\)047](#), Joint opinion on draft amendments to the Election Code and the Law on Political Associations of Citizens, para. 28; Venice Commission and ODIHR, [CDL-AD\(2021\)026](#), Urgent Joint Opinion on the revised amendments to the Election Code of Georgia, paras. 39-43; Venice Commission and ODIHR, [CDL-AD\(2021\)022](#), Urgent joint opinion on Draft Amendments to the Election Code, paras. 23-24.

¹⁵ See Venice Commission, Code of Good Practice in Electoral Matters, [CDL-AD\(2002\)023rev2-cor](#), paragraph 63 of the Explanatory Report; see also paragraphs 58 and 64-67.

¹⁶ Venice Commission, Code of Good Practice in Electoral Matters, [CDL-AD\(2002\)023rev2-cor](#), Guideline II.2.b. See also Interpretative Declaration on the Stability of the Electoral Law, [CDL-AD\(2005\)043](#) and (*mutatis mutandis*) ECtHR, 8 July 2008, *Georgian Labour Party v. Georgia*, no. 9103/04, para. 88.

when no manipulation is intended, changes will seem to be dictated by immediate political interests.”¹⁷

23. While the present amendments do not concern either of the three explicitly mentioned fundamental elements to which the one-year principle applies (i.e. the electoral system proper, membership of electoral commissions and the drawing of constituency boundaries), it must be noted that this list is not exhaustive. The amendments relating to political parties' candidate lists are relevant for the outcome of elections, and their adoption much less than one year before the next parliamentary elections therefore gives rise to serious concerns.¹⁸

B. Substantive aspects

24. The equal suffrage is one of the core international standards of democratic elections. This principle includes equality between men and women regarding the right to vote and the right to stand for elections. Nevertheless, in many member states of the Council of Europe and beyond an underrepresentation of women in Parliament is a matter of fact. Therefore, measures to improve the percentage of women in Parliament, especially by way of providing a minimum percentage of persons of each gender among candidates, have been widely discussed. In this line, the Code of Good Practice in Electoral Matters provides that “[l]egal rules requiring a minimum percentage of persons of each gender among candidates should not be considered as contrary to the principle of equal suffrage if they have a constitutional basis.”¹⁹

25. Following the constitutional reform of 2017, Article 11(3) of the Constitution of Georgia states, more generally, that “the State shall provide equal rights and opportunities for men and women. The State shall take special measures to ensure the essential equality of men and women and to eliminate inequality.” With a view to the more specific topic of gender equality in Parliament, the Constitutional Court in the above-mentioned judgment of 2020 decided that the (then) newly introduced gender quotas for candidate lists – as far as their applicability to women was concerned and taking into account that they were of temporary nature – were in line with the Constitution. It held that the quotas served the legitimate aim to ensure gender equality and argued that the Constitution foresaw a positive obligation for the State to take special measures to mitigate existing inequalities based on sex. Underscoring the continued under-representation of women in the Parliament of Georgia, the Constitutional Court noted that the disputed regulation was the most effective mechanism to attain the relevant goal, as alternative non-binding incentives proved to be less effective.

26. The explanatory report on the present amendments abolishing the gender quotas refers to Article 3(4) of the Constitution, according to which “the activities of political parties shall be based on the principles of freedom, equality, transparency, and intra-party democracy”. The report goes on to state that parties should be free in the formation of candidate lists and they should have the autonomy to operate according to meritocratic principles alone. While it is not for the Venice Commission to assess the constitutionality of the now abolished gender quotas, it notes that it has been confirmed by the Constitutional Court as seen above.

27. The explanatory report further mentions that the principle of party autonomy is also reflected in the Joint Guidelines of the Venice Commission and ODIHR on Political Party Regulation. While this is true, the Joint Guidelines also note that women are guaranteed equal protection of all

¹⁷ Venice Commission, Code of Good Practice in Electoral Matters, [CDL-AD\(2002\)023rev2-cor](#), paras. 64-65.

¹⁸ Exceptions to the one-year principle are admissible if there is a broad consensus on the reform. Moreover, the principle “does not take precedence over the other principles of the Code” and it “should not be invoked to maintain a situation contrary to the standards of the European electoral heritage, or to prevent the implementation of recommendations by international organisations” (see Venice Commission, Interpretative Declaration on the Stability of the Electoral Law, [CDL-AD\(2005\)043](#), items II.1. and 2.). The present amendments clearly do not fall under these categories where the one-year principle can be derogated from.

¹⁹ Venice Commission, Code of Good Practice in Electoral Matters, [CDL-AD\(2002\)023rev2-cor](#), Guideline I.2.5.

fundamental rights by a number of international instruments and that gender quotas are in line with such standards.²⁰ In addition, they state that allocation of public funds based on party support for women candidates – as it has also been in place in Georgia prior to the current amendments – may not be considered discriminatory.²¹

28. More than that, international standards recognise positive obligations of the State to ensure gender equality – as did the Constitutional Court of Georgia in the above-mentioned judgment. In particular, the Venice Commission draws attention to Article 2 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) – ratified by Georgia in 1994 –, according to which the States parties to the Convention condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, and undertake to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realisation of this principle.²²

29. In Europe, there is a broad agreement that women's representation should be increased in democratic institutions, including in Parliament,²³ and the Venice Commission has stated on several occasions that the small number of women in politics remains a critical issue which undermines the full functioning of the democratic process.²⁴ The Council of Europe Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision making²⁵ recommends that member States, including Georgia, use the necessary mechanisms for equal access to political, economic, social and cultural resources between women and men to eliminate gender inequality that still exists in member States. For the purpose of the Recommendation, balanced participation of women and men is taken to mean that the representation of either women or men in any decision-making body in political or public life should not fall below 40%.

30. In 2020, the Venice Commission²⁶ noted that considerable progress has been made in the last 25 years and a number of Council of Europe member States had reached the “balanced-gender-representation” minimum of 40%, but that the under-representation of women in many other national Parliaments in Europe must still be considered as problematic from a democratic and human rights perspective. In order to promote democracy and human rights in its member States, thus, “one of the Council of Europe's priorities in the field of equality between women and men is to ensure a more balanced participation of both sexes in political and public decision-making (Rec(2003)3, Expl. memorandum, I C, 13).”

31. According to the Venice Commission Report on the Impact of Electoral Systems on Women's Representation in Politics there is a wide variety of socio-economic, cultural and political factors that can hamper or facilitate women's access to Parliament, and among the institutional factors

²⁰ See Venice Commission and ODIHR, Joint Guidelines on Political Party Regulation, [CDL-AD\(2020\)032](#), paras. 166ff.

²¹ Venice Commission and ODIHR, Joint Guidelines on Political Party Regulation, [CDL-AD\(2020\)032](#), para. 244.

²² United Nations, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979. The original version is available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>. See Articles 7(c) and 3 of the CEDAW. See also Venice Commission and ODIHR, Joint Guidelines on Political Party Regulation, [CDL-AD\(2020\)032](#), paras. 166ff., which contain further references.

²³ See already Venice Commission, Report on Electoral Law and Electoral Administration in Europe - Synthesis study on recurrent challenges and problematic issues, [CDL-AD\(2006\)018](#), para. 179.

²⁴ E.g. Venice Commission and ODIHR, Armenia - Joint Opinion on the draft electoral code as of 18 April 2016, [CDL-AD\(2016\)019](#), para. 121; see already Venice Commission and ODIHR, Guidelines on Political Parties Regulation, [CDL-AD\(2010\)024](#), para. 99.

²⁵ Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e0848.

²⁶ See Venice Commission, Report on electoral law and electoral administration in Europe - Synthesis study on recurrent challenges and problematic issues, [CDL-AD\(2020\)023](#), para. 258.

of politics, both the electoral system and gender quotas can strongly influence women's parliamentary representation.²⁷

32. It is for each country to decide how to improve gender equality in democratic institutions, including the Parliament.²⁸ In the last decade, the Venice Commission observed that there was a growing number of States that have included gender quotas in their electoral legislation, and that quotas within candidates' lists were preferred, as opposed to reserved seats in constituencies.²⁹ It considered that, if legislative quotas were imposed, they should provide for at least 30% of women on party lists, while 40 or 50 were preferable in order to be effective.³⁰

33. As the Venice Commission and ODIHR have noted in their 2011 Joint Opinion on the draft election code of Georgia, "although neither the Council of Europe nor OSCE require gender quotas, both recognise that legislative measures are effective mechanisms for promoting women's participation in political and public life."³¹ Furthermore, they referred to Article 4 of the CEDAW which emphasises that "adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination."³² It should be noted that measures to ensure gender-balanced representation (gender parity) in elected bodies appear more and more as an international standard.³³ Moreover, it must be stressed again that following the constitutional reform of 2017, there is a legal constitutional obligation to seek gender balance in public life, and that the removal of the gender quotas impinges directly on that objective. Noting women's under-representation in the legislature and political and public life, more generally, the Venice Commission and ODIHR recommended to Georgia already in 2011, *inter alia*, that "the electoral system could be revised, either through the use of quotas or other recognised methods for facilitating the election of women candidates, so that current percentages of women who are elected are increased substantially; (...) Some portion of public funding for political parties could be linked to the proportion of women nominated as candidates by political parties and/or included on party lists."³⁴

34. The 2020 amendments introducing gender quotas for candidate lists in parliamentary and local elections as well as the financial incentives for political parties were fully in line with those recommendations – and with previous recommendations contained in ODIHR election observation reports³⁵ – but they have now been abolished without being replaced by any other measures aimed at facilitating the election of women candidates.

²⁷ Venice Commission, Report on the Impact of Electoral Systems on Women's Representation in Politics, [CDL-AD\(2009\)029](#), paras. 107f.

²⁸ Venice Commission and ODIHR, Armenia - Joint Opinion on the draft electoral code as of 18 April 2016, [CDL-AD\(2016\)019](#), para. 121.

²⁹ Venice Commission, Report on the method of nomination of candidates within political parties, [CDL-AD\(2015\)020](#), para. 79.

³⁰ Venice Commission and ODIHR, Armenia - Joint Opinion on the draft electoral code as of 18 April 2016, [CDL-AD\(2016\)019](#), para. 121.

³¹ Venice Commission and ODIHR, Joint opinion on the draft election code of Georgia, [CDL-AD\(2011\)043](#), para. 34, with reference to OSCE Ministerial Council, Decision No. 7/09 in Women's Participation in Political and Public Life, para. 2; and Council of Europe, Parliamentary Report of 22 December 2009 on Increasing women's representation in politics through the electoral system.

³² United Nations, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979. The original version is available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

³³ See for example the ongoing elaboration of the CEDAW general recommendation No 40. on the equal and inclusive representation of women in decision-making systems; Council of Europe, Recommendation [Rec\(2003\)3](#) of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making and Reykjavik Summit of the Council of Europe – United around our values, Reykjavik Declaration, point 10.

³⁴ Venice Commission and ODIHR, Joint opinion on the draft election code of Georgia, [CDL-AD\(2011\)043](#), para. 35.

³⁵ See e.g. OSCE/ODIHR Election Observation Mission Final Report, Georgia, Parliamentary Elections, 8 October and 30 October (second round) 2016, Recommendation 16, available at: <https://www.osce.org/odihr/elections/georgia/261521>.

35. This move gives rise to concerns, in light of the national and international positive obligations to ensure gender equality as described above. The explanatory report on the amendments claims that the quota mechanism proved to be ineffective, but it does not provide any empirical evidence. At the same time, representatives of the two parties which supported its abolishment indicated to the rapporteurs that the quota mechanism had already to some extent achieved its goal, as the number of women involved in politics had increased and women's issues had become a relevant part of the political agenda. According to information available to the rapporteurs, the representation of women in politics did indeed increase after the introduction of mandatory gender quotas:³⁶ women's representation in Parliament, compared to the Parliament of the ninth convocation (2016), increased by 3% and amounted to 19.1% (in 2020); and their number in local councils rose from 13.8% (in 2017) to 24% (in 2021).³⁷ At the same time, these numbers clearly indicate that more progress is necessary, bearing in mind that more than half of the Georgian population are women. Most of the rapporteurs' interlocutors agreed that mandatory gender quotas were still necessary in Georgia and had proved to be the most effective tool to facilitate the election of women candidates; moreover, the shift to a fully proportional system in parliamentary elections – which will first be applied in the October 2024 elections – might have increased their effectiveness. They also raised particular concerns about local elections, where quotas had been particularly effective. Finally, several interlocutors stressed that in the present situation in Georgia, gender quotas alone would not be sufficient but should be complemented by further measures – by the State and by political parties – to protect and encourage female candidates.

36. In view of the preceding paragraphs, the Venice Commission recommends taking special temporary measures to improve women's representation in Parliament and in local councils (*Sakrebulo*s), such as the re-introduction of gender quotas or other recognised methods for facilitating the election of women candidates, so that current percentages of women who are elected are increased substantially.

IV. Conclusion

37. By letter of 16 April 2024, Ms Zanda Kalnina-Lukasevica, the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, requested an Opinion of the Venice Commission on amendments to the Election Code as adopted by the Georgian Parliament on 4 April 2024, which abolish gender quotas.

38. By way of the 2020 reforms of the Election Code, mandatory gender quotas for candidate lists in parliamentary and local council elections had been introduced for the first time in Georgia, establishing a temporary mechanism to increase women's political representation. Also in 2020, a new provision was introduced into the Law on Political Associations of Citizens, according to which political parties entitled to public funding should receive an additional 30% increase in funding if they included at least three candidates of each gender within every 10 candidates on their lists. In February 2023, Parliament extended the validity period of gender quotas in proportional party lists until 2032.

39. On 4 April 2024, the Parliament of Georgia abolished the above-mentioned mandatory gender quotas for political parties' electoral lists under the Election Code and the gender-related funding rule under the Law on Political Associations of Citizens, in an accelerated procedure. On 17 April 2024, the President of Georgia vetoed the amendments. On 15 May 2024, the Georgian Parliament overrode the President's veto, and on 21 May 2024, the law on the amendments was signed by the Speaker of Parliament and entered into force.

³⁶ See the 2022 study "Mandatory Gender Quota in Georgia: Practice of the 2020 and 2021 Elections" carried out by the National Democratic Institute (NDI), available at: <https://www.undp.org/sites/g/files/zskgke326/files/2022-12/undp-georgia-gender-quotas-2022-eng.pdf>, pages 27f.

³⁷ From the proportional lists, in the 2021 local elections women won 31.4% of mandates, compared to 19.8% of mandates in 2017.

40. The Venice Commission is highly concerned that the amendments have been adopted in an accelerated procedure, without prior public consultations, and without taking into account any of the concerns raised by the President of Georgia, the Public Defender of Georgia, several representatives of the opposition and of the civil society, and by international organisations. Moreover, the amendments relating to political parties' candidate lists are relevant for the outcome of elections, and their adoption much less than one year before the next parliamentary elections – scheduled for October 2024 – gives rise to serious concerns regarding stability of electoral law. The Venice Commission stresses again, as it did in a series of previous opinions, that the practice in Georgia of frequently amending the electoral legislation risks undermining the integrity of the electoral process and the state's ongoing efforts to consolidate democracy.

41. On substance, the Venice Commission notes that international standards including the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) recognise positive obligations of the State to ensure gender equality – as did the Constitutional Court of Georgia in a judgment of 2020, in which it confirmed the constitutionality of the temporary gender quotas as far as their applicability to women was concerned. While it is for each country to decide how to improve gender equality in democratic institutions, including the Parliament, it has been demonstrated that gender quotas can strongly influence women's parliamentary representation, and they are not contrary to the principle of equal suffrage if they have a constitutional basis, as in Georgia. Figures show that the representation of women in Georgian politics did increase after the introduction of mandatory gender quotas, but that more progress is necessary: women's representation increased to 19.1% in Parliament, following the 2020 elections, and to 24% in local councils, following the 2021 elections. However, this remains far from the recommended European standard of 40% of the representation of either women or men in any decision-making body in political or public life.

42. The 2020 amendments introducing gender quotas for candidate lists in parliamentary and local elections as well as the financial incentives for political parties were in line with previous recommendations of the Venice Commission, but they have now been abolished without being replaced by any other measures aimed at facilitating the election of women candidates.

43. In view of the above, the Venice Commission recommends taking special temporary measures to improve women's representation in Parliament and in local councils (*Sakrebulo*s), such as the re-introduction of gender quotas or other recognised methods for facilitating the election of women candidates, so that current percentages of women who are elected are increased substantially.

44. The Venice Commission remains at the disposal of the Georgian authorities and the Parliamentary Assembly for further assistance in this matter.