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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

OPINION

**ON THE AMENDMENTS TO THE ORGANIC LAW "ELECTION CODE
OF GEORGIA" PERTAINING TO LOCAL ELECTIONS**

**Approved by the Council for Democratic Elections at its 82nd meeting
(Venice, 13 March 2025) and adopted by the Venice Commission at
its 142nd Plenary Session (Venice, 14-15 March 2025)**

on the basis of comments by

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I. Introduction

1. By letter of 23 December 2024, Mr Marc Cools, President of the Congress of Local and Regional Authorities of the Council of Europe (the Congress), requested an opinion of the Venice Commission on the amendments to the Organic Law "Election Code of Georgia", pertaining to local elections.
2. Mr Alivizatos, Mr Frendo and Ms Pabel acted as rapporteurs for this opinion.
3. On 7 February 2025, the rapporteurs, assisted by Mr Adrià Rodríguez-Pérez and Mr Pierre Garrone from the Secretariat of the Venice Commission, held online meetings with representatives from different political groups, the Central Election Commission (CEC) as well as members of several civil society organisations and international interlocutors. Representatives of the parliamentary majority declined to meet with the Venice Commission delegation.
4. This opinion was prepared in reliance on the English translation of the proposed 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 7 February 2025. The Opinion was approved by the Council for Democratic Elections at its 82nd meeting (Venice, 13 March 2025) and adopted by the Venice Commission at its 142nd Plenary Session (Venice, 14-15 March 2025).

II. Background

A. Recent developments and contextual elements

6. The October 2020 parliamentary elections in Georgia generated a wave of dissatisfaction among the opposition, who alleged massive electoral fraud, boycotted the second round and refused to participate in the work of the new Parliament. On 19 April 2021, the European Union (EU) brokered a political agreement between the majority and several opposition parties (the so-called "Charles Michel Agreement"). The agreement was aimed at overcoming the political crisis with respect to the opposition's parliamentary boycott and enhancing public trust in key state institutions. The agreement stated that early parliamentary elections would be held in 2022 if the governing party did not reach 43 per cent of the proportional votes in the next local elections. Following the agreement, most opposition members took their mandate in Parliament.¹ The agreement also led to the adoption of important amendments to the Election Code, introducing a consensus-seeking procedure for the election of the CEC non-partisan members and the chairperson based on nominations by the president and a higher proportional component for local elections.² Overall, these amendments were assessed by international election observers as contributing to the trust in the process among stakeholders and enhancing the level of

¹ For a more detailed account of these events, see Congress of Local and Regional Authorities, Report on local elections in Georgia (2 October 2021), [CPL\(2022\)42-02](#); International Election Observation Mission, Georgia – Local Elections, 2 October 2021, [Statement of Preliminary Findings and Conclusions](#).

² See Venice Commission and OSCE/ODIHR, [CDL-AD\(2021\)008](#), Georgia - Joint Opinion on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament; Venice Commission and OSCE/ODIHR, [CDL-AD\(2021\)022](#), Georgia – Urgent joint opinion on Draft Amendments to the Election Code; and Venice Commission and OSCE/ODIHR, [CDL-AD\(2021\)026](#), Georgia –Urgent Joint Opinion on the revised amendments to the Election Code of Georgia. See also Congress of Local and Regional Authorities, Report on local elections in Georgia (2 October 2021), [CPL\(2022\)42-02](#), para. 15; International Election Observation Mission, Georgia – Local Elections, 2 October 2021, [Statement of Preliminary Findings and Conclusions](#), pp. 4-5; and OSCE/ODIHR, Georgia – Local Elections, 2 and 30 October 2021, [ODIHR Election Observation Mission Final Report](#), pp. 6-7.

discussions at the CEC sessions.³ On 13 June 2023, the governing party withdrew from the 2021 political agreement.

7. Georgia was granted EU candidacy status in December 2023, but the accession process was *de facto* halted by the EU in June 2024 citing concerns over democratic backsliding. Subsequent changes to the electoral legal framework, on which the Venice Commission and the ODIHR have adopted several Opinions, reverted to the pre-Charles Michel Agreement framework.⁴ These amendments have, *inter alia*, altered the composition and working methods of the CEC, on the one hand, and removed gender quotas in candidate lists, on the other.⁵

8. The last parliamentary election took place on 26 October 2024. Following the release of preliminary results, the opposition rejected the outcome, citing irregularities such as voter intimidation, vote buying, and alleged foreign interference.⁶ In the following days, citizen observer organisations and the opposition claimed that these irregularities pointed to coordinated manipulation, while the government, the governing party, and the CEC denied these claims. On 16 November, all elected MPs from the coalitions “Coalition for Change”, “Unity – to Save Georgia” and “Strong Georgia” renounced their seats, while the political party For Georgia declared the newly elected parliament illegitimate.⁷

9. The Venice Commission recalls its previously expressed view that while parliamentary boycotts are a legitimate means of expressing dissent in political discourse, lengthy and extensive boycotts may hinder any meaningful parliamentary dialogue and could have impact on the right to political participation of the people through its elected representatives.⁸ In principle, the appropriate forum for political interaction and debate in any country is the Parliament, provided that it is freely elected and that political forces are open to meaningful discussion and engagement. The Venice Commission encourages such meaningful discussion with a wide and pluralistic range of stakeholders/interlocutors and hopes that its recommendations aimed at fostering a broad consensus on electoral matters will be implemented by the Georgian authorities.

B. Scope of the Opinion

10. The recent amendments to the electoral legislation introduce significant modifications to the composition of municipal representative bodies (Sakrebulo), to the delineation of the electoral constituencies, as well as to the electoral threshold for local elections. With the amendment of Art. 18 Para. 2, the Electoral Code no longer defines the number of members of the Sakrebulo nor the local majoritarian districts, but “the creation of local electoral districts, their boundaries,

³ International Election Observation Mission, Georgia – Local Elections, 2 October 2021, [Statement of Preliminary Findings and Conclusions](#), p. 6 and OSCE/ODIHR, Georgia – Local elections, 2 October 2021, [ODIHR Election Observation Mission Final Report](#), p. 2.

⁴ See Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)047](#), Georgia – Joint Opinion on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia; Venice Commission, [CDL-AD\(2024\)010](#), Georgia – Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia; and Venice Commission, [CDL-AD\(2024\)023](#), Georgia – Opinion on amendments to the Election Code which abolish gender quotas.

⁵ More specifically, changes to the CEC altered the procedure for nomination and selection of the members of the CEC, cancelled the position of the opposition-represented deputy CEC Chairperson, made changes in the decision-making of the CEC, and abolished the CEC advisory council.

⁶ See International Election Observation Mission, Georgia – Parliamentary Elections, 26 October 2024, [Statement of Preliminary Findings and Conclusions](#), pp. 4 and 19-21. See also PACE, Observation of the parliamentary election in Georgia (26 October 2024), [Doc. 16079](#), paras 54, 63-69, and 77.

⁷ OSCE/ODIHR, Georgia – Parliamentary Elections, 26 October 2024, [ODIHR Election Observation Mission Final Report](#), pp. 4 and 34.

⁸ Venice Commission and OSCE/ODIHR, [CDL-AD\(2021\)008](#), Georgia – Joint Opinion on amendments to the Election Code, the Law on Political Associations of Citizens and the Rules of Procedure of the Parliament, para. 10; Venice Commission and OSCE/ODIHR, [CDL-AD\(2021\)022](#), Georgia – Urgent joint opinion on Draft Amendments to the Election Code, para. 18.

names and numbers” (Art. 1 Para. 2 of the amendments). The amended Art. 140 and 155 increase the number of members elected through the majoritarian system in Sakrebulo, including the Tbilisi Sakrebulo, reducing the number of proportionally elected members. The amendments also modify the delineation of electoral constituencies for majoritarian seats in Sakrebulo, granting the CEC and the District Election Commissions (DEC) authority over defining electoral district boundaries. The CEC is mandated to establish, modify, and define these districts, including single-seat majoritarian districts in Tbilisi and other self-governing cities, with relevant information to be published by 1 August 2025. In parallel, the amended Art. 148 and Art. 162 (Paras 1–3) raise the electoral threshold for the proportional system to 4%, replacing the previous thresholds of 3% in self-government communities and 2.5% in Tbilisi.

11. During the meeting with the Georgian interlocutors, the Venice Commission delegation was informed that additional amendments were being discussed at the Parliament which could affect the upcoming local elections scheduled for October 2025. This included, *inter alia*, changes to the election administration, to the eligibility of Mayors and Assembly members, to the distribution of undistributed mandates for the Sakrebulo, and to the appointment and rights of representatives from local observation organisations, press, and media outlets. In spite of these developments, the current Opinion focuses only on the December amendments. The absence of comments on other amendments to the Electoral Code should not be seen as tacit approval of these amendments.

III. Analysis

A. Procedural aspects and stability of electoral law

1. Legislative process

12. Parliament enacted the amendments through an expedited procedure. As stated in the request letter by the Congress, “[t]he amendments were passed within a single week by the sole political entity presently represented in Parliament, without extensive public consultations involving all relevant stakeholders and in the context of significant political polarisation and tension.” During engagements with Georgian interlocutors, the delegation of the Venice Commission was informed that the new Parliament frequently utilises urgent procedures to amend the legal framework in an expeditious manner, at times within a matter of days.

13. 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.⁹

14. During the online meetings, the Venice Commission delegation was informed that none of the most significant stakeholders in the electoral field had been consulted, including the relevant institutions, particularly those at the local level, political parties, and representatives of civil society organisations. Although consultations with opposition parties in the national Parliament may have been challenging due to their boycott of parliamentary proceedings, engagement with relevant stakeholders outside Parliament remained a viable course of action. The expedited manner in

⁹ See for example Venice Commission, [CDL-AD\(2024\)010](#), Georgia – Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 8; and Venice Commission, [CDL-AD\(2024\)023](#), Georgia – Opinion on amendments to the Election Code which abolish gender quotas, para. 15.

which the amendments to the Electoral Code were enacted indicate the parliamentary majority's reluctance to facilitate dialogue both within and beyond the legislative body.

15. The issue of consensus gains particular importance when the introduced legislative amendments reverse the provisions previously established through broad agreement. Consequently, any modifications that deviate from the prior consensus constitute a detrimental development. In this context, the enactment of these amendments without public consultation, by the sole political entity currently represented in Parliament, and within a period of one week, raises serious concerns. The Venice Commission therefore recommends that the amendments under examination be reconsidered so as to meet international obligations and standards and to address prior and present recommendations; that this process be based on broad consensus after extensive public consultations with all relevant stakeholders; and that the political commitment be expressed by the authorities 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.

2. Stability of electoral law

16. In addition to the aforementioned procedural shortcomings, the introduction of the amendment less than one year before the upcoming local elections scheduled for October 2025 is also at odds with the principle of stability of electoral law. This principle requires that fundamental rules of electoral law should not be open to amendment less than one year prior to an election.¹⁰ Among others, the drawing of the constituency boundaries and the rules relating to the distribution of seats between the constituencies as well as the electoral system proper, i.e. rules relating to the transformation of votes into seats, are considered to be fundamental rules of electoral law.¹¹

17. The recent amendments to the Election Code of Georgia affect, *inter alia*, the delineation of constituency boundaries, a responsibility now entrusted to the CEC and the DEC, allowing these bodies to determine boundaries at a later stage, potentially even after the elections have been announced. This is of particular concern, since international standards provide that no amendments to electoral law should be made once elections have been called.¹² Additionally, the amendments increase the threshold for the allocation of seats under the proportional representation system, a significant aspect of the electoral framework that directly influences the translation of votes into representation. Consequently, these amendments affect fundamental rules of electoral law.

18. Not only does the one-year rule apply to fundamental elements of the electoral law, but the Code of Good Practice in Electoral Matters also warns against frequent changes.¹³ According to the request letter, “[s]ince the Congress observed the 2021 local elections in Georgia, the Electoral Code has been amended more than 15 times, raising important concerns about the stability of the electoral legal framework applicable to local elections.”¹⁴ The Venice Commission has assessed amendments to the legal framework governing Georgian elections on several occasions. In its Opinions, it has repeatedly advised the authorities to exercise restraint in making frequent amendments to the Electoral Code and reaffirmed its position that continuous and *ad*

¹⁰ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline II.2.b and para. 64. See also the Revised interpretative declaration on the Stability of electoral law, [CDL-AD\(2024\)027](#).

¹¹ Venice Commission, [CDL-AD\(2024\)027](#), Revised interpretative declaration on the Stability of electoral law, para. II.B 5.

¹² Venice Commission, [CDL-AD\(2024\)027](#), Revised interpretative declaration on the Stability of electoral law, para. II.B.6.a).

¹³ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, para. 63.

¹⁴ According to the International Election Observation Mission, Georgia – Parliamentary Elections, 26 October 2024, [Statement of Preliminary Findings and Conclusions](#), “[t]he Election Code has been amended over 20 times since the last parliamentary elections, with the most significant changes in 2022 and 2024”, p. 5. See also PACE, Observation of the parliamentary election in Georgia (26 October 2024), [Doc. 16079](#), para. 24.

hoc modifications to the electoral system do not foster a spirit of cooperation amongst all stakeholders in the interest of a common good.

19. Both frequent reforms of the electoral legislation over a long period of time, leading to general instability of electoral legislation, and numerous even if small changes to the electoral legislation shortly before an election give rise to concerns. These concerns are two-fold: firstly, frequent reforms of electoral law undermine the public trust in the electoral system because the legal framework will be perceived by the public as being part of the political game and subject to a political manipulation for short-term political gains. Secondly, frequent reforms can cause practical difficulties for electoral management bodies to apply the law and for voters and contestants to adapt to ever-changing rules.¹⁵

20. Overall, the Venice Commission recalls its previous findings that “[t]he 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 furthermore 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.”¹⁶ The Venice Commission therefore reiterates its recommendation that amendments be undertaken within the framework of a thorough and comprehensive review of the electoral system, ensuring an all-encompassing reform, rather than through frequent and fragmented adjustments, and meet the requirements of the principle of stability of electoral law.

B. Substantive aspects

1. Principles and international standards

a. The choice of an electoral system

21. States possess extensive discretionary authority in determining their electoral system. The European Court of Human Rights (ECtHR) has argued that as long as all electors have by their vote the possibility of affecting the composition of the legislature, the choice of the electoral system falls in the state’s margin of appreciation.¹⁷ In this regard, the Court’s aims have been to determine whether the effect of electoral legislation is to exclude some persons or groups of persons from participation in the political life of the country, whether the discrepancies created by a particular electoral system can be considered arbitrary or abusive or whether the system tends to favour political parties or candidates by giving them an electoral advantage at the expense of others.¹⁸

22. The Code of Good Practice in Electoral Matters enshrines that any electoral system may be chosen provided it respects the five underlying principles of the European electoral heritage,

¹⁵ See, most recently, Venice Commission, [CDL-AD\(2024\)037](#), *Amicus curiae* brief for the European Court of Human Rights in the case of *Staderini and Others v. Italy* on the stability of electoral legislation and some features of a mixed electoral system, para. 17; Venice Commission, [CDL-AD\(2024\)010](#), Georgia - Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia; and Venice Commission, paras 18ff; Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)030](#), Armenia - Joint Opinion on the Draft Amendments to the Electoral Code and related legislation, para. 14.

¹⁶ Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)047](#), Georgia – Joint Opinion of the Venice Commission and ODIHR on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 45; Venice Commission, [CDL-AD\(2024\)010](#), Georgia – Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 19.

¹⁷ ECtHR, [Riza and Others v. Bulgaria, Applications nos. 48555/10 and 48377/10](#), Judgment, 13 January 2016, para. 137; see also ECtHR, [Bompard v. France, Application No. 44081/02](#), Decision, 4 April 2006.

¹⁸ See e.g., ECtHR, [Matthews v. the United Kingdom, Application No. 24833/94](#), Judgment (Grand Chamber), 18 February 1999, para. 64; ECtHR, [Mathieu-Mohin and Clerfayt v. Belgium, Application No. 9267/81](#), Judgment, 2 March 1987, para. 54; ECtHR, [Yumak and Sadak v. Türkiye, Application No. 10226/03](#), Judgment (Grand Chamber), 8 July 2008, paras 110-111.

namely: universal, equal, free, secret, and direct suffrage.¹⁹ In its Opinions, the Venice Commission has repeatedly held that:

- The choice of an electoral system is a sovereign decision of a state through its political system;
- There are different electoral systems, and multiple options on how they are regulated across the member states of the Venice Commission;
- States have a wide discretion in designing their electoral systems, provided that international standards guaranteeing, in particular, universal, equal, free and secret suffrage, are respected;
- Comparative law arguments should be used with caution, as state institutions and legislative arrangements function within a specific legal, political, and cultural context.²⁰

23. When it comes to mixed electoral systems, the Venice Commission has also argued that the weight given to the proportional or the majoritarian part of the system also belongs to the sovereign choice of the electoral system.²¹

24. Without prejudice to the foregoing, this sovereign choice remains subject to compliance with the principles of the European electoral heritage. In this context, particular consideration must be given to the obligations arising from the principle of equal suffrage, which, in the case of the electoral system, necessitates adherence to the standards of equal voting power, on the one hand, and equality of opportunity, on the other.

b. Electoral constituencies

25. The standard of equal voting power calls for seats being evenly distributed between the constituencies.²² The Venice Commission has argued that equal voting power “cannot be separated from representativeness and, more broadly, from other aspects of equal suffrage which may impact the allocation of seats to constituencies.”²³ Determining the constituency boundaries can give rise to marked “structural” inequalities in representation. These disparities, which can be caused deliberately or by haphazard, can be the result of either demographic change, *gerrymandering*, or “natural” *gerrymandering*.²⁴

26. More concretely, breaches of equal voting power can result from either *active electoral geometry* or *passive electoral geometry*. *Active electoral geometry*, on the one hand, is the distribution of constituencies causing inequalities in representation as soon as it is applied.²⁵ The way to avoid these breaches is to entrust this endeavour to an independent and impartial (boundary) commission respecting the principle of equal voting power and acting in a transparent manner.²⁶ On the other hand, *passive electoral geometry* refers to the inequalities arising from protracted retention of an unaltered territorial distribution of seats and of constituencies.²⁷ To

¹⁹ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline II.4.

²⁰ See, more recently, Venice Commission, [CDL-AD\(2024\)037](#), *Amicus curiae* brief for the European Court of Human Rights in the case of *Staderini and Others v. Italy* on the stability of electoral legislation and some features of a mixed electoral system, para. 28.

²¹ Venice Commission, [CDL-AD\(2004\)037](#), *Amicus curiae* brief for the European Court of Human Rights in the case of *Staderini and Others v. Italy* on the stability of electoral legislation and some features of a mixed electoral system, para. 32. See also Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)020](#), Germany – Joint Opinion on the amendments of the German Federal Election Act, para. 35.

²² Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline I.2.2.

²³ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 6.

²⁴ Venice Commission, [CDL-AD\(2004\)003](#), Report on Electoral Systems - Overview of available solutions and selection criteria, para. 25.

²⁵ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, para. 13, and Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, paras 13 and 77.

²⁶ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 99.

²⁷ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, para. 13, and Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, paras 13 and 76.

avoid *passive electoral geometry*, the allocation of seats and/or the constituencies cannot be static. The changes in population have to be reflected either through the reallocation of seats or through redistricting, which has on its turn to be done in conformity with the above-mentioned principles of independence, impartiality, and transparency.²⁸

27. When it comes to constituency delineation, equality of opportunity should also be ensured. The Venice Commission recalls that certain delimitations of constituencies go against equality of opportunity, the so-called *gerrymandering*. In this regard, *gerrymandering* may be defined as a negative and manipulative act of politicians to redraw the legislative/electoral district boundaries to deprive the representation that another group or party would enjoy.²⁹ *Gerrymandering* is, in sum, a manipulative political tool which distorts the democratic electoral process, undermines democratic and universal election principles, and renders legislative elections a meaningless exercise.³⁰ By doing so, *gerrymandering* constitutes a breach of the principle of equal suffrage as it “deprive[s] the electorate of a meaningful influence on who gets elected.”³¹

28. To avoid these shortcomings, boundary delimitation should take place in a transparent and consistent manner, established by a law that also regulates the frequency of reviewing boundaries.³² The Venice Commission has repeatedly recommended that “[t]he procedure for delimiting electoral districts should be defined precisely in a law, so that the process remains the same, regardless of who is drawing the district boundaries.”³³ In this regard, the existence of legal restrictions to discretionary powers act as an important legal safeguard against arbitrariness and guarantee the Rule of Law.³⁴ In the field of constituency delimitation, a way to prevent such an abuse is, where possible, to make constituency boundaries coincide with administrative boundaries, while geographical and historic criteria may be taken into account.³⁵

29. Another crucial safeguard consists in entrusting an independent and impartial authority with boundary delimitation to avoid political manipulation. “National legal frameworks for boundary delimitation are expected to provide that the persons or institutions responsible for drawing the electoral boundaries are independent and impartial and ensure that the criteria for the allocation of seats are in accordance with the International/European standards.”³⁶ The Venice Commission recommends that this authority should preferably include a geographer, a sociologist and have a balanced representation of the parties and, if necessary, representatives of national minorities.³⁷ However, it is admissible that the final decision is taken by the legislator or an electoral management body. However, this decision on the delimitation of constituencies should be adopted after extensive public consultations with all relevant stakeholders. If political parties are not represented in the committee, they should be provided the right to present their recommendations and objections.³⁸

c. Formal thresholds

30. Another element of electoral systems are *formal* thresholds. Thresholds are the *legally* prescribed minimum number of votes needed for a party to take part in distribution of

²⁸ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 100.

²⁹ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 87. See also Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, para. 13.

³⁰ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 88.

³¹ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 88.

³² Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 19.

³³ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 22.

³⁴ Venice Commission, [CDL-AD\(2016\)007](#), Rule of Law Checklist, II.C.

³⁵ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline I.2.2.vii and para. 14, and Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 23.

³⁶ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 20.

³⁷ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline I.2.2.vii.

³⁸ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 22.

parliamentary seats.³⁹ Basically, “[p]arties that do not obtain the legally prescribed minimum number of votes do not get any seat. This is an obvious limitation to minor parties, one that often also proves fatal to the survival of such parties.”⁴⁰ Since thresholds are an element of the electoral system, defining them are also a sovereign decision of the state, as long as they comply with the principles of the European electoral heritage. In the case of formal thresholds, there are important international standards, including case-law by the ECtHR, which call for ensuring that any threshold pursues a legitimate aim and meets the proportionality test.⁴¹

2. The composition of the Sakrebulo and the electoral system

31. Art. 140 of the Election Code has been amended to increase the number of members elected through the majoritarian system in the Sakrebulo, adjusting the allocation of representatives based on voter population within electoral districts. Under the revised provisions, the municipal council of a self-governing community shall consist of 15 members elected through a proportional electoral system, alongside one or more members elected through a majoritarian system from each settlement (village, town, or city) within the jurisdiction of the respective self-governing community. Similarly, Art. 155 of the Election Code modifies the composition of the Tbilisi Sakrebulo by reducing the number of members elected through the proportional system from 40 to 25, while simultaneously increasing the number of members elected via the majoritarian system from 10 to 25.

32. As underscored above, the principle of equal voting weight is one of the key elements that should be ensured by any electoral system. Under the revised provisions, districts with fewer than 4,000 voters shall elect one member, whereas previously the threshold was 7,000; districts comprising between 4,000 and 10,000 voters shall elect two members, in contrast to the previous range of 7,000 to 14,000; and districts with a voter population between 10,000 and 20,000, the representation shall be three members, whereas under the prior framework, this applied to districts exceeding 14,000 voters. Additionally, districts with a voter base of 20,000 to 35,000 shall elect four members, while those exceeding 35,000 voters shall be entitled to five representatives. Past decisions to split the biggest electoral districts into smaller constituencies went in the direction of addressing this problem. However, the distribution as recently amended seems to go in the opposite direction. As it has done previously, the Venice Commission recommends a revision of the electoral system in case it is not possible to ensure the relative equality of vote weight in single-mandate districts.⁴²

33. This reversion to the pre-2021 electoral system is particularly worrying, as international election observers found that this formula allowed “each settlement to have representation on the Council but result[ed] in significant inequality of voting power of voters residing in different constituencies.”⁴³ The amendments to the electoral law in 2021 thus addressed this shortcoming by increasing the overall number of proportional numbers of proportional seats from 970 to 1404,

³⁹ Venice Commission, [CDL-AD\(2008\)037](#), Comparative Report on thresholds and other features of electoral systems which bar parties from access to Parliament, para. 3.

⁴⁰ Venice Commission, [CDL-AD\(2008\)037](#), Comparative Report on thresholds and other features of electoral systems which bar parties from access to Parliament, para. 14.

⁴¹ ECtHR, [Federación nacionalista Canaria v. Spain, Application no. 56618/00](#), Decision, 7 June 2001; ECtHR, [Partija “Jaunie Demokrāti” and Partija “Mūsu Zeme” v. Latvia, Application nos. 10547/07 34049/07](#), Decision, 29 November 2007; ECtHR, [Yumak and Sadak v. Türkiye, Application no. 10226/03](#), Judgment (Grand Chamber), 8 July 2008, paras 131-131; ECtHR, [Partei Die Friesen v. Germany, Application no. 65480/10](#), Judgment, 28 January 2016; ECtHR, [Strack and Richter v. Germany, Applications nos. 28811/12 and 50303/12](#), Decision, 5 July 2016.

⁴² Venice Commission and OSCE/ODIHR, [CDL-AD\(2011\)043](#), Georgia – Joint opinion on the draft election code of Georgia, para. 18.

⁴³ Congress of Local and Regional Authorities, Information report on the municipal elections in Georgia (21 October 2017), [CPL34\(2018\)03](#), para. 16. The Congress of Local and Regional Authorities had also found that “the complexity of the current electoral system with regard to the election of Council Members in smaller Municipalities do not make it easy for people to understand who is in charge of what at the local level, due to the repercussions on self-governing structures.” See Congress of Local and Regional Authorities, Information report on the municipal elections in Georgia (21 October 2017), [CPL34\(2018\)03](#), para. 16.

reducing the number of majoritarian seats from 1088 to 664, and delineating boundaries of 59 majoritarian constituencies.⁴⁴ In turn, and while the choice of the electoral system, whether majoritarian, proportional, or a combination, falls within the discretion of each country, such decisions should be made through broad consultation and consensus, avoiding frequent modifications or changes within a year of elections. The issue of consensus should be emphasised even further when the newly enacted legislative amendments rescind provisions that were previously established through broad agreement. Deciding by parliamentary majority without any attempt to reach a broader consensus undermine the credibility of the electoral system, as its strength is derived from being collectively endorsed by all relevant stakeholders.⁴⁵ For these reasons, the Venice Commission recommends repealing the amendments adopted in December 2024 relating to the composition of the Sakrebulo and the relevant electoral system. The Venice Commission acknowledges that this amendment to a fundamental principle of electoral law would occur within one year of the forthcoming elections. Nevertheless, the Commission deems such a modification to be justified, as it seeks to ensure the electoral system's compliance with international electoral standards, including the implementation of a recommendation by international organisations.⁴⁶

3. The delineation of electoral constituencies

34. Further amendments affect the delineation of the electoral constituencies for the majoritarian seats at the Sakrebulo. The amended Art. 137 of the Election Code mandates the CEC and the respective DEC to publish information regarding electoral districts and their boundaries within two and three days of elections being called, respectively. For Sakrebulo elections, the responsibility for establishing local majoritarian electoral districts and defining their boundaries lies with the respective DEC, except in Tbilisi, where the CEC assumes this duty. Moreover, the newly introduced Art. 203⁸ of the Election Code requires the CEC to establish, modify, and define electoral districts and their boundaries, including single-seat majoritarian districts in Tbilisi and other self-governing cities, and to publish the relevant information by 1 August 2025.

a. The criteria and procedure for the delimitation of the electoral districts

35. The Venice Commission and the ODIHR have previously found that the formation of electoral districts in the Georgian legal framework undermined the principle of equality of suffrage.⁴⁷ For example, in 2011 the Venice Commission and the ODIHR concluded that the then draft Code under examination did not provide explicit criteria to be used in forming the majoritarian districts.⁴⁸ The current amendments revert to the situation preceding the amendments in 2021, lacking clear criteria and procedures for the delimitation of this fundamental rule of the electoral law. Following the amendments, only criteria for the definition of boundaries in relation to Tbilisi are in place, where the law states that the CEC can change boundaries “taking into consideration the territorial and administrative peculiarities of the municipality concerned” (amended Art. 137 para. 3 of the Election Code). For all the other municipalities no criteria on how to define the electoral districts are provided for in the law. In turn, the new para. 2 of Art. 18 of the Election Code provides that

⁴⁴ Congress of Local and Regional Authorities, Report on local elections in Georgia (2 October 2021), [CPL\(2022\)42-02](#), para. 18. See also International Election Observation Mission, Georgia – Local Elections, 2 October 2021, [Statement of Preliminary Findings and Conclusions](#), p. 5; and OSCE/ODIHR, Georgia – Local Elections, 2 and 30 October 2021, [ODIHR Election Observation Mission Final Report](#), pp. 7-8.

⁴⁵ In addition to the assessed amendments, during the online meetings, the Venice Commission delegation was informed that Art. 149 of the Election Code, which prescribed a two-round system for the majoritarian election, had also been amended, now requiring a simple majority, which would further benefit the governing party.

⁴⁶ Venice Commission, [CDL-AD\(2024\)027](#), Revised interpretative declaration on the Stability of electoral law, para. II.B.2.

⁴⁷ Venice Commission and OSCE/ODIHR, [CDL-AD\(2010\)013](#), Georgia – Joint Opinion on the Election Code of Georgia as amended through March 2010, paras 12-14, and Venice Commission and OSCE/ODIHR, [CDL-AD\(2011\)043](#), Georgia – Joint opinion on the draft election code of Georgia, paras 10-20.

⁴⁸ Venice Commission and OSCE/ODIHR, [CDL-AD\(2011\)043](#), Georgia – Joint opinion on the draft election code of Georgia, paras 10-20.

the law shall (continue to) define “the creation of local electoral districts, their boundaries, names and numbers.” The Venice Commission finds that this wording does not represent a sufficiently demarcated legal definition and gives an excessive margin of discretion to delineate the electoral majoritarian constituencies to the DEC and to the CEC and, indirectly by doing so, to decide on the number of majoritarian districts represented in the Sakrebulo. Therefore, and whereas the amendments seem to prescribe the drawing of constituency boundaries based on pre-existing administrative division, the new text does not preclude the creation of electoral districts *ex nihilo* by the DEC and the CEC.

36. The new wording of para. 2 of Art. 18 of the Electoral Code should also be read in light of the repeal of Annexes 1 and 2 of the old Electoral Code by the new Art. 203⁸ introduced by the amendments: adopted in 2021, these Annexes provided (a) for the composition of the Sakrebulo of each one and all self-governing communities and cities and (b) for the boundaries of each one and all local majoritarian electoral districts within self-governing communities. By adopting them, the 2021 legislator hoped that objectionable changes would from then on be avoided and stability would instead be guaranteed.

37. Furthermore, for the forthcoming 2025 municipal elections, Art. 203⁸ of the Election Code hereabove mentioned empowers the CEC, by 1 August 2025, not only to “establish [new] electoral districts”, but also to “define and/or modify their boundaries”, as well as to “establish and/or modify boundaries of local single-seat majoritarian electoral districts” in Tbilisi and throughout the country. The lack of criteria in authorising the election administration to do the above is problematic with respect to the principle of the separation of powers, because it is tantamount to a delegation of legislative power *en blanc* (Article 36 of the Georgian Constitution). Since the Electoral Code does not provide any criteria determining the decision on constituency delineation, it is in the wide discretion of these bodies to establish the boundaries of the electoral districts, and it is not a mere implementation of law with a narrow margin of discretion. The Venice Commission recalls that, whereas rules on implementation such as those on technical questions and matters of detail, can be in the form of regulations, the electoral rules should have the rank of statute law.⁴⁹ Mandating the CEC/DEC with establishing or modifying electoral districts contradicts the conditions for the implementation of the principles of the European electoral heritage, as the regulatory level of the respective rules have been lowered to a regulation. As described above, the relevant rules do not deal with “technical question or matters of detail” but concern a fundamental element of the electoral law.

38. The fact that no criteria whatsoever are provided for, neither for the creation of new electoral districts nor for the tracing of the boundaries of both of the new and of the existing ones, also poses serious challenges to the rule of law in terms of foreseeability of the law. Aggravating the circumstances further, the decision by the CEC and the DEC is only published, respectively, two and three days after the elections are called, disregarding the fact that the drawing of constituency boundaries and rules relating to the distribution of seats between the constituencies are fundamental rules of electoral law that should not be open to amendment less than one year prior to an election.⁵⁰ What is more important, once elections have been called, no amendments to electoral law should be made, unless they are strictly necessary, and electoral reforms should occur early enough to allow candidates, voters and electoral management bodies to understand and apply the changes.⁵¹ During the exchanges with the Georgian interlocutors, the Venice Commission was informed that the CEC had already published the decisions with the new

⁴⁹ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, para. 67.

⁵⁰ Venice Commission, [CDL-AD\(2024\)027](#), Revised interpretative declaration on the Stability of electoral law, para. II.B.5.

⁵¹ Venice Commission, [CDL-AD\(2024\)027](#), Revised interpretative declaration on the Stability of electoral law, II.B.2. See also Venice Commission, [CDL-AD\(2024\)037](#), *Amicus curiae* brief for the European Court of Human Rights in the case of *Staderini and Others v. Italy* on the stability of electoral legislation and some features of a mixed electoral system, para. 25.

electoral districts. However, the amendments do not preclude that this distribution may be further modified up to two days after the elections have been called.

39. Therefore, the Venice Commission recommends that constituency delimitation should be tightly regulated at the level of the Electoral Code, which should establish clear and objective criteria for the delimitation of the electoral districts, a process that should always be undertaken before elections are called. The Georgian authorities should revoke the aforementioned amendments prior to the forthcoming local elections, restoring the previous electoral constituencies as set out in Annexes 1 and 2 of the former Electoral Code.

b. The bodies in charge of the delimitation of electoral districts

40. In addition to transparency in boundary delimitation, international standards also call for an impartial boundary authority not abusing its discretionary powers.⁵² In principle, when the procedure for delimiting electoral districts has been defined precisely in a law, the process remains the same regardless of who is drawing the district boundaries.⁵³ Having said that, the absence of clear and transparent provisions for the delineation of the electoral constituencies as described above calls for a thorough assessment of the authority entrusted with this task.

41. The Venice Commission recommends that boundary delimitation should be entrusted neither to the legislator nor to the electoral management body. On several occasions, the Venice Commission and the ODIHR have found that “[m]aking an electoral management body fully responsible for boundary delimitation creates a double risk: a risk of politicisation for the Central Election Commission, as well as the risk of overloading it.”⁵⁴ In this regard, it would be admissible for the legislator or an electoral management body to take the final decision, as long as this decision is based on the opinion of a committee the majority of whose members are independent.⁵⁵ Accordingly, the Venice Commission recommends that, following the upcoming local elections, the delimitation of electoral boundaries, in accordance with the aforementioned clear criteria and procedure, be entrusted to an impartial boundary authority.

42. The Venice Commission also recalls that the public acceptance of the impartiality of the election management body carrying out the elections is an important pillar in the credibility of the electoral process and the acceptance of the voting results. In contrast, election observers have reported an erosion of the impartiality of the Georgian CEC and a decline in trust in this institution, due to the governing party’s dominant position in the election administration and subsequent amendments to its composition and working methods.⁵⁶ For example, amendments to the Election Code in 2023 transferred the authority to nominate candidates for the CEC Chairperson and the non-partisan members from the President to the Speaker of Parliament and abolished the position of a Deputy Chairperson nominated by the opposition. The Venice Commission and the ODIHR found that these amendments eroded the independence and impartiality of the CEC, making the lack of trust in the election administration a major challenge.⁵⁷ More recently, the

⁵² Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 6.

⁵³ Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 22.

⁵⁴ Venice Commission and OSCE/ODIHR, [CDL-AD\(2014\)003](#), Republic of Moldova – Joint Opinion on the draft Law amending the electoral legislation of Moldova, para. 33; and Venice Commission and OSCE/ODIHR, [CDL-AD\(2017\)012](#), Republic of Moldova - Joint opinion on the draft laws on amending and completing certain legislative acts(electoral system for the election of the Parliament), para. 43.

⁵⁵ Venice Commission, [CDL-AD\(2002\)02rev2-cor](#), Code of Good Practice in Electoral matters, guideline II.2.2.vii, and Venice Commission, [CDL-AD\(2017\)034](#), Report on Constituency Delineation and Seat Allocation, para. 115.

⁵⁶ PACE, Observation of the parliamentary elections in Georgia (26 October 2024), [Doc. 16079](#), para. 27. See also International Election Observation Mission, Georgia – Parliamentary Elections, 26 October 2024, [Statement of Preliminary Findings and Conclusions](#), p. 5-6; and OSCE/ODIHR, Georgia – Parliamentary Elections, 26 October 2024, [ODIHR Election Observation Mission Final Report](#), p. 1-2 and 10.

⁵⁷ Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)047](#), Georgia – Joint on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 36. See also Venice Commission, [CDL-AD\(2024\)010](#), Georgia – Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 26.

previously required anti-deadlock mechanism for the member of the CEC has been abolished and appointments are now possible with a simple majority if broader agreement on the candidates cannot be reached. In May 2024, amendments were tabled changing the requirement for CEC decision-making to allow for voting on issues with a single majority if support of at least two-thirds of the full membership cannot be reached. According to the most recent reports by international election observers, as well as some of the interlocutors met during the online meetings, these last amendments further eroded the collegial nature on which this body should operate and could potentially allow the governing majority to exert control over all CEC decisions.⁵⁸

43. The Venice Commission stresses that the highest level of impartiality and independence must be sought in both the composition as well as the functioning of the election administration. Achieving this objective requires, on the one hand, that their members, including their Chairperson, are elected through procedures which seek consensus; and, on the other hand, that qualified majorities are required for the taking of the most important decisions, if not all of them.⁵⁹ The Venice Commission therefore recalls its previous recommendations on the composition and functioning of the Georgian election administration.

4. The increase of the legal thresholds

44. The majoritarian logic of the Georgian electoral law is further shown by the amendments to Art. 148 and Art. 162, paras 1-3 of the Election Code increasing the threshold for the distribution of seats under the proportional system to 4% (from 3% and 2,5%, respectively).

45. According to the case-law of the ECtHR, a threshold may be justified with a view to Article 3 of Protocol No. 1 ECHR if it pursues a legitimate aim and meets the proportionality test. As the effects of an electoral threshold can differ from one country to another and the various systems can pursue different, sometimes even opposing, political aims by introducing a threshold, the Court has not defined strict maximum numbers for a reasonable threshold but examines the respective thresholds on a case-by-case basis.⁶⁰ In this regard, the ECtHR leaves a wide margin of appreciation to the member states.

46. The Court has found that a threshold of 4% could be deemed in line with the requirements of Article 3 of protocol No. 1 of the ECHR. Furthermore, the increase of the threshold is relatively minor (from 3 % and 2,5 % to 4 %). In this regard, the amendment in the threshold therefore appears not to be problematic. Nevertheless, in view of the above-mentioned measures that strengthen the majoritarian dimension of the Georgian electoral system at the local level, the increase of the threshold could further weaken the pluralism of the elected bodies.

⁵⁸ See, for example, International Election Observation Mission, Georgia – Parliamentary Elections, 26 October 2024, [Statement of Preliminary Findings and Conclusions](#), pp. 1-3, and 7. See also OSCE/ODIHR, Georgia – Parliamentary Elections, 26 October 2024, [ODIHR Needs Assessment Mission Report](#), pp. 1-2 and 7; and OSCE/ODIHR, Georgia – Parliamentary Elections, 26 October 2024, [ODIHR Election Observation Mission Final Report](#), pp. 1-2, 10.

⁵⁹ Venice Commission and OSCE/ODIHR, [CDL-AD\(2023\)047](#), Georgia – Joint on the Draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 19.

⁶⁰ For example, the ECtHR as found a threshold of 5% to be in line with the provisions in the ECHR in several cases, including ECtHR, [Partija "Jaunie Demokrāti" and Partija "Mūsu Zeme" v. Latvia, Application nos. 10547/07 34049/07](#), Decision, 29 November 2007; ECtHR, [Partei Die Friesen v. Germany, Application no. 65480/10](#), Judgment, 28 January 2016; ECtHR, [Strack and Richter v. Germany, Applications nos. 28811/12 and 50303/12](#), Decision, 5 July 2016. In ECtHR, [Federación nacionalista Canaria v. Spain, Application no. 56618/00](#), Decision, 7 June 2001, the Court took the view that the requirement to fulfil two alternative conditions – to obtain either at least 30% of valid votes cast in an individual island constituency, or at least 6% of valid votes cast in an entire autonomous community – granted a certain protection to smaller political formations. By contrast, in its judgement of 8 July 2008 in the case of [Yumak and Sadak v. Türkiye, Application No. 10226/03](#), the ECtHR the Court found that, in general, a 10% electoral threshold appeared excessive, and concurred with the organs of the Council of Europe, which had recommended that it be lowered.

IV. Conclusion

47. By letter of 23 December 20024, Mr Marc Cools, President of the Congress of Local and Regional Authorities of the Council of Europe (the Congress), requested an opinion of the Venice Commission on the amendments to the Organic Law "Election Code of Georgia", pertaining to local elections.

48. The Venice Commission notes that the proposed amendments reinforce the majoritarian component of local electoral legislation, which may result in the further entrenchment of the governing party's position. While no specific European standards mandate a particular electoral system for the election of local councils, these amendments, when considered within their broader context, do not contribute to the promotion of political pluralism. Moreover, they may undermine the principle of equal suffrage, particularly in relation to the fair allocation of voting power and the assurance of equal opportunities within the electoral process.

49. In view of the above, the Venice Commission makes the following key recommendations:

- A. Repealing the amendments adopted in December 2024. [paragraph 33]
- B. Regulating constituency delimitation tightly at the level of the Electoral Code, which should establish clear and objective criteria for the delimitation of the electoral districts. [paragraph 39]
- C. Following the upcoming local elections, entrusting border delimitation to an impartial boundary authority. [paragraph 41]

50. In addition, the Venice Commission also recommends:

- D. That any additional amendments to the Electoral Code of Georgia should be undertaken within the framework of a thorough and comprehensive review of the electoral system, ensuring an all-encompassing reform, rather than through frequent and fragmented adjustments, and should respect the principle of stability of electoral legislation. [paragraph 20]
- E. Such comprehensive review of the electoral code should be based on clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations; on broad consensus after extensive public consultations with all relevant stakeholders; and on 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. [paragraph 15]

51. The Venice Commission remains at the disposal of the Georgian authorities and of the Congress of Local of Regional Authorities for further assistance in this matter.