

Political Processes in Georgia and Interaction with the European Union in 2004–2014

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Abstract – The article analyzes political processes in Georgia followed by the 2009–2010 constitutional reforms. The reforms changed the structure of state power, the relationship between the legislative and executive bodies. The strong and independent judiciary had to balance two branches of government. The new version of the Constitution took into account recommendations of the Venice Commission on the judiciary reform. According to the 2014 materials on the implementation of the state program aimed at reforming the political system in Georgia, the constitutional amendments made the Supreme Council of Justice more transparent and democratic. Within the Euro-Georgian Association, special attention was paid to the judicial system in Georgia. Important tasks (fair trials, independent investigation bodies) had to be addressed. An independent judicial system was an indicator of democratic institutions. As part of the military reform, the military service was created and legal acts aimed at facilitating its liberation from the political influence were adopted. In 2014, a bill on the elimination of all forms of discrimination was adopted. The article concludes that the relationship between the European Union and Georgia was based on the elements of socialization. After the conclusion of the Association agreement, the Euro-Georgian relations have moved to a new level. The constitutional reforms played an important role, contributing to the further integration of the Republic into the European structures.

Keywords – Georgia, European Union, constitutional reform, political system reform, Euro-Georgian Association agreement, integration processes.

I. INTRODUCTION

Within the European Neighborhood Policy (ENP), approved by the European Union (EU) in 2004, Georgia has been given priority in the programs aimed to develop cooperation with the countries of the South Caucasus. The associated agreement between the EU and Georgia is a plan towards their further interaction. This plan covers all political, economic and social spheres; its successful implementation

should make irreversible the process of its Europeanization. The article analyzes institutional changes in Georgia, priorities on the agenda of the Euro-Georgian Association, government decentralization reforms, the role of the EU in the democratic transformation of Georgia. The article aims to present the nature and specifics of the constitutional reform in Georgia in 2009–2010, identify the problems that arose during its implementation, cooperation of the EU with Georgia in reforming its political system.

II. MATERIALS AND RESEARCH METHODS

The empirical basis is the EU documents reflecting its strategy for young post-Soviet states, including Georgia: Eastern partnership (2009); Twinning. European Neighborhood Policy and Enlargement Negotiations; TAIEX. European Neighborhood Policy and Enlargement Negotiations; The European Commission Opinion on the Constitution of Georgia (Strasbourg, October 15, 2010), The EU-Georgia Association Agreement (2015); The Constitution of Georgia (1995); Constitutional Law of Georgia “On Amendments to the Constitution of Georgia” (2010).

The authors adhered to the principle of objectivity. The study involved methods of institutional and comparative analysis. The systematic method allowed a comprehensive analysis of the political reforms in Georgia.

III. RESEARCH RESULTS

The constitutional reform in Georgia changed the government structure, the relationship between the legislative and executive branches. The experts often criticized the new version of the constitution adopted in February 2004, believing that it overestimates the power of the president and weakens the power of the parliament, contributes to the “super-presidential” state administration [1]. The state power system confirmed this assessment: indeed, the executive

branch consolidated around the president played a leading role in governing the country, determined its foreign policy oriented toward the West, the United States and its NATO allies [2]. At the same time, the role of the parliament, the judiciary and the local self-government was insignificant: they were forced to follow the president's political course.

In 2009, the state commission was created to develop and amend the constitution and develop a balanced system of state power and administration. Representatives of the parliamentary and extra-parliamentary opposition, experts, public activists took part in its work. This fact said that there were significant shortcomings in the constitution, and its new model should be developed by various representatives.

The package of constitutional amendments submitted in November 2010 reflected the position that, for the development of democratic processes in Georgia, the system of state power should be modernized by strengthening the powers of parliament and weakening the power of the president. The desire of the majority of citizens of the republic to strengthen the power of parliament reflected the international constitutional trends. The political circles of Europe gave a positive assessment to these changes: for example, the European Commission for Democracy through Law (the Venice Commission) emphasized that the amendments provide for several important improvements in a positive way [3].

In accordance with the new institutional changes, the relationship between the powers of the president and parliament has radically changed: the presidential power has been noticeably weakened, and the prime minister began to control the government having independent powers. Challenges arising from the irresponsible domestic and foreign policies of the Saakashvili regime [4], as well as increased criticism from international organizations, required a constitutional reform which resulted in the adoption of a new version of the Georgian constitution on October 15, 2010. At the same time, the authors of the reform took into account the problems that existed during the period when the previous constitution was in force. The draft constitutional reform stated that the measures taken to reform the constitution aimed to create a balanced, effective state system, within which any arbitrariness of the highest authorities is excluded [5]. One of the grounds for the constitutional reform in Georgia was a review of the constitutional status of the president. The problem of constitutional consolidation of the status of the presidential institution was discussed. Criticism against the constitutional legislation of 2004 was associated with the presidential institute. The main goal of the reform was to rethink the constitutional status and functions of the president in the system of state power: in particular, his powers should be reduced and redistributed among other branches [5].

In accordance with the new version of the constitution, the president continued to be the head of the state and the supreme commander of the armed forces. At the same time, it was evident that the authors sought to bring the functions and powers of the president into line with his status enshrined in the constitution. This concerned changes in Article 69: the President distanced himself from the executive branch,

focusing on the foreign policy [6]. In accordance with the amendments, the president is the head of the state, the guarantor of its unity and independence; an arbitrator ensuring functions of the state bodies [7]. In determining the role of the president and specifying his powers, it was believed that, if necessary, the president could influence other branches of government, but he was not authorized to exercise their functions. The new version narrowed his competencies in the system of state power. It seems necessary to compare the presidential powers in the main areas of state activity, reflected in the previous text of the constitution and in its new edition. When introducing constitutional amendments, members of the state commission considered that the president should not be vested with direct legislative powers. He was deprived of a right to convene an extraordinary session of the parliament. One of the mechanisms of his influence on the parliament was the right to refuse to promulgate the bill, return it for revision to the parliament, or use the veto power on the issue of its adoption. The discretionary right of the president to address the citizens of the country and parliament could be considered a mechanism of influence on the parliament.

As a result of constitutional changes, the president's leading role in implementing the foreign policy has weakened. First of all, this was expressed in the fact that the president could negotiate with other states or international organizations only after his actions were agreed with the government. A similar procedure was required to conclude international agreements and treaties.

One of the goals of the constitutional reform was to create a legislative framework to strengthen the role of the parliament. In accordance with the constitution of 1995, the parliament was assigned the status of the highest representative body vested with the legislative power, which determines the main directions of domestic and foreign policies, controls activities of the government. These provisions were retained in the text, although the political and legal conditions of the high status of the parliament changed [6].

The president was no longer entitled to monopolize the legislative initiative of the parliament, he did not have peremptory rights to demand an extraordinary consideration of his bills, the right to convene extraordinary sessions. The veto power was weakened. In turn, the parliament's impeachment right became more effective since the decision on impeachment was taken by the Constitutional Court, while the supreme court established signs of existing offenses.

In accordance with the constitutional amendments, the government consisted of factions that made up the majority in the parliament; active participation of the president was allowed only in the absence of the parliamentary majority [6, Art. 80]. The number of deputies who initiated the creation of an interim commission to form the government was reduced from 1/4 to 1/5 [6]. In the new version of the constitution, a thorough reform of the status of the government took place: the principles of its formation, competence and responsibility changed; the president was forced to distance himself from the executive branch [6].

As part of the constitutional reform, the parliament determined main directions of the domestic and foreign policies. In accordance with them, parliamentary control over the government was carried out. The parliament had many mechanisms to carry out reforms aimed at integrating Georgia to Europe. An important tool of the parliamentary control over the executive branch was the no-confidence vote procedure [6].

The government was a collegial executive body formed on the basis of the confidence expressed by the parliament – the only source of legitimization of the government. This implied that the parliament was authorized to control changes in the composition of the government. The parliament was empowered to express no confidence in the government. This procedure could be launched with the consent of at least 2/5 members of the parliament. If the government was updated by 1/3, it had to gain confidence of the parliament [6].

A separate chapter was devoted to the status of local governments. Their powers differed from those vested with the highest authorities. Local self-government had its own delegated powers. The basic principles for determining the powers of local authorities were established by organic law [6]: in particular, the local government (*sakrebulo*) was elected by citizens as a result of direct, general and equal elections [6].

A balance between the legislative and executive branches was not possible without a strong and independent judiciary. The new edition of the constitution took into account recommendations of the Venice Commission. The independent status of the judiciary was detailed in chapter 5 of the constitution. In particular, it provided for an increase in the age limit of judges of general courts; unlimited appointment of judges for office i after they have passed the "trial" term; an increase in the total number of votes in the parliament for the election of members of the constitutional court; turning the council of justice into a constitutional body; expansion of powers of the Constitutional Court.

In 2014, the results of the implementation of the state program on constitutional and legal reforms of the political system in Georgia were published. The first stage of reforms was completed in May 2013. After the constitutional amendments to the legislation approved by the Venice Commission were introduced, the High Council of Justice became more transparent and democratic. The participation of judges in the election of members of the High Council of Justice expanded; instead of different politicians, non-judicial members of the high council were representatives of public and academic circles [8].

On May 21, 2013, the Georgian parliament adopted the first package of amendments to the legislation on the general courts. They improved many legal provisions in terms of administering judicial procedures. The media were given the right to attend court hearings, which was previously prohibited. This approach aimed at strengthening the justice system, while emphasizing the principle of transparency.

In 2014, the second reform stage was completed. In accordance with constitutional amendments, a decision to appoint heads of general courts for an unlimited term was made. The "trial" period was three years. In the same year, the

parliament adopted a package developed by the Ministry of Justice with amendments to the organic law. They contained objective criteria and principles for assessing professional activities of judges during the "trial" period. An assessment of the work of judges was carried out by 6 different members of the High Council of Justice by honesty and competence. The last word remained with the High Council of Justice consisting of at least 2/3 of the members which documented the appointment of judges. During 2014, a package of changes was developed during the third reform stage. It was transferred to the Venice Commission to prepare an opinion on reforming the political system in Georgia.

The agenda of the Euro-Georgian Association paid special attention to the problems of reforming the judicial system. During the judicial reforms, important tasks (a fair trial, the right to defense, independent investigative measures) should be solved. In 1999, a training center was opened by the Ministry of Justice. The candidates for the position of heads of general courts had to attend 3-month training courses. This training center was a separate structure. On December 28, 2005, the Law "On the Higher School of Justice of Georgia" was adopted. It determined the structure of the educational institution, admission to the training courses of judges and the issuance of relevant qualification documents [9]. A year earlier, the development of the concept of free legal aid began, a working group was created from representatives of judicial bodies and non-governmental organizations. It developed the concept of a legal aid system which was transferred to the Ministry of Justice. Based on this concept, the Ministry of Justice created a coordinating council for providing legal assistance through attorney centers.

In general, judicial reforms became an indicator of the development of democratic institutions in Georgia. Since 2004, the judicial reforms became a major state priority, a number of legislative and administrative changes were developed to increase the independent status of justice: a new criminal procedural code, a higher school of justice. The salary of judges increased. The control over corruption intensified as well.

The government initiated the development of a concept of military reforms, creation of the institution of military service and adoption of acts for excluding the political influence on military service. The Military Service Bureau became subordinate to the prime minister; the legislative amendments aimed at strengthening the fight against corruption in the military sphere were adopted.

In 2014, the law eliminating all forms of discrimination was adopted. The document was widely discussed by the ministries, the diplomatic corps, the mass media, non-governmental organizations, representatives of religious and ethnic minorities, international organizations dealing with gender issues and problems of disabled persons. The European Commission against Racism and Intolerance (ECRI), the Office for Democratic Institution and Human Rights (ODIHR) and The Office of the UN High Commissioner for Human Rights (OHCHR) submitted their recommendations and comments. The bill provided for the elimination of all forms

of discrimination, equal rights for individuals and legal entities.

In accordance with the state program published in 2014, one of the priority was a policy aimed at protecting human rights. In order to enhance coordination and effectiveness in various sectors, the government approved an action plan for the next two years. The document contained a mechanism for implementing the "National Strategy for the Protection of Human Rights for 2014–2020" [10], approved by the parliament. It presented a long-term vision for solving problems in the field of human rights protection, identified priorities in this direction by strengthening the rule of law, creating democratic institutions, ensuring gender equality, protecting minority rights. In order to implement the plan, the human rights council was created under the leadership of the Prime Minister. The council had to submit its report on the implementation of the strategic plan to the parliament each March. The Secretariat for the Protection of Human Rights coordinated activities of various departments and monitored the implementation of the current plan.

During the reforms, the participation in various projects implemented by European financial institutions within the EU assistance program was intensified. In order to approximate EU standards and use European experience, a framework program was adopted on July 18, 2014. Georgia received financial assistance in the amount of 410 million euros [11]. The republic was included in the EU-funded national, regional and thematic programs which strengthened government departments and contributed to the expansion of regional cooperation in various priority areas.

In 2014, the Georgian Parliament adopted the "National Strategy for the Protection of Human Rights" based constitutional and international laws. It identified priorities in the field of human rights protection and set tasks for unified and consistent policies in this direction. The document indicated that a prerequisite is a high level of efficiency of state institutions [12].

The strategic line of the Ministry of Foreign Affairs aimed to transform Georgia into a European state with strong institutions and integrate it into the European and Euro-Atlantic structures. The EU expressed its willingness to contribute to the implementation of these goals. The opening of a new EU mission was a crucial event. The mission worked in the context of the "European Security and Defense Policy" and aimed to help the Georgian authorities in solving urgent problems in the criminal law system, as well as to develop a coordinated approach to reforms [13]. After the next expansion of the European Union, the political geography of the mission has changed significantly within the ENP with the Eastern European and Southern European countries aimed at assisting in the implementation of political and economic reforms.

The action plan adopted in 2006 as part of the ENP included measures and tasks based on the democracy and market economy principles. Strengthening the rule of law, the judiciary and other state institutions were the most important priorities within the ENP. Financial assistance provided by the EU played an important role in the implementation of the

reforms: for example, in 2007–2010, within the ENP, 120 million euros were allocated to Georgia [14]. In order to implement the integration agreement, the Georgian government developed a national action plan to implement the agenda of the Euro-Georgian Association for 2015. According to Article 4, the parties expressed their willingness to cooperate in enhancing the effectiveness of democratic institutions and strengthening the rule of law [15].

On May 14, 2015, two financial agreements were signed between the Georgian government and the European Commission. 50 million euros were allocated to the judiciary, and 10 million euros – to support the program for the protection of human rights. The assistance was provided within the Euro-Georgian association agreement and the visa liberalization plan. In particular, assistance to the justice sector involved the improvement of its administrative system, compliance with the rule of law, adoption of international and European standards for the protection of human rights, and support for an independent judiciary. The program was aimed at creating an effective judicial system, ensuring the protection of human rights, respect for the rule of law and fundamental freedoms. Within its program, special attention was paid to the institutional strengthening of government departments and organizations. The apparatus of the state minister dealt with the issues of integration into the European and Euro-Atlantic structures.

The interaction between the administrative institutions of the EU member states and Georgia within the Twinning program played an important role in integration relations. This program was aimed at improving the efficiency of the administrative and judicial systems in the beneficiary countries. [16] Georgia which was included in Twinning after the development of the ENP, made commitments to cooperate with European partners to achieve common goals. European Advisers were appointed in Georgian administrative institutions; various events were held (seminars, trainings, expert consultations, etc.).

The Euro-Georgian cooperation expanded within the TAIEX (Technical Assistance and Information Exchange), the European Commission's technical assistance and information exchange program [17], aimed at implementing the European legislation into various sectors of the EU economies. Under the TAIEX program, the EU legislation was harmonized with the institutions of the beneficiary countries in several forms: sending experts to the beneficiary country, holding seminars and organizing study tours for civil servants of the beneficiary country in order to study the experience of EU administrations. The objects of the TAIEX program were as follows: public officials of central and local government administrations; judiciary and law enforcement; public officials of legislative councils; representatives of trade unions.

The SIGMA program as a joint initiative of the International Organization for Economic Cooperation and Development (OECD) and the EU aim to support the development of public administration and management. Since 2008, this program has been used in neighboring countries of the EU. It has promoted such values as full accountability, the

rule of law, professionalism, impartiality and transparency. The assistance has been provided in four main areas: 1) legislation, public service, fair trial; 2) financial control and external audit; 3) government procurement; 4) policy development (development of existing capabilities, coordination, regulation, administrative and business environment). The program was aimed to assess progress in reforms, identify priorities taking into account the EU legislation, strengthen government institutions and develop legislative frameworks. Since 2008, in Georgia, a number of structures have benefited from the assistance of experts under the SIGMA program: the Public Service Bureau, the Georgian parliament, the Georgian government chancellery, etc.

IV. FINDINGS

Thus, the interaction of Georgia with the EU within the ENP was based on the elements of socialization which contributed to the spread of European norms and values. Since 2009, the Euro-Georgian relations have intensified, and after the conclusion of the associated agreement, they moved to a new level: the EU mechanisms of socialization began to play an important role in implementing constitutional reforms i paving the way for further integration into the European structures.

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