

Constitutional reform in Georgia: changing to stay the same?

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On 15 October, the Georgian parliament accepted amendments to the constitution, introducing into the text of the basic law regulations which fundamentally change the balance of power between the president, government and parliament. The competences of the president will be limited, and the main organ of executive government will be a cabinet formed by the prime minister and supported by a parliamentary majority. The changes are to come into effect in 2013 after the presidential elections. These changes, in the direction of limiting presidential power and strengthening the powers of parliament and government, were proposed by the West, and have mostly encountered the approval of the Venice Commission (VC, an advisory body of the Council of Europe). At the same time, however, the fact that its most important provisions will come into effect only at the end of President Mikheil Saakashvili's second and final term, as well as its far-reaching reinforcement of the prerogatives of the head of government, must be interpreted as an attempt to ensure state policy continues in its present direction, and make it possible for the head of state to remain in power in the office of prime minister.

The most important constitutional changes and the pace of their introduction

Until now, the central role in the Georgian political system has been played by the president. After the constitutional reform comes into effect, the president will remain head of state; however, a significant part of his competences will be transferred to the government, which will gain the status of the superior organ of executive power in both domestic and foreign policies. According to the new regulations, the prime minister will have exclusive influence on the composition of the cabinet (hitherto the ministers of defence and interior have been nominated by the president), and also on the appointment of regional governors. The head of government will also have the right to countersign presidential decrees (except in wartime) and nominate ambassadors, as well as command positions in the army. The president will also lose the right to initiate legislation. Although he will retain the status of the state's 'most important representative' in external affairs, in practice the president will need the government's agreement both to conduct talks and sign international agreements. Work on the constitution's new text has been ongoing since last June, when President Saakashvili appointed a constitutional commission (the opposition refused to participate; at that time there were mass protests in Tbilisi, demanding that the president step down). Towards the end of July this year the text was published, and on 24 September it already had its first reading in parliament. The speed at which the amendment was passed drew general criticism from the opposition and representatives of NGOs; public consultations on

the project took place during the holiday period, and barely three weeks elapsed between the first and final readings. In addition, the government withheld the acceptance of the amendments under pressure (including from the USA), until the moment when the Venice Commission (invited by Georgia to express an opinion on the reform) issued its final opinion. The vote in parliament to confirm the amendments took place on the same day that the Commission had its final session.

The Venice Commission stated that the constitutional amendment showed 'several important improvements and a step in the right direction'. However, it also emphasised a lack of balance in the new political system, including the domination of the prime minister; a symptom of this is the more complicated procedure for obtaining a vote of non-confidence.

Consequences of the reform

This constitutional reform serves *de facto* to maintain the current balance of power and the country's political course after the end of Saakashvili's second term in 2013. Until the presidential elections, he maintains the central position of the head of state. Thereafter, prerogatives comparable to those of the current president will be transferred to the head of government. This will make it possible for Saakashvili to remain in power without the need to stand for another presidential term, which would violate the constitutional ban, and would risk severe criticism from the West. It will also allow the president to avoid divisions in the ruling camp on the succession, and avoid the possible emergence of a competitor for power from among his own ranks. In the long-term perspective, the constitutional reform strengthens the role of parliament; however, in the situation where the president's United National Movement party predominates on the Georgian political scene, which will certainly continue until the parliamentary elections in 2012, the ruling camp has the greatest opportunity to win a parliamentary majority. In practice, this means that Saakashvili will almost certainly become the new prime minister.

Introducing these changes to the constitution three years before they come into effect will allow the ruling camp to avoid the criticism which would have been levelled against them, had they been made directly before the parliamentary (2012) and presidential elections (2013). At the same time, this move exploits the weakness and atomisation of the Georgian opposition, which is currently unable to mount any effective protests.