

OPINION ON TWO ORGANIC LAWS OF GEORGIA AMENDING THE ELECTION CODE AND THE LAW ON POLITICAL UNIONS OF CITIZENS IN RELATION TO GENDER QUOTAS

GEORGIA

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Based on an unofficial English translation of the Organic Laws provided by the Public Defender of Georgia.



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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The amendments to the Election Code and to the Law on Political Unions of Citizens of Georgia published on 21 May 2024, remove the gender quotas applicable to party lists for parliamentary and municipal elections, as well as the financial incentive to encourage political parties to nominate more women than the legal minimum. Without introducing alternative forms of temporary special measures or other recognized mechanisms to accelerate women's political representation in Georgia, this represents a setback for the advancement of gender equality in Georgia, not in line with international human rights standards and OSCE commitments which mandate the elimination of discrimination against women in political and public life.

Quota systems aimed at accelerating *de facto* equality were a part of the Georgian electoral system and were gradually leading to increased women's representation in the country. There is no evidence to suggest that the abolition of gender quotas was necessary either for reasons of constitutionality, compliance with international obligations, ineffectiveness or because they were no longer necessary. While the gender balance in the national parliament was slowly but gradually improving, also as the result of the introduction of the mandatory gender quota in 2020 and financial incentives, it still remains low compared to other countries in the OSCE region and does not reach the targets provided by international and regional standards and recommendations.

On the contrary, the abolition of electoral gender quotas does not appear consistent with the constitutional obligation to adopt special measures to ensure the substantial equality of men and women and to eliminate inequality. This measure is also at odds with the respective international commitments under the Convention on the Elimination of Discrimination Against Women (CEDAW) and regional standards and recommendations, which have long supported a "critical mass" with the ultimate goal to achieve full gender equality of women in decision-making as a key lever for advancing women's rights and promoting equal, inclusive democratic societies. This is especially concerning given that the amendments do not bring forward other effective methods to ensure a balanced gender representation in public decision-making bodies.

Moreover, in recent years, countries and international organizations have strongly reaffirmed their commitments to the full, equal and effective participation of women in decision-making at all levels and in all areas of public life. International human rights monitoring mechanisms have specifically called upon Georgia to "*Adopt or reintroduce targeted measures, including temporary special measures, such as statutory quotas and targeted political campaign financing, and establish time-bound targets as a necessary strategy to accelerate the achievement of substantive equality of women and men in all areas*" and to "*Introduce preferential recruitment of women and, as appropriate, adopt temporary special measures, such as quotas and a gender parity system, at all levels of government, the judiciary, [...] in particular at decision-making levels*".

The Explanatory Notes in support of the enacted legislation do not provide concrete evidence, data nor facts, or in-depth analysis of the operation of gender quota mechanisms, or possible alternative, and fail to make a convincing case on the necessity for the abolition of electoral gender quotas and of the financial incentives for political parties. Key findings of international and regional organizations generally conclude that quotas have proven to be an effective mechanism in

accelerating women's representation and ensuring a representable distribution of elected positions that is closer to the distribution of the electorate.

There are also procedural deficiencies in the manner in which the amendments have been introduced, through urgent proceedings and without adequate and inclusive participation of and consultation with all relevant stakeholders. The amendments were also enacted in close temporal proximity to the election, which is scheduled for 26 October 2024 challenging the principle of stability of electoral legislation.

As a consequence, ODIHR makes the following recommendations, in brief:

A. Regarding the lawmaking process:

1. to ensure that any future amendments to the electoral legal framework and other legislation regarding gender balanced representation in political and public life are preceded by a proper impact assessment and subjected to timely, inclusive, extensive and effective consultations, including with civil society and groups working on the promotion of gender equality, while offering equal opportunities for women and men to participate;
2. to refrain from considering legislative initiatives in accelerated proceedings, except in cases of genuine urgency to pass a specific law;

B. Regarding gender quotas and financial incentives for political parties:

1. In line with Georgia's international obligations, authorities should take urgent action to put in place effective temporary special measures to eliminate discrimination against women in public and political life. In the absence of proposals for other equally effective special measures and given the recognized impact the quota has been having on women's participation in Georgia, the authorities should give particular consideration to re-introducing the mandatory electoral gender quotas as well as the requirement that a woman withdrawing from her mandate as Member of Parliament be replaced by the next woman candidate on the same party list, an important measure to ensure the effective implementation of the quota if reintroduced. Additionally, authorities could consider the introduction of even stronger measures with specific, measurable and clearly identified goals and targets, together with an independent monitoring and data collection mechanism and clear timeline for evaluation of their impact;
2. to include a provision in the Election Code which would clarify the conditions under which the gender quotas, if re-introduced, would be lifted when the objective of gender parity would be sustainably attained;
3. to re-introduce financial incentives for political parties to enhance the inclusion of women in party lists;
4. to consider additional legislative or other measures with a view to promote more balanced and diverse representation in party structures and more generally, more intra-party democracy, while encouraging the development and implementation of internal party gender-related policies, including measures or incentives to attract, recruit, engage and promote female candidates and the development of a robust framework to prevent and combat violence against women in politics;
5. should the Georgian authorities not opt for re-introducing the mandatory electoral gender quotas, at minimum, the adoption of alternative, equally

effective, temporary special measures or other recognized mechanisms to accelerate women's political participation, should be considered. Depending on the results of an impact assessment and if shown that they can effectively impact women's participation such measures could include a combination of targeted political campaign financing, measures or incentives to attract, recruit, engage and promote female candidates, financial incentives for political parties, targeted media regulation, as well as other measures to combat discrimination and violence against women in politics, including awareness-raising and educational campaigns among politicians, in the media and among the general public about the need for the full, free and democratic participation of women on an equal basis with men in political and public life, among others.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

TABLE OF CONTENTS

I. INTRODUCTION	6
II. SCOPE OF THE OPINION	6
III. LEGAL ANALYSIS AND RECOMMENDATIONS	7
1. Relevant International Human Rights Standards and OSCE Human Dimension Commitments	Error! Bookmark not defined.
2. Background	10
3. Process of Developing and Adopting the Organic Laws.....	12
3.1. Stability of Electoral Legislation.....	12
3.2. Use of Accelerated Procedure	13
3.3. Rationale Invoked for Abolishing the Gender Quotas and Lack of Evidence-Based Approach to Lawmaking.....	14
3.4. Lack of Public Consultation.....	16
4. Abolition of Electoral Gender Quotas	17
5. Abolition of Financial Incentives for Political Parties for the Inclusion of Female Candidates in their Lists	19
6. Complementary Measures and Other Temporary Special Measures or Recognized Methods to Enhance Women’s Political Representation	20
ANNEX 1: Organic Law on Making Amendments to the Organic Law of Georgia Election Code of Georgia	
ANNEX 2: Organic Law on Making Amendments to the Organic Law of Georgia on Political Associations of Citizens	

I. INTRODUCTION

1. On 20 April 2024, the Public Defender of Georgia sent to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) a request for a legal review of the then draft Organic Law on Making Amendments to the Organic Law “Election Code of Georgia” and the draft Organic Law on Making Amendments to the Law of Georgia on Political Unions of Citizens (hereinafter “the Amendments”) as adopted on 4 April 2024. On 18 April, the President vetoed the two Organic Laws. On 15 May, the Parliament overrode President’s veto and adopted the initial versions of the two Organic Laws of 4 April.¹
2. On 8 May 2024, ODIHR responded to this request, confirming the Office’s readiness to prepare a legal opinion on the compliance of the Amendments with international human rights standards and OSCE human dimension commitments.
3. This Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments pertaining to political participation and promotion of gender equality and women’s rights.²

II. SCOPE OF THE OPINION

4. The scope of this Opinion covers only the Amendments submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating elections and gender equality in Georgia.
5. The Opinion raises key issues and provides indications of areas of concern. The ensuing legal analysis is based on international and regional human rights and democratic governance standards, norms and recommendations as well as relevant OSCE human dimension commitments. The Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field. When referring to national legislation, ODIHR does not advocate for any specific country model but rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice in certain national laws. Any country example should be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.
6. This Opinion is based on an unofficial English translation of the Amendments provided by the Public Defender of Georgia, attached to this document as Annexes. Errors from

¹ See [Organic Law Making Amendments to the Organic Law "Election Code of Georgia" \(matsne.gov.ge\)](https://matsne.gov.ge), adopted on 15 May 2024 and published on 21 May 2024 (immediate entry into force upon publication); and [Organic Law on Making Amendments to the Organic Law of Georgia on Political Unions of Citizens \(matsne.gov.ge\)](https://matsne.gov.ge), adopted on 15 May 2024 and published on 21 May 2024 (amendments i.e., removal of Article 39¹ of the Organic Law, to enter into force the day following the acquisition of full powers by the parliament elected as a result of the 2024 elections of the Parliament of Georgia).

² In particular, OSCE Action Plan for the Promotion of Gender Equality, adopted by Decision No. 14/04 of 7 December 2004, MC.DEC/14/04 (2004), para. 44 (b), which states that “ODIHR, in co-operation with other international organizations and relevant national bodies and institutions, will assist OSCE participating States in complying with international instruments for the promotion of gender equality and women’s rights, and in reviewing legislation to ensure appropriate legal guarantees for the promotion of gender equality in accordance with OSCE and other commitments”. See also OSCE Ministerial Council, Athens 2009, [Decision No.7/09, on Women’s Participation in Political and Public Life](#).

translation may result. Should the Opinion be translated in another language, the English version shall prevail.

7. In view of the above, ODIHR would like to stress that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Georgia in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. RELEVANT INTERNATIONAL HUMAN RIGHTS STANDARDS AND OSCE HUMAN DIMENSION COMMITMENTS

8. Global and regional commitments over the last fifty years provide solid support for promoting gender equality in political and public life. International instruments clearly support temporary special measures aimed at achieving gender equality. In particular, the UN Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter “CEDAW”)³ provides that States Parties “*agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women*”. This obligation entails that states must ensure the practical realization of the principle of equality between men and women. Furthermore, Article 3 of CEDAW requires to take in all fields, in particular the political field, all appropriate measures, including legislation, to ensure the full development and advancement of women, while Article 4 allows for the adoption of “temporary special measures” to accelerate *de facto* equality. Article 7 specifically calls upon states to eliminate discrimination against women in political and public life, ensuring for women, on equal terms with men, the right to be eligible for election to all publicly elected bodies and the right to participate in the formulation and implementation of government policy.
9. The CEDAW provisions have been further elaborated in general recommendations which have clarified the nature of the obligations applicable to States. The CEDAW Recommendation No. 23, on political and public life, addresses the role of political parties, clarifying that the obligations of the state to introduce measures to promote the equal participation rights of women extended to the activities of political parties.⁴ The CEDAW General Recommendation No. 25, on temporary special measures, underlines that such measures are “*a part of a necessary strategy by States parties directed towards the achievement of de facto or substantive equality of women with men in the enjoyment of their human rights and fundamental freedoms*” and lists political parties among the sectors of society which must lead efforts to support the realisation of equality for women in political life along with the state.⁵ It also emphasizes that these measures “*should not*

³ See the [UN Convention on the Elimination of All Forms of Discrimination against Women](#) (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. Georgia acceded to the Convention on 26 October 1994 and to the Optional Protocol to CEDAW on 1 August 2002.

⁴ See General Recommendation No. 23 (16th Session, 1997), Committee on the Elimination of Discrimination against Women (CEDAW Committee), paras. 5 and 43.

⁵ See CEDAW Committee, General Recommendation No. 25 on article 4, paragraph 1, of the CEDAW, on temporary special measures (adopted on the 30th Session, 2004), paras. 18-22, which clarifies that these measures “should aim to accelerate the equal participation of women in the political, economic, social, cultural, civil or any other field” and are not “an exception to the norm of non-discrimination”, but “part of a necessary strategy by States parties directed towards the achievement of de facto or substantive equality of women with men in the enjoyment of their human rights and fundamental freedoms”; they are to be distinguished from “other general social policies adopted to improve the situation of women and the girl child”; “should [...] not be deemed necessary forever” and their duration “should be determined by its functional result in response to a concrete problem and not by a predetermined passage of time”; they “must be discontinued when their desired results have been achieved and sustained for a period of time”. As further underlined in the General Recommendation No. 25, the term “measures” encompasses a wide variety of legislative, executive, administrative and other regulatory

*be deemed necessary forever and their duration should be determined by its functional result in response to a concrete problem and not by a predetermined passage of time. Temporary special measures must be discontinued when their desired results have been achieved and sustained for a period of time”.*⁶

10. Other international standards applicable to Georgia which elaborate the principle of equality between men and women and the right of women to participate in public and political life include the Universal Declaration of Human Rights (hereinafter “UDHR”) and the International Covenant on Civil and Political Rights (hereinafter “ICCPR”). The UDHR recognizes that everyone is entitled to all the rights and freedoms provided in the UDHR without distinction of any kind, including on the ground of sex, and states that everyone has the right to take part in the government of their country, directly or through freely chosen representatives.⁷ The ICCPR also protects the equal right of women and men to be elected, while prohibiting discrimination on the ground of sex in the exercise of the protected rights.⁸ In its General Comment No. 18 on Non-Discrimination, the UN Human Rights Committee underlined that “*the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant*”.⁹
11. In 1990, the UN Economic and Social Council adopted a resolution establishing a target of 30% women in leadership positions by 1995, with a view to achieving equal representation of women and men by the year 2000.¹⁰ The Beijing Declaration and Platform for Action, adopted at the UN’s Fourth World Conference on Women in 1995, identified women in power and decision-making as one of its twelve strategic objectives. It called on governments to establish the goal of gender balance and take action to substantially increase the number of women to achieve equal representation of women and men.¹¹ Adopted in 2015, Targets 5.5 and 16.7 of the Sustainable Development Goals aim for women’s full and effective participation and responsive, inclusive, and representative decision-making at all levels. In 2021, at the annual meeting of the Commission on the Status of Women, UN Member States confirmed their commitment to achieve the goal of 50/50 gender balance at all levels of elected positions.¹²
12. Since Georgia is a member of the Council of Europe (hereinafter “CoE”), the European Convention on Human Rights and Fundamental Freedoms (hereinafter “ECHR”),¹³ the developed case law of the European Court of Human Rights (hereinafter “ECtHR”) and other CoE instruments, are also of relevance. In particular, Article 14 of the ECHR and Protocol 12 prohibit discrimination in relation to any Convention right as well as in relation to the “enjoyment of any right set by law”, respectively. This includes the right to “free elections” which is established in Article 3 of Protocol 1. The Venice Commission Code of Good Practice in Electoral Matters provides that “[l]egal rules

instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems. The term “special” measures refer to those designed to serve a specific goal. The choice of a particular “measure” will depend on the context and on the specific goal it aims to achieve.

⁶ *Ibid.*, para. 20.

⁷ See United Nations, [Universal Declaration of Human Rights](#), as proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A), Articles 2 and 21 (1).

⁸ See United Nations, [International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976](#).

⁹ See UN Human Rights Committee (CCPR), [General Comment 18](#) on Non-discrimination (37th Session 1989), para. 10.

¹⁰ [Resolution 1990/15](#), United Nations Economic and Social Council, 1990.

¹¹ United Nations, [Beijing Declaration and Platform for Action](#), 1995, paragraph 190a.

¹² [Agreed conclusions: Women’s full and effective participation and decision-making in public life, as well as the elimination of violence, for achieving gender equality and the empowerment of all women and girls](#), the UN ECOSOC, the Commission on the Status of Women, Sixty-fifth session, 15–26 March 2021, New York: UN.

¹³ See [the European Convention on Human Rights and Fundamental Freedoms](#) (hereinafter “ECHR”). Georgia ratified the Convention on 13 April 2000 and its Protocol No. 12 on 15 June 2001 (the Protocol No. 12 entered into force on 1 April 2005).

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”.¹⁴ Furthermore, the CoE’s Committee of Ministers recommendation on balanced participation of women and men in political and public decision-making urged the Member States to take “*special measures to stimulate and support women to participate in political decision making*”, setting the target of 40% representation of men and women in public and political decision-making.¹⁵

13. At the EU level, as a country with EU candidate status, it is also important to take into consideration EU primary legislation and the EU Charter on Fundamental Rights.¹⁶ Article 2 of the Treaty on European Union underlined the values of the EU, noting in particular the values common to the Member States in “*a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail*”. Article 23 of the Charter also specifically provides that “*Equality between women and men must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.*” Georgia was granted candidate status in December 2023¹⁷ on the understanding that it takes the relevant steps to fulfil the priorities defined by the European Commission.¹⁸
14. The promotion of gender equality is also an integral element at the core of the OSCE commitments. In the 1990 Copenhagen Document, participating States expressed their commitment to the protection and promotion of human rights and fundamental freedoms, including, in paragraph 5.9, equality before the law for all persons and the prohibition of discrimination.¹⁹ In the 1991 Moscow Document, participating States affirmed their goal of achieving equality of opportunity between men and women and of promoting effective measures to that end, as well expressed a commitment to encourage and promote equal opportunity for full participation by women in all aspects of political and public life.²⁰ With the 2004 OSCE Action Plan for the Promotion of Gender Equality, ODIHR was mandated with assisting participating States in developing effective measures to bring about the equal participation of women in democratic processes.²¹ In Decision No. 7/09, on Women’s Participation in Political and Public Life (Athens 2009), the OSCE Ministerial Council called on participating States to “*consider possible legislative measures, which would facilitate a more balanced participation of women and men in political and public life and especially in decision-making*” and “*to encourage all political actors to promote equal participation of women and men in political parties, with a view to achieving better gender-balanced representation in elected public offices at all levels of decision-making*”.²²
15. There are also a number of “soft law” principles and recommendations of authoritative international and regional bodies which although not legally binding may serve as useful reference documents in this sphere. In particular, the ODIHR and Venice Commission Guidelines on Political Party Regulation (hereinafter “the Guidelines”) provide a number of recommendations aim at enhancing the representation of women in political parties

¹⁴ Venice Commission, [Code of Good Practice in Electoral Matters](#).

¹⁵ [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](#), Council of Europe (CoE), Committee of Ministers, adopted at the 831st meeting of the Ministers’ Deputies, 12 March 2003.

¹⁶ [Charter of Fundamental Rights of the European Union](#), 2012/C 326/02.

¹⁷ See <[Georgia - Consilium \(europa.eu\)](#)>.

¹⁸ See European Commission, [Opinion on the EU membership application by Georgia](#), 17 June 2022, noting the requirement to “*notably consolidate efforts to enhance gender equality and fight violence against women*”.

¹⁹ [Document of the Copenhagen Meeting](#) of the Conference on the Human Dimension of the OSCE.

²⁰ [Document of the Moscow Meeting](#) of the Conference on the Human Dimension of the OSCE.

²¹ [Decision No. 14/04 on OSCE Action Plan for the Promotion of Gender Equality](#), OSCE Ministerial Council, Sofia 2004.

²² [Decision No.7/09, on Women’s Participation in Political and Public Life](#), OSCE Ministerial Council, Athens 2009.

and in political life more generally.²³ The ODIHR [Compendium of Good Practices for Advancing Women’s Political Participation in the OSCE Region](#) (2016)²⁴ and [Handbook on Promoting Women’s Participation in Political Parties](#) (2013)²⁵ may also provide useful guidance.

2. BACKGROUND

16. Article 11 (3) of the Constitution of Georgia provides that the state is obliged “*to provide for equal rights and opportunities for men and women*” and “*shall take special measures to ensure substantial equality of men and women and to eliminate inequality*”. According to Article 11 of the Law on Gender Equality, “*both men and women shall have equal rights to be elected to a representative body*”.
17. Advancement of the equal participation of women in political life in Georgia has been addressed through the introduction of quota measures in the Election Code of Georgia, with additional incentives for political parties contained in the Law on Political Unions of Citizens.
18. The constitutional amendments of 23 March 2018 introduced fully proportional electoral system from 2024 parliamentary elections. During the 2020 electoral reform, a mandatory quota for candidate lists for parliamentary elections, requiring at least every fourth candidate to be “a person of the other sex” (later amended to “a woman”) was introduced to be applicable for the 2024 and 2028 parliamentary elections, and to be increased to one in every three candidates for the 2032 parliamentary election.²⁶ A quota of one in every two candidates for party list for the general municipal elections was also introduced, reduced in June 2021 to one in every three candidates, to be applied during the municipal elections to be held until 2028. In its decision of 25 September 2020, the Constitutional Court recognized that the introduction of quotas was “*the most effective mechanism to attain the relevant goal [to improve gender balance in the highest legislative body]*” and upheld the introduction of the gender quota with respect to women.²⁷
19. In February 2023,²⁸ in a welcome step, further amendments were introduced requiring that, where a woman member of parliament withdraws from her post, her replacement must be the next woman candidate on the same party list.²⁹ The Parliament also extended the application of gender quotas for the municipal elections to be held until 2032

²³ [ODIHR-Venice Commission Guidelines on Political Party Regulation](#) (2nd edition, 2020), paras. 166-170 and 188-190.

²⁴ OSCE, [Compendium of Good Practices for Advancing Women’s Political Participation in the OSCE Region](#), 25 February 2016.

²⁵ OSCE, [Handbook on Promoting Women’s Participation in Political Parties](#).

²⁶ Article 203 (2) of the Election Code, <[ELECTION CODE OF GEORGIA | სსიპ ”საქართველოს საკანონმდებლო მაცნე” \(matsne.gov.ge\)](#)>.

²⁷ See [Decision](#) of the Constitutional Court No 3/3/1526 of 25 September 2020, para. 58. The Constitutional considered as unconstitutional the application of a gender quota with respect to men, which led to amendments Article 203 (2) in February 2023 to specify that every fourth person on the party lists for the parliamentary elections should be “a woman” and not “a person of another sex”.

²⁸ See [Organic Law Making Amendments to the Organic Law of Georgia "Election Code of Georgia" \(matsne.gov.ge\)](#), adopted on 9 February 2023.

²⁹ Article 203 (6) of the [Election Code](#) prior to the adoption of the Amendments.

inclusive, as opposed to 2028.³⁰ These efforts were recognized as a welcome step and one that addresses prior ODIHR recommendations.³¹

20. The CEDAW Committee in its concluding observations on Georgia has repeatedly addressed the underrepresentation of women in public and political life, and the absence of temporary special measures to promote substantive equality in the country. In particular, the CEDAW Committee specifically recommended that temporary special measures be taken by Georgia to accelerate women's full and equal participation in elected bodies.³² In the Concluding Observations on the combined fourth and fifth periodic reports of Georgia, in 2014, the Committee specifically recommended the adoption of temporary special measures, including statutory quotas, *“as part of a necessary strategy to accelerate the achievement of substantive equality of women and men.”*³³
21. In its 2023 concluding observations on the sixth periodic report, the Committee noted the low 25 per cent quota which was applicable only to proportionate candidate lists in parliamentary elections resulted in women's representation in the Parliament at only 20 per cent and noted with regret the reduction of the 50 per cent quota for women candidates on proportionate lists for local councils. The report also noted more generally the low number of women in senior positions in public and political life, including in the cabinet.³⁴ It specifically recommended to *“[a]dopt or reintroduce targeted measures, including temporary special measures, such as statutory quotas and targeted political campaign financing, and establish time-bound targets as a necessary strategy to accelerate the achievement of substantive equality of women and men in all areas covered by the Convention in which women are underrepresented or disadvantaged, in both the public and private sectors, especially at the decision-making level, and with particular attention to disadvantaged groups of women”* with a proper monitoring and data collection mechanism in place. The Committee also underlined the need to *“[i]ntroduce preferential recruitment of women and, as appropriate, adopt temporary special measures, such as quotas and a gender parity system, at all levels of government, the judiciary, academia, the foreign service and for secondment to international organizations, in particular at decision-making levels”*, while strengthening *“measures to combat discrimination and hate speech against women in politics”*.³⁵
22. The UNDP Report on Mandatory Gender Quota in Georgia (2022) reflecting on the 2020 and 2021 elections concludes that while electoral gender quotas have contributed to increase women's political participation and are generally supported by the citizens, some additional measures would be needed to make such mechanisms effective, including by addressing the remaining gaps in legislation, internal party rules and gender policies and other measures to attract, engage and promote women candidates.³⁶

³⁰ Prior to the introduction of this mandatory quota of one woman in every four candidates for the 2028 parliamentary elections (former Article 203 (4) of the Election Code before being repealed by the Amendments), a voluntary quota system was already applicable (see Article 203 (5) of the Election Code before being repealed by the Amendments, which provided that, should political parties choose, voluntarily, to exceed the quota of one woman in every four candidates, they will receive additional funding under the Law on Political Unions of Citizens). Article 39¹ of that Law (repealed by the Amendments but which will remain applicable until the day following the acquisition of full powers by the parliament elected as a result of the 2024 elections of the Parliament of Georgia) provides that nomination of one woman amongst each three candidates will result in the receipt of a bonus 30 per cent of the basic funding which the political party receives based on the election results.

³¹ ODIHR Limited Election Observation Mission Final Report on 31 October 2020 Parliamentary Elections recognized that previous ODIHR recommendations were met by the introduction of gender quotas.

³² See [Concluding Observations CEDAW/C/GEO/CO/3](#), CEDAW Committee, 36th Session (2006).

³³ See [Concluding Observations CEDAW/C/GEO/CO/4-5](#), CEDAW Committee, 2014, para. 17.

³⁴ Concluding Observations on the sixth periodic report of Georgia, CEDAW/C/GEO/CO/6, CEDAW Committee, 2023, paras. 21-22 and 29-30.

³⁵ *Ibid.*

³⁶ United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia](#) (2022).

23. Following the 2020 elections, women currently represent a mere 19.3% of MPs in Georgia, which is well below the global average of 27.0% and ranks the country #122 of 190 parliaments monitored by the Inter-Parliamentary Union (IPU).³⁷ This figure is also one of the lowest in the OSCE region, with only Romania (19.2%), Bosnia and Herzegovina (19.1%), Azerbaijan and Mongolia (18.1%), Russian Federation (16.4%), Hungary (14.6%) and Cyprus (14.3%) having a lower proportion of women MPs.

3. PROCESS OF DEVELOPING AND ADOPTING THE ORGANIC LAWS

24. The Amendments repeal Article 203 of the Election Code, thereby abolishing the mandatory gender quotas and the requirement that a woman withdrawing from her mandate as a Member of Parliament be replaced by the next woman candidate on the same party list. The Amendments also repeal Article 39¹ of the Organic Law on Political Unions of Citizens,³⁸ thereby eliminating the mechanism providing additional financial incentives of 30 % of basic funding received by the party based on the election results for nominating at least one woman in three candidates in the party lists, to be used to fund women's structures within the party. The Amendments also reduced the minimum number of candidates in a party list from 60 to 30 persons, while the maximum remains 200.
25. The Amendments were initiated by four Members of Parliament, who sought an expedited consideration of the drafts by the Parliament. The drafts were made public on 1 April 2024, subject to a first plenary hearing in the Parliament on 3 April 2024 before being adopted in third and final reading by the Parliament on 4 April 2024. They were then submitted to the President for promulgation. On 18 April 2024, the President of Georgia vetoed the amendments. On 15 May, the Parliament overrode President's veto and adopted the initial versions of the amendments as of 4 April.³⁹
26. ODIHR was informed that these changes were a part of a political agreement between the ruling party and political party Girchi, which proposed the draft amendments and, in exchange supported the candidate for the position of the CEC Chairperson, proposed by the ruling party. While the ruling party informed the ODIHR that gender quotas are a form of positive discrimination and has already achieved its main task, several other stakeholders questioned the timing of the amendments and stated that it will negatively impact gender representation in the parliament. Some noted this change was introduced to allow for male candidates traditionally elected under previous majoritarian system to run, and that removal of the quotas shortly before elections might affect women who relied on this mechanism to participate in the upcoming elections.

3.1. Stability of Electoral Legislation

27. According to the Code of Good Practice in Electoral Matters, “[t]he fundamental elements of the electoral system, membership of electoral commissions and the drawing of constituency boundaries, 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”.⁴⁰ The removal of the gender quotas could politically advantage certain political parties and some women who may have relied on the quota to get the necessary support

³⁷ See [IPU Database](#) (data as of 1 April 2024).

³⁸ Article 39¹ of the Organic Law on Political Unions of Citizens will however remain applicable until the day following the acquisition of full powers by the parliament elected as a result of the 2024 elections of the Parliament of Georgia.

³⁹ See *op. cit.* footnote 1.

⁴⁰ See Venice Commission, [Code of Good Practice in Electoral Matters](#)

from their party to be on the list or certain parties may now have to change their strategic approaches. It will also fundamentally impact the composition of the party lists and hence who will be elected. Therefore, the abolition of the gender quotas can arguably be considered an amendment to fundamental elements of the electoral law.

28. The Amendments have been proposed much closer to the elections than twelve months before the upcoming parliamentary elections which are due to take place on 26 October 2024. The principle at issue, that there should not be change in the most fundamental elements of the electoral system within a year before the election, aims to prevent politically motivated amendments that may advantage or disadvantage particular political parties or electoral contestants to be introduced shortly before an election. Close to an election, care must be taken to avoid even the mere semblance of manipulation through changes that may be regarded as having impact on the election results.⁴¹ Even when no manipulation is intended, changes within one year of an election may appear to be dictated by immediate political party interests. While the principle of stability of electoral legislation is not absolute, exceptions to this principle are only admissible, if there is a broad consensus on the reform, which encompasses the opposition, and the new provisions are fully or largely in line with recommendations for electoral reform which have been advanced by ODIHR or other international or regional organizations. This is not the case here, where the Amendments to the two Organic Laws do not reflect recommendations made by international or regional organizations.

3.2. Use of Accelerated Procedure

29. The initiators of the Draft Organic Laws sought an expedited consideration of the Amendments, citing the fact that an election will take place this year and that the political parties will require time to prepare their lists of candidates in advance of the election, while the parliamentary session in the fall would be delayed, requiring consideration of the Amendments during the spring session 2024. ODIHR stresses the importance of the stability of electoral legislation while ensuring clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations.
30. As a key principle of good lawmaking, accelerated legislative procedures should be used rarely and only in exceptional cases of genuine urgency to pass a specific law.⁴² As emphasized in the ODIHR [Guidelines on Democratic Lawmaking for Better Laws](#) (2024), “Accelerated lawmaking procedures should not be used to bypass public consultations and impact assessments and only be possible if they are based on a formal request submitted in accordance with the relevant legislation. They should not be applied to introduce important and/or wide-ranging reforms, such as constitutional reform, legislation introducing major changes to the functioning of the democratic institutions or legislation significantly impacting the exercise of human rights and fundamental freedoms.”⁴³ Accelerated or expedited procedures should not be applied to introduce important and/or wide-ranging reforms, such as legislation significantly impacting the exercise of human rights and fundamental freedoms as the one under review. **In this respect, the use of the expedited process to adopt the Amendments was not in line with principles of democratic lawmaking.**

⁴¹ See Section 2 of the Explanatory Report of the Venice Commission’s [Code of Good Practice in Electoral Matters](#).

⁴² See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), Principle 11.

⁴³ *Ibid.*

3.3. Rationale Invoked for Abolishing the Gender Quotas and Lack of Evidence-Based Approach to Lawmaking

31. In the Explanatory Notes attached to the two Draft Organic Laws proposing amendments to the Election Code and to the Law on Political Unions of Citizens respectively, it is stated that the Draft Laws will not have a negative impact on gender equality and that *“the privileges of the female sex to be included in the electoral list will be cancelled”*. While the Explanatory Notes to both Draft Organic Laws make brief reference to the impact which the removal of the quotas will have, it is not supported by further information about the assessment made to evaluate this impact. There is no evidence provided in the Explanatory Notes suggesting that the abolition of gender quotas was necessary for constitutional reasons or that the electoral gender quotas in Georgia may have fulfilled their purpose and would therefore no longer be necessary, nor do the Explanatory Notes demonstrate that they are ineffective or producing adverse effects. There is also no mention of any assessment made or data from the assessment that would dispute the other available data showing that the gender quotas have had a rather positive impact in terms of increase women’s representation in politics in Georgia since their introduction.⁴⁴
32. In the two Explanatory Notes, it is also argued that the imposition of the gender quota *“is a limitation for both political parties and representatives of the gender whose empowerment was the goal of the creation of the norm.”* Arguments are advanced that political parties are entitled to unlimited freedom in their selection of candidates. Such arguments would tend to reflect *“an approach primarily based on a formal/procedural notion of democracy – the liberal theory of a “free electoral market” – [that] is likely to emphasize the internal autonomy of political parties, in conjunction with their character of private association, their right to associational freedom and their essential importance for a political pluralism reflecting the pluriformity in society”* by opposition to a *“system that in essence is grounded on a substantive concept of democracy – based on the assumption of some fundamental values that democracy should adhere to”*.⁴⁵ As underlined in the Guidelines on Political Party Regulation, *“During the last decades, many countries have evolved from a liberal model towards increased regulation of political parties, introducing requirements as to internal democracy and equality, external accountability and (more) respect for the basic elements of constitutional order. The principle of non-intervention that has prevailed across Western Europe from the very emergence of political parties is no longer the dominant paradigm. Moreover, in many other countries, having moved away from an authoritarian or totalitarian regime towards a pluralistic approach, there are frequent constitutional references to respect for democratic and equality principles, to be taken into account by political parties.”*⁴⁶
33. In addition, the ECtHR has specifically recognized that *“the advancement of the equality of the sexes is today a major goal in the member States of the Council of Europe [...] and that its institutions consider the lack of gender balance in politics to be a threat to the legitimacy of democracy and a violation of the right of gender equality”*, thereby

⁴⁴ During the 2020 parliamentary elections, the outgoing parliament held 14.1% of women, and 31 women were elected representing 21% of the parliament, see [Georgia - Parliamentary Elections, 31 October 2020, ODIHR Limited Election Observation Mission Final Report](#), p. 4; see also [<IPU Database>](#), showing a decrease to 27 women deputies, i.e., 19.3% as per the data of 1 April 2024. See also United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia \(2022\)](#).

⁴⁵ See [ODIHR-Venice Commission Guidelines on Political Party Regulation](#) (2nd edition, 2020), para. 26.

⁴⁶ *Ibid.* para. 30.

concluding that the rejection of the lists of candidates not respecting the gender quota pursued a legitimate aim and was not considered disproportionate.⁴⁷

34. The formal reasoning for the Amendments relies on Article 3 (4) of the Constitution of Georgia which states that the activities of political parties shall be based on the principles of freedom, equality, transparency, and intra-party democracy. At the same time, Article 4 of the Constitution places the freedom of political parties and equality on an equal footing among the principles that govern their operation. There would therefore appear to be no formal justification to prioritize one principle over the other given that, if quotas are abolished, gender equality might suffer significant drawbacks. Moreover, in accordance with Article 11 (3) of the Constitution, the state is obliged to provide for equal rights and opportunities for men and women and to take special measures to ensure essential equality and to eliminate inequality. Furthermore, the 2022 UNDP Report on Mandatory Gender Quota in Georgia seems to suggest that overall, the public and even political parties generally support gender quotas.⁴⁸
35. The Explanatory Note makes also a reference to the need for electoral candidates to be selected on the basis of merit rather than gender, thereby implicitly assuming that quotas may bring forward female candidates with lower qualifications compared to their male colleagues. No data is presented to justify this argument in the Georgian case, while reports of international organizations and research seem to point in the opposite direction.⁴⁹ Furthermore, the General recommendation No. 25, on Article 4, paragraph 1 of the CEDAW, on temporary special measures points out that *“The adoption and implementation of temporary special measures may lead to a discussion of qualifications and merit of the group or individuals so targeted, and an argument against preferences for allegedly lesser-qualified women over men in areas such as politics, education and employment. As temporary special measures aim at accelerating achievement of de facto or substantive equality, questions of qualification and merit, in particular in the area of employment in the public and private sectors, need to be reviewed carefully for gender bias as they are normatively and culturally determined. For appointment, selection or election to public and political office, factors other than qualification and merit, including the application of the principles of democratic fairness and electoral choice, may also have to play a role”*.⁵⁰
36. There is also no analysis of whether the abolition of gender quotas and financial incentives for political parties is appropriate for the Georgian electoral system and gender equality policies in terms of maintaining and further increasing women’s political representation; on how the barriers that women are facing will be addressed in the absence of quotas; and how voluntary party quotas could ensure the current level of representation and further improve it.
37. In light of the foregoing, the *rationale* for the amendments to remove the gender quotas in Georgia is not based on concrete evidence, data nor facts, or in-depth analysis of the operation of gender quota mechanisms, or possible alternative, equally effective

⁴⁷ See European Court of Human Rights, *Zevnik and Others v. Slovenia* (dec.), no. 54893/18, 12 November 2019, paras. 32–40; see also *Staatkundig Gereformeerde Partij v. the Netherlands* (dec.), no. 58369/10, 10 July 2012, para. 72.

⁴⁸ United Nations Development Programme (UNDP) and National Democratic Institute (NDI), *Report on Mandatory Gender Quota in Georgia* (2022).

⁴⁹ See, for example, the findings of the United Nations Development Programme (UNDP) in *Albania report “Gender Quotas and Women’s Substantive Representation in the Local Councils of Albania”*, 2017, which challenge this assumption. Women have higher levels of education than men. Around 30 percent of women had a Master degree; meanwhile, the percentage for men was close to 21. Similarly, women have more training experience than men. 64.08 percent of women and 44.61 percent of men reported that they have participated in training sessions. See also *UN Women Expert Group Meeting Sixty-fifth session of the Commission on the Status of Women (CSW 65)*, 2020, pages 22-23. See also UNDP *Supporting the Introduction of Temporary Special Measures (TSMS) Guidance for UNDP Country Offices*, November 2023, page 26.

⁵⁰ <[https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](https://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)>.

measures, including from a comparative perspective. The justification provided for the Amendments thus fails to make a convincing case on the necessity for the abolition of electoral gender quotas and of the financial incentives for political parties.

3.4. Lack of Public Consultation

38. It was acknowledged, in the Explanatory Notes to both Draft Organic Laws, that no consultations had taken place with civil society organizations (CSOs) nor organizations specifically promoting women's rights, nor with gender experts or working groups during their preparations. It was further stated that there had not been a regulatory impact assessment or any evaluation of the Draft Organic Laws undertaken by any CSOs, expert or working group.
39. In paragraph 5.8 of the 1990 OSCE Copenhagen Document, OSCE participating States have committed to ensure that legislation will be adopted at the end of a public procedure. Moreover, key commitments specify that “[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives”.⁵¹ The ODIHR [Guidelines on Democratic Lawmaking for Better Laws](#) (2024) underline the importance of evidence-based, open, transparent, participatory and inclusive lawmaking process, offering meaningful opportunities to all interested stakeholders to provide input throughout the lawmaking process.⁵² Effective consultations in the drafting of laws, as outlined in the relevant OSCE commitments, need to be inclusive, involving both the general public and stakeholders with a particular interest in the subject matter of the draft legislation. Sufficient time should also be provided to ensure that the consultation process is meaningful, allowing adequate time to stakeholders to prepare and submit recommendations on draft legislation.
40. This is not in line with the principle that laws and public decision-making should be prepared, discussed and adopted on the basis of well-founded arguments, scientific evidence and data, including information deriving from impact assessments and consultations with the public and other stakeholders.⁵³
41. In light of the above, **the public authorities are encouraged to ensure that any amendments to the electoral legal framework, including with a view to re-introduce the gender quotas, are preceded by a proper impact assessment and subjected to inclusive, extensive and effective consultations, including with civil society, with groups working on the promotion of gender equality, while offering equal opportunities for women and men to participate. According to the principles stated above, such consultations should take place in a timely manner, at all stages of the lawmaking process, including before Parliament. As a principle, accelerated legislative procedure should not be used to pass such types of legislation. As an important element of good lawmaking, a consistent monitoring and evaluation system on the implementation of legislation should also be put in place that would efficiently evaluate the operation and effectiveness of the draft laws, once adopted.**⁵⁴

⁵¹ Available at <<http://www.osce.org/fr/odihr/elections/14310><http://www.osce.org/fr/odihr/elections/14310>>.

⁵² See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), in particular Principles 5, 6, 7 and 12. See also Venice Commission, *Rule of Law Checklist*, CDL-AD(2016)007, Part II.A.5.

⁵³ See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), Principle 5, Evidenced-based lawmaking.

⁵⁴ See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), para. 23. See e.g., OECD, [International Practices on Ex Post Evaluation](#) (2010).

RECOMMENDATION A.

1. To ensure that any future amendments to the electoral legal framework and other legislation regarding gender balanced representation in political and public life are preceded by a proper impact assessment and subjected to timely, inclusive, extensive and effective consultations, including with civil society and groups working on the promotion of gender equality, while offering equal opportunities for women and men to participate.
2. To refrain from considering legislative initiatives in accelerated proceedings, except in cases of genuine urgency to pass a specific law.

4. ABOLITION OF ELECTORAL GENDER QUOTAS

42. The Amendments simply abolish the electoral gender quotas without introducing possible alternative temporary special measures or other recognized mechanisms to accelerate women's political representation in Georgia.
43. As mentioned above, the legal drafters have not properly assessed how gender representation would be affected as a consequence of the abolition of the gender quotas and have not identified potential alternative temporary special measures or other mechanisms, for instance through campaign finance reform or other provision of support to candidates and/or incentives to political parties, in order to assess to what extent, they could be effective to increase women's representation in politics in the Georgian context (see also Sub-Section 6 *infra*).
44. There is no obligation according to the CEDAW, regional standards or OSCE human dimension commitments to introduce specific temporary special measures, including quotas, as such (and therefore there can also not be an obligation to keep/not to abolish them).⁵⁵ There are however clear international obligations to eliminate discrimination against women in public and political life and take special measures to ensure the substantive equality of men and women, which are also reflected in the Constitution of Georgia.
45. Where gender gaps in political representation are recorded, temporary special measures constitute one of the mechanisms to fulfil the legal obligations under CEDAW to eliminate discrimination against women in political life and to accelerate *de facto* equality.⁵⁶ Electoral gender quotas are one of several instruments or temporary special measures to improve the representation of women in politics.⁵⁷ Quotas determine a defined proportion (percentage) or number of places or seats to be filled by or allocated

⁵⁵ See ODIHR-Venice Commission, *Joint Opinion on the Draft Election Code of Georgia* (2011), para. 34.

⁵⁶ Different wording is used in national legislation or policies to designate these types of measures, such as "positive measures" or "action", "positive" or "reverse" discrimination, "preferential treatment", "temporary special measures" or "affirmative action". The *travaux préparatoires* of the CEDAW use different terms to describe the "temporary special measures" included in Article 4 (1) of the CEDAW. The CEDAW Committee itself uses various terms in its General Recommendations. States Parties often equate "special measures" in its corrective, compensatory and promotional sense with the terms "affirmative action", "positive action", "positive measures", "reverse discrimination", and "positive discrimination". These terms emerge from the discussions and varied practices found in different national contexts; see General Recommendation No. 25 on Article 4, paragraph 1, of the CEDAW, on temporary special measures (2004), CEDAW Committee, para. 17. For the purpose of this Opinion, ODIHR prefers using the term "temporary special measure" as in the CEDAW.

⁵⁷ As indicated in the CEDAW Committee General Recommendation No. 25, on Article 4, paragraph 1 of the CEDAW on temporary special measures, the term "measures" encompass "a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems. The choice of a particular "measure" will depend on the context and on the specific goal it aims to achieve"; see General Recommendation No. 25 on Article 4, paragraph 1, of the CEDAW, on temporary special measures (adopted on the 30th Session, 2004), CEDAW Committee, para. 22. At the national level, temporary special measures aimed at increasing gender-balanced representation may be mandated by the Constitution or by electoral, labour or gender equality laws, or applied on a voluntary basis (voluntary political party quotas).

to specific under-represented groups.⁵⁸ The quota policies across the OSCE region take two main forms: legislated quotas, which require all parties to nominate a certain percentage of women, and party quotas, which involve voluntary commitments from individual parties to include a certain share of women on their electoral lists.⁵⁹ A number of countries have introduced legislative measures aimed at promoting gender parity in elections and/or in political parties in recent years.⁶⁰

46. Although quotas have been widely adopted around the world, they differ in their design and interact in various ways with existing electoral and political party systems, and their effectiveness is dependent on a wide range of factors and on the country context. Prior to adopting measures in this field, states should evaluate the potential impact of temporary special measures with regard to a particular goal within their national context and adopt those temporary special measures which are determined to be the most appropriate.⁶¹ Where quotas have been chosen as a mechanism to improve gender representation, on their own or in conjunction with other measures, states need to adapt them to their realities and design them in a way that they can work in the given context.
47. In practice, quotas have proven to be an effective mechanism in accelerating women's representation and ensuring a representable distribution of elected positions that is closer to the distribution of the electorate. As of 2021, countries worldwide with some forms of quota elected to their lower or single house 31.9 % women on average, while those without quotas elected only 19.5 % women.⁶² Data from the European Institute for Gender Equality (EIGE) shows that while women's representation in EU parliaments is steadily improving, the proportion of women members of parliament grows three times faster in countries with quotas.⁶³
48. Given that based on global experience, quotas are generally more effective in countries with proportional representation, with a placement or rank-order rule and meaningful sanctions for non-compliance,⁶⁴ the shift in Georgia to a fully proportional system in 2024 was an excellent opportunity to increase the representation of women through a well-designed quota policy.
49. While women's representation in the Georgian Parliament has been slowly but gradually improving since the introduction of the gender electoral quotas in 2020 and financial

⁵⁸ See [gender quotas | European Institute for Gender Equality \(europa.eu\)](#).

⁵⁹ There are also "reserved seats" quotas, that are used, for example, in Rwanda – country that is mentioned in the explanatory note. Explanatory Note. A reserved seats system is structurally different from the legislated quotas system that Georgia had, which makes the comparison problematic.

⁶⁰ See UN Women: [GENDER QUOTA PORTAL](#), International IDEA: [Gender Quotas Database | International IDEA](#) (this covers different types of gender quotas; legislated and voluntary). See also [High Office: How a Woman Breaks Through to Power - Quota Project](#) for information on temporary special measures for women in parliament worldwide. This website distinguishes between three types of gender quotas used in politics: (1) Reserved seats (constitutional and/or legislative); (2) Legal candidate quotas (constitutional and/or legislative); and (3) Political party quotas (voluntary). See also OSCE Ministerial Council, Decision No. 7/09 on Women's Participation in Political and Public Life, para. 2. Of the 57 OSCE participating States, 26 have adopted legislated gender quotas, including mandatory gender quotas for parliamentary elections and also local elections. Mandatory electoral quotas vary according to the electoral system in question, ranging for parliaments from 15 % to 50 %. Some countries provide for percentages for the less represented gender and/or specific places within the order of party lists. Where legislated gender quotas are missing, political parties in a further 14 States have introduced internal party measures. Only a minority of OSCE participating States, 16 in total, have no quotas in place, either at the national or the party level. Some of these countries though have still a very relevant number of women MPs elected. See [Gender Quotas Database | International IDEA](#).

⁶¹ *Ibid.* para. 27.

⁶² See IPU, [Women in Parliament in 2023](#).

⁶³ See <https://eige.europa.eu/newsroom/news/quotas-can-turbocharge-progress-gender-balance-politics-and-business>. The 11 EU Member States who have legislated gender quotas for parliamentary elections have increased the share of women in their parliaments almost three times faster than countries without quotas.

⁶⁴ *Ibid.* See also [ODIHR-Venice Commission Guidelines on Political Party Regulation](#) (2nd edition, 2020), para. 188, which provides: "Countries with an electoral system based on proportional representation and party lists may introduce temporary special measures that would promote not only a high proportion of women candidates, but also a rank-order rule, such as a "zipper" system, where male and female candidates alternate, or where one of every three candidates through the list is from the less represented gender. Rank-order rules of this type remove the risk that women will be placed too low on party lists to have a genuine chance of being elected. It is also advisable to ensure that if a female candidate withdraws her candidature, she is replaced with another woman".

incentives,⁶⁵ it still remains low compared to other countries in the OSCE region and does not constitute a “critical mass” as stipulated in international standards. Women have been, and continue to be, underrepresented in Parliament, a situation which mandates the continuation of the current gender quotas or alternatively, the introduction of equally effective based on an impact assessment temporary special measures or other recognized mechanisms to accelerate women’s political representation in Georgia.

50. Irrespective of the reasons invoked for abolishing the gender quotas, given the existing gender representation gap in Georgia, at minimum, other temporary special measures should have been considered and would need to be enacted to eliminate discrimination against women in political and public life as required by Article 7 of the CEDAW and to provide for equal rights and opportunities for men and women as per Article 11 (3) of the Constitution. By narrowly focusing on the abolition of gender quotas without proposing equally effective alternatives, the Amendments disregard the fact that quotas are only one of the legislative or other mechanisms to achieve a broader policy goal i.e., more balanced representation of women in political life.
51. In sum, the adoption of the Amendments clearly excises all the temporary special measures from the electoral legal framework, causing a reversion to a situation where no alternative legislative or other support measures for the advancement of women in political life are in place. **In line with Georgia’s international obligations, authorities should take urgent action to put in place effective temporary special measures to eliminate discrimination against women in public and political life. In the absence of proposals for other equally effective special measures and given the recognized impact the quota has been having on women’s participation in Georgia, the authorities should give particular consideration to re-introducing the mandatory electoral gender quotas as well as the requirement that a woman withdrawing from her mandate as Member of Parliament be replaced by the next woman candidate on the same party list, an important measure to ensure the effective implementation of the quota if reintroduced. Additionally, authorities could consider the introduction of even stronger measures with specific, measurable and clearly identified goals and targets, together with an independent monitoring and data collection mechanism and clear timeline for evaluation of their impact.**

5. ABOLITION OF FINANCIAL INCENTIVES FOR POLITICAL PARTIES FOR THE INCLUSION OF FEMALE CANDIDATES IN THEIR LISTS

52. The amendments to the Law of Georgia on Political Unions on Citizens repealed Article 39,¹ thereby abolishing financial incentives to parties for nominating at least one woman in three candidates in the party lists . Importantly, according to this provision, the funding supplement of 30 per cent of the basic funding, was earmarked for activities of the women’s organization of each party which was commendable and forward-looking and therefore should have been preserved.⁶⁶ The repeal will enter into force the day following the acquisition of full powers by the parliament elected as a result of the 2024 elections of the Parliament of Georgia.
53. This amendment was allegedly introduced as a consequence of the amendment to the Election Code to abolish gender quotas. At the same time, it should be noted that a

⁶⁵ Historical data on the representation of women in the Georgian Parliament demonstrates an improvement from 7,2% in 1990 to 19,3% in 2023.

⁶⁶ This is consistent with provisions in several other OSCE participating states, including Finland, Montenegro, and Slovenia, where a certain share of the party budget received through the public subsidy is allocated to the party’s women’s wings. In Armenia, 20% of the public funding must be used for activities to involve women, youth, persons with disabilities, and ethnic minorities in each political party.

financial incentive addressed to political parties to motivate the inclusion of more women candidates in electoral lists can be a standalone measure and does not necessarily appear to be intrinsically linked to electoral gender quotas. While most countries with financing provisions also have some forms of gender quotas, several countries only have financial incentives, including Romania and Mongolia in the OSCE region and Ethiopia, Haiti, Jordan, and Papua New Guinea outside the OSCE region.⁶⁷ This suggests that the financial incentives do not necessarily need to be eliminated along with gender quotas but could stand alone as a measure to encourage political parties to promote women's participation in election as candidates. Therefore, the necessity of the proposed amendment is also not sufficiently justified.

54. It is argued that gender-targeted public funding could function as a complement or alternative to quotas. Gender-targeted public funding “*can be seen as a ‘soft option’ to encourage gender equality in political parties, or as one tool of many. These tools must include non-statutory activities such as civic education on gender equality and efforts to encourage, mentor and support women interested in entering politics*”.⁶⁸
55. However, it is also worth pointing out that countries with financing provisions without quotas tend to have much lower levels of women's representation. In other words, financial bonuses combined with gender quotas tend to offer better results than financing incentives on their own.⁶⁹ **Hence, ODIHR recommends the authorities consider the re-introduction of financial incentives for political parties to enhance the inclusion of women in party lists, as a proven effective complementary measure.**

6. COMPLEMENTARY MEASURES AND OTHER TEMPORARY SPECIAL MEASURES OR RECOGNIZED METHODS TO ENHANCE WOMEN'S POLITICAL REPRESENTATION

56. As underlined in the ODIHR-Venice Commission Guidelines on Political Party Regulation, effective quota laws require a high percentage of female candidates to be nominated by political parties; placement mandates to regulate the order in which candidates are put on an electoral list so that women may be in winnable positions; dissuasive sanctions for non-compliance; and compliance monitoring by independent bodies.⁷⁰ Hence, should a quota system be re-introduced in Georgia, the following complementary measures should be considered to ensure its effectiveness:

- Accompanying the gender quota with additional legislative or other measures with a view to promote more balanced and diverse representation in party structures and more generally, more intra-party democracy;⁷¹ encouraging the development and

⁶⁷ For more examples in the OSCE Region see [Database result \(question only\) | International IDEA](#)

⁶⁸ See IDEA, [Gender-targeted Public Funding for Political Parties. A comparative analysis](#), page 10.

⁶⁹ See ODIHR and Venice Commission, [Joint Opinion on the Draft Law on Political Parties of Mongolia](#) (2022), para. 28.

⁷⁰ [ODIHR-Venice Commission Guidelines on Political Party Regulation](#) (2nd edition, 2020), para. 169. In practice, quota policies vary in their details, in terms of the percentage they specify, whether or not they include placement requirements, and the types of sanctions they impose for non-compliance – all factors which contribute to the effectiveness of these measures. Based on the characteristics of their quota policies, countries across the OSCE region may fall into four groups: (1) States with strong legislated quota regimes include Albania, Andorra, Armenia, Belgium, Italy, Moldova, North Macedonia, Poland, Portugal, San Marino, Serbia, Slovenia, Spain, and Uzbekistan; in these States, the quota percentage is roughly reflected in the share of women elected; in these cases, quotas stipulate 30% or higher women's representation, outline placement requirements, and impose sanctions for non-compliance; (2) States with weak legislated quota regimes include major as well as more moderate outliers; (3) countries with low levels of representation, despite the adoption of legislated quotas, include Bosnia and Herzegovina, Greece, Ireland, Kazakhstan, Mongolia, and Ukraine; in these cases, the quota percentage is lower than 30%, there are no placement requirements, and/or there are no sanctions for non-compliance; (4) in other States, the proportion of women in parliament is average or even above average, but the share of women elected is 10 or more percentage points lower than the level stipulated by the quota policy; these cases include Croatia, France, Kyrgyz Republic, and Malta; in these cases, there are generally no placement requirements and/or weak or non-existent sanctions for non-compliance.

⁷¹ See e.g., ODIHR and Venice Commission, [Joint Opinion on the Draft Law on Political Parties of Mongolia](#) (2022), para. 28.

implementation of internal party gender-related policies;⁷² adopting or promoting measures or incentives to attract, recruit, engage and promote female candidates and ensure equal and equitable distribution of resources before, during and post-elections;⁷³ consider introducing provisions regarding minimum media coverage requirements for women candidates;⁷⁴ promote or develop a robust framework to prevent and combat violence against women in politics, which constitutes a clear barrier to women's political participation;⁷⁵

- Ensuring consistent monitoring of compliance with gender quota by an independent body, together with a robust data collection mechanism;
 - Determining a timeline after which the impact and effectiveness of a mandatory gender quotas will be reviewed, e.g., in 10 years from their introduction;
 - Ensuring that the review and evaluation of the effectiveness of gender quotas will be carried out on the basis of a transparent, participatory and inclusive process, based on robust data collected in a transparent and participatory way.
57. It is also important, that there be awareness that these gender quotas are a temporary special measure which will eventually be lifted, once the goal of gender parity has been achieved. In this respect, **consideration could be given to the introduction of a provision into the Election Code which would clarify the conditions under which the quotas would be lifted.**
58. As ODIHR underlined in the [Compendium of Good Practices for Advancing Women's Political Participation in the OSCE Region](#) (2016), "*Quotas and other temporary special measures, while necessary instruments and good starting points, on their own are not going to achieve the desired changes. They need to be complemented with other measures*".⁷⁶ In this respect, voluntary quotas in political parties can always be provided in addition to legislated quotas in Georgia to further accelerate the achievement of the desired results and a change in culture and behaviours, contributing to a transformative equality. Other complementary measures could also be considered to contribute to the effectiveness of gender quotas, including financial and other incentives to attract, recruit, engage and promote female candidates, financial incentives for political parties, as well as other measures to combat discrimination and violence against women in politics and promote women's political participation,⁷⁷ including through awareness-raising and public campaigns. The effectiveness of temporary special measures, including quotas, is itself dependent upon a number of factors, such as the type of electoral system, the socio-economic affluence of a country, the timing of women's suffrage and political culture.
59. **Finally, should the Georgian authorities not opt for re-introducing mandatory electoral gender quotas, at minimum, as mentioned above, alternative temporary special measures or other recognized mechanisms to accelerate women's political representation in Georgia should be considered. Depending on the results of an impact assessment and if shown that they can effectively impact women's**

⁷² United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia](#) (2022), p. 11.

⁷³ United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia](#) (2022), p. 11.

⁷⁴ See e.g., ODIHR and Venice Commission, [Joint Opinion on the Draft Law on Political Parties of Mongolia](#) (2022), para. 99.

⁷⁵ See [Addressing Violence against Women in Politics in the OSCE Region: ODIHR Toolkit](#) (2022), including specific tool on political parties; see also United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia](#) (2022), p. 11.

⁷⁶ See ODIHR, [Compendium of Good Practices for Advancing Women's Political Participation in the OSCE Region](#) (2016), p. 32.

⁷⁷ See [Addressing Violence against Women in Politics in the OSCE Region: ODIHR Toolkit](#) (2022), including specific tool on political parties; see also United Nations Development Programme (UNDP) and National Democratic Institute (NDI), [Report on Mandatory Gender Quota in Georgia](#) (2022), p. 11.

participation such measures could include a combination of the following, e.g., targeted political campaign financing, measures or incentives to attract, recruit, engage and promote female candidates, financial incentives for political parties, targeted media regulation, as well as other measures to combat discrimination and violence against women in politics, including awareness-raising and educational campaigns among politicians, in the media and among the general public about the need for the full, free and democratic participation of women on an equal basis with men in political and public life, among others.

RECOMMENDATION B.

1. In line with Georgia's international obligations, authorities should take urgent action to put in place effective temporary special measures to eliminate discrimination against women in public and political life. In the absence of proposals for other equally effective special measures and given the recognized impact the quota has been having on women's participation in Georgia, the authorities should give particular consideration to re-introducing the mandatory electoral gender quotas as well as the requirement that a woman withdrawing from her mandate as Member of Parliament be replaced by the next woman candidate on the same party list, an important measure to ensure the effective implementation of the quota if reintroduced. Additionally, authorities could consider the introduction of even stronger measures with specific, measurable and clearly identified goals and targets, together with an independent monitoring and data collection mechanism and clear timeline for evaluation of their impact.
2. To include a provision in the Election Code which would clarify the conditions under which the gender quotas, if re-introduced, would be lifted when the objective of gender parity would be sustainably attained.
3. To consider the re-introduction of financial incentives for political parties to enhance the inclusion of women in party lists, as a proven effective complementary measure.
4. To consider additional legislative or other measures with a view to promote more balanced and diverse representation in party structures and more generally, more intra-party democracy, while encouraging the development and implementation of internal party gender-related policies, including measures or incentives to attract, recruit, engage and promote female candidates and the development of a robust framework to prevent and combat violence against women in politics.
5. Should the Georgian authorities not opt for re-introducing the mandatory electoral gender quotas, at minimum, the adoption of alternative, equally effective, temporary special measures or other recognized mechanisms to accelerate women's political participation, should be considered. Depending on the results of an impact assessment and if shown that they can effectively impact women's participation such measures could include a combination of targeted political campaign financing, measures or incentives to attract, recruit, engage and promote female candidates, financial incentives for political parties, targeted media regulation, as well as other measures to combat discrimination and violence against women in politics, including awareness-raising and

educational campaigns among politicians, in the media and among the general public about the need for the full, free and democratic participation of women on an equal basis with men in political and public life, among others.

[END OF TEXT]

ANNEX 1: Organic Law on Making Amendments to the Organic Law of Georgia Election Code of Georgia

ORGANIC LAW OF GEORGIA

ON MAKING AMENDMENTS TO THE ORGANIC LAW OF GEORGIA “ELECTION CODE OF GEORGIA”

Article 1. The following amendment shall be made to the Organic Law of Georgia “Election Code of Georgia” (Legislative Herald of Georgia (www.matsne.gov.ge), 10.01.2012, registration code: 010190020.04.001.016032):

1. Article 115:

a) Clause 3 should be amended as follows:

"3. In the submitted list, the number of candidates for membership of the Parliament of Georgia shall be not less than 30 and no more than 200."

b) Clause 6 should be formulated as follows:

"6. The party determines the procedure for drawing up the party list."

2. Clause 5 of Article 143 shall be amended as follows:

"5. The party determines the procedure for drawing up the party list. When drawing up the party list, it should be taken into account that the mandates received by the party according to the election results are distributed in order, starting from the beginning of the list."

3. Article 203 shall be removed.

Article 2. This law shall come into effect immediately upon its publication.

ANNEX 2: Organic Law on Making Amendments to the Organic Law of Georgia on Political Associations of Citizens

ORGANIC LAW OF GEORGIA

**ON MAKING AMENDMENTS TO THE ORGANIC LAW OF GEORGIA “ON POLITICAL
UNIONS OF CITIZENS”**

Article 1. Article 39¹ of the Organic Law of Georgia “On Political Unions of Citizens” (Gazette of the Parliament, No. 45, 21.11.1997, p. 76) shall be removed.

Article 2. If a political party did not receive from the state budget of Georgia the amount of financing from the state budget of Georgia before the implementation of this law, which it should have received based on the results of the 2020 elections of the Parliament of Georgia in accordance with Article 39¹ of the Organic Law of Georgia "On Political Associations of Citizens" effective before the implementation of this law, this political party will receive the mentioned amount in the manner in force before the implementation of this law.

Article 3. This law shall come into force on the day following the acquisition of full powers by the Parliament elected as a result of the 2024 elections of the Parliament of Georgia.