

## GEORGIA'S ELECTORAL SYSTEM: IMPLEMENTED REFORMS, ACHIEVEMENTS AND CHALLENGES

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### **Abstract**

On June 28, 2021, in the third reading, the Parliament of Georgia adopted amendments to the Election Code, the purpose of which was to improve the election legislation. The work process lasted several months and the final version of the document also reflected the provisions of the agreement signed between the political parties on April 19, 2021.

The implemented legislative changes regulate several important issues more fairly and better. However, the law did not reflect certain topics that need to be changed to improve the independence and impartiality of the election administration, as well as the local self-government election system and other regulations.

At the same time, the adopted changes to a large extent regulate the legal framework for the upcoming elections and ensure the establishment of a stable, sustainable electoral legislation.

Important positive changes include the following:

- The manner of staffing election commissions at all three levels has become relatively fairer. The number of members appointed by the parties has increased and each party will nominate only one member. The election of CEC professional members for a full term (5 years) will require the consent of  $\frac{2}{3}$  of the Parliament instead of a simple majority;
- When staffing municipal councils, the electoral threshold was reduced and the share of proportionally elected council members increased, therefore, the changes ensure a more proportional reflection of the voters' will in the mandates; In order to be elected as the majority of the council in the first round, it was necessary to obtain the support of at least 40% of the voters;
- The ban on participation in agitation during working hours has been extended to all civil servants, and it has also been extended to employees in pre-school and general public educational institutions;
- A special database of authorized persons will be formed to submit complaints to the higher election commissions, and it will be possible to submit complaints electronically; Also, certain deadlines for appeals and appeals/lawsuits have been extended;

The present document summarizes the final joint evaluations of the electoral reform regarding the main changes introduced by the Parliament of Georgia to the Election Code. In addition, the document presents recommendations, which should be considered for the 2024 parliamentary and 2025 local self-government elections.

**Index Terms** – Elections in Georgia, Democratization, Europeanization, Challenges

### **Introduction**

Georgia is a developing democratic state with a long history, which aspires to join the Euro-Atlantic space. Integration in the Euro-Atlantic space is recognized by Article 78 of the Constitution of Georgia.

According to the Constitution of Georgia, the constitutional bodies undertake to take all measures within their powers for the full integration of Georgia into the European Union and the North Atlantic Treaty Organization [1].

Since 1990, 22 elections have been held in Georgia. Of these, 5 were presidential elections, 7 were parliamentary elections, 7 were elections of the Supreme Council of the Autonomous Republic of Adjara, and 4 were local self-government elections. Also 1 - referendum and 2 - plebiscite [2].

In the background of the political crisis created in Georgia after the next parliamentary elections in 2020, the President of the European Council, Charles Michel, performed an important mission in supporting the European course of the country and ensuring the electoral reform of Georgia.

### **I. Significance of Transparent Elections in the Europeanization Process**

One of the main messages of the agreement associated with the name of the President of the European Council - Charles Michel (hereinafter - the "Charles Michel Agreement") was the implementation of an ambitious electoral reform with the support of the government in Georgia [3].

According to Charles Michel's document, the parties undertook to carry out and ensure the following reforms:

- The parliamentary elections of 2024 will be held in full by the proportional electoral system;
- For the next two parliamentary elections, the threshold will be reduced to 2%;
- According to the document, the rule of creating a parliamentary faction should be abolished. According to the current rule, no less than 7 members of the Parliament can create a parliamentary faction. According to the request of the document, the number of members of the faction should be reduced to 4 members;
- During local self-government elections to be held in 2025, lowering the proportional threshold to 2.5% in Tbilisi, and the threshold to 3% in all districts outside the capital;
- Charles Michel's document provided for a change in the procedure for electing the chairman and the first deputy chairman of the Central Election Commission. In particular, in order to elect the chairman of the Central Election Commission, the support of 2/3 of the full composition of the Parliament was determined, while the deputy chairman of the election commission had to be appointed by one of the opposition parties operating in Georgia;
- 8 members of the Central Election Commission were to be appointed on the basis of professional qualifications. In addition to the members appointed on professional grounds, 9 members were to be appointed to the Central Election Commission by the nomination of political parties;

- The members of the district and precinct election commissions should be recruited in the above-mentioned proportions, for their election, the support of 2/3 of the votes of the members of the central election commission would be required;
- According to Charles Michel's document, the rule of automatic recount/verification of 10% of the polling stations by the Central Election Commission remained in force after the completion and announcement of the election results;
- A working group was to be created under the supervision of the Central Election Commission, which would include representatives of the Public Defender, as well as members of the international observation mission, local and international experts. Charles Michel's document also provided for the inclusion of the working group in the process of recounting votes, if necessary;
- According to Charles Michel's document, the joint conclusion of the Venice Commission and the OSCE/ODIHR Office for Democratic Institutions and Human Rights (OSCE/ODIHR), which was initiated in January 2021 (Legislative changes on the rules of party registration and financing), should have reviewed the above recommendations;

It is worth noting that the deadlines for the implementation of the electoral reform introduced to overcome the political crisis were specifically written in the document, the implementation of which was primarily the responsibility of the Georgian authorities.

According to Charles Michel's document, all the necessary reforms that were adopted for the successful implementation of the electoral reform should be implemented before the 2021 local government elections.

After some time passed after the signing of the Charles Michel Agreement, the Georgian authorities withdrew from the agreement. Nevertheless, on June 28, 2021, the Parliament of Georgia adopted amendments to the Election Code in the third reading, the purpose of which was to improve the election legislation. We believe that these reforms should be evaluated positively and as a step forward.

According to the research of the non-governmental organization - "Transparency International - Georgia" (ISFED), the legislative changes related to the reform of the election code regulate several important issues more fairly and better. However, despite some reforms, there are still significant gaps in the electoral code in terms of improving the electoral process [4].

In order to evaluate the electoral reform, we consider it important to evaluate both the positive aspects of the implemented legislative changes, as well as to mention the negative aspects of the adopted changes and other remaining shortcomings.

In particular, among the implemented legislative changes, the following should be evaluated positively:

1. Reform of conducting parliamentary elections. In particular, the transition to a fully proportional system from 2024. The mentioned legislative change is also supported by the entry in the Constitution of Georgia [5];

2. With the implemented legislative change, the procedure for staffing election commissions became fairer. The number of members appointed by the parties participating in the elections has increased. Each party shall appoint only one member;
3. After the implementation of the reform, with the new edition of the Election Code, 80% of the mandates in the local self-government elections in Tbilisi City Council will be elected by the proportional election system;
4. Increasing the percentage of deputies elected proportionally in local self-government elections can be considered a successful change. In particular, in other big cities of Georgia, out of three deputies of the city council, two of them will be elected proportionally. The mentioned change will enter into force from the time of local self-government elections in 2025;
5. After the announcement of the election results, the commissions shall recalculate at least 10% of the election precincts in a mandatory manner;
6. The area of non-violence of political agitation during working hours was expanded and it affected citizens employed in pre-school and general educational institutions;
7. The introduction of the electronic right to file a complaint can be considered an important change. The deadline for filing a complaint has also increased;
8. In local self-government elections, the proportional threshold has been reduced since 2025 and in Tbilisi it is 2.5%, and in all other self-governing cities the proportional threshold has been reduced to 3%;
9. In the absence of consensus in the elections of the chairman of the Central Election Commission, in accordance with the legislative change, it became possible to temporarily appoint the chairman of the Central Election Commission (acting chairman);

## **II. Achievements and Loses**

In Charles Michel's document, among the points related to the implementation of the electoral reform, the following points were not fully, but partially implemented:

1. The constitutional amendments to lower the electoral threshold to 2% during the parliamentary elections have been initiated in the Parliament, however, due to the lack of the will of the majority, the said amendments have not yet been adopted by the Parliament;
2. From Charles Michel's recommendations, we can consider the Venice Commission and the OSCE/ODIHR Office for Democratic Institutions and Human Rights (OSCE/ODIHR) recommendations to cancel the registration of political parties and changes in the financing rules to be partially fulfilled. The mentioned change abolished the rule according to which, in case of participation of a citizen of another country in the election campaign, the political party was abolished;

From the points related to the implementation of the electoral reform in Charles Michel's document, we can consider the following flaws in the electoral code as unfulfilled at this stage:

1. There is still a law in the Election Code that cuts off funding to a political party for a period of six months, if the members of parliament elected on behalf of the party do not attend more than half of the parliamentary sessions;
2. It is still not possible for political parties with 4 mandates to create a political faction in the Parliament of Georgia. To create a faction, there is still a rule of manning a political faction with at least 7 members;
3. The next elections of the Parliament of Georgia will be held again under the conditions of a 5% threshold. The Char Michel agreement provided for the lowering of the electoral threshold to 2%, which has not yet been fulfilled;
4. We can consider the procedure for choosing the professional members of the Central Election Commission as an important flaw in the procedure for the election of the Central Election Commission. In the event that the consensus between the political parties could not be reached and the candidates did not win 2/3 of the votes, then the professional members of the election commission are elected by the Parliament with a simple majority;
5. The regulation also remains temporary, according to which, in the event that more than 9 political parties in the Parliament of Georgia overcome the threshold, the right to appoint members of the election commission will be given priority to the political party that has more state funding;
6. Although according to the electoral reform, political agitation during working hours is prohibited for persons employed in the state service, the law does not regulate agitation and political activity during working hours on social networks by public service employees;

Another important challenge is the lack of communication between representatives of the Central Election Commission and the population of Georgia. In particular, according to our sociological research, out of 50 surveyed citizens with the right to vote (according to the current legislation of Georgia, a citizen of Georgia who turned 18 years old on the day of the election has the right to vote), only 28 are informed about holding the elections of the Parliament of Georgia in a fully proportional manner, which amounts to 56 %.

Also, according to our own survey, we have lower data regarding the awareness of the population regarding the difference between the electoral systems and the legislative changes. In particular, out of 50 respondents, only 19 respondents had information about the proportional and majoritarian system and the difference between them (which is 38%).

### **III. Conclusion and recommendations**

After the reforms implemented in the electoral system of Georgia (taking into account the existing shortcomings and the achieved results), the implemented legislative changes regulate several important issues more fairly, which helps to accelerate Georgia's striving for full membership of the European family.

The achieved results serve to establish a legal framework for the upcoming parliamentary elections (the next parliamentary elections in Georgia will be held in 2024) and cannot ensure the existence of a stable, long-term optimal electoral legislation.

Therefore, the further reformation of the electoral code should be continued. In addition, it is extremely important that the relevant authorities implement the legislation in practice conscientiously and effectively.

### References

1. Constitution of Georgia, Article 78, Tbilisi, August 24, 1995;
2. <https://cesko.ge/static/res/old/other/9/9077.pdf?fbclid=IwAR0hkhrU2aMvUvhnaycbagGYWjlTa7ZTwd0InukRDG1zgD2-NgMikdshNb0>);
3. Charles Michel Agreement document (<https://www.eeas.europa.eu/>);
4. <https://www.transparency.ge/ge/blog/saarchevno-kodeksshi-shesuli-cvlilebebi-shepaseba-da-rekomendaciebi>;
5. Constitution of Georgia, Chapter Three: Parliament of Georgia, Article 37/2;