

Policy Alert # 2

Georgia's electoral system agreement should be implemented without further delay



Five months before the 2020 Parliamentary Elections in Georgia, there is still uncertainty over the electoral system under which these elections will take place. While a breakthrough agreement about the system was reached on March 8, 2020, the Coronavirus pandemic and subsequent state of emergency has halted the process of constitutional amendments. The amendment also came under threat due to the ruling party's reluctance to honor another component of the March 8 agreement about preventing the politicization of the judiciary, which as it is widely perceived, implied the release of opposition leaders and halting the pursuit of opposition and media representatives through politically motivated charges. Now that the State of emergency is lifted and some of the opposition leaders have been released by presidential pardon, the constitutional amendments should move forward and be adopted soon in order to guarantee that the pre-election campaign can proceed in a stable, competitive and predictable environment.

A political crisis concerning Georgia's electoral system was averted earlier this year by the determined efforts of the EU, U.S., German and CoE ambassadors who initiated and facilitated a political dialogue between the GD and opposition parties. Already challenging consultation process was further strained after the repeated arrest of opposition leader Gigi Ugulava in February, which strengthened suspicions about political influence over judicial cases.¹ Increased pressure from European and U.S. capitals in the form of statements by the Members of European Parliament, critical letters from the U.S. Congressmen and Senators, and repeated calls to ensure promised electoral system change, added to the diplomatic efforts from the dialogue facilitators, which paved a way out of the deadlock.

On March 8, 2020, a breakthrough agreement was reached between the GD and opposition parties. The parties agreed that the 2020 Parliamentary elections (as well as any subsequent early election before 2024) would be held under a new mixed system with 120 mandates distributed proportionally and 30 mandates through majoritarian single-mandate districts. From October 2024 a fully proportional parliamentary system would enter into force as already ensured by the Constitution.² While not an immediate transition to the fully proportional system, the agreement was welcomed by CSOs as an important prerequisite for creating a peaceful and fair pre-election environment.³ On top of the electoral system issue, March 8 agreement also included a component that called for the "necessity of addressing actions that could be perceived as inappropriate politicization of Georgia's judicial and electoral processes and of avoiding any such actions in the future".⁴ It was widely perceived that this clause entailed the commitment to pause legal cases against high level opposition leaders and media representatives. A constitutional amendment resulting from the March 8 agreement on electoral system was quickly introduced in the parliament but the process of constitutional changes was hindered by the introduction of state of emergency due to Coronavirus pandemic⁵.

Along with halted discussion of constitutional amendments, controversy arose over the politically motivated legal cases. GD maintained that they have not agreed on releasing so called "political prisoners" and that any such action would amount interference with independent judiciary from their part.⁶ Sentencing of former defense minister Okruashvili for 5 years due to his alleged involvement in organizing violence during the June 2019 protests, further raised concerns over selective use of the justice system and resulted in statements by the European and U.S. diplomats.⁷ On May 11, Speaker of the Parliament Talakvadze alluded that should the constitutional amendments fail to be adopted, it would be because of the opposition which has considered not supporting the amendment without the release of opposition leaders. Amid growing concerns that GD may be gambling to once again backtrack on a promised electoral system deal, facilitators of the political dialogue released a statement indicating that the March 8 agreement "is composed of two parts — one focused on the election system and the other on addressing the appearance of political interference in the judicial system." They also called for implementation of both parts of the agreement.⁸ This message has been further magnified by an outpour of European and U.S. lawmakers' statements calling GD to keep up the promise and fully implement the agreement. Chairman of the U.S.

¹ Embassies and Politicians commenting on Gigi Ugulava's Arrest, Georgian Journal, 12 February 2020, <https://bit.ly/2X10UQv>

² Georgian Dream, Opposition Reach Consensus over Electoral Reform, Civil.Ge, 8 March 2020 <https://civil.ge/archives/341385>

³ Agreement on the Electoral System Creates Opportunity to Get out of the Crisis and Create a Stable Electoral Environment, Joint Statement by ISFED and four other CSOs, 9 March 2020, <https://bit.ly/3fjNSPX>

⁴ Statement of the Political Dialogue Facilitators on Agreement, U.S. Embassy in Georgia, 8 March 2020, <https://bit.ly/2LuidEe>

⁵ Georgia's Constitution prohibits constitutional amendments during a state of emergency.

⁶ Georgian Dream Denies Having Pledged to Release "Political Prisoners", Civi.GE, 11 May 2020, <https://civil.ge/archives/351322>

⁷ Remarks by EU Ambassador Hartzell, 14 April 2020, <https://www.facebook.com/europeanunioningeorgia/posts/2813953648720124>; and U.S. Embassy Statement on Irakli Okruashvili, 14 April 2020, <https://ge.usembassy.gov/u-s-embassy-statement-on-irakli-okruashvili-april-14/>

⁸ Joint Statement by the Facilitators of the Political Dialogue, U.S. Embassy in Georgia, 11 May 2020, <https://bit.ly/2T6lf5D>

Senate Foreign Relations Committee called for “the release of political prisoners and progress towards a new electoral system.”⁹

On May 15, President of Georgia pardoned Ugulava and Okruashvili “to ease the situation [and] maintain stability”¹⁰. Release of the two opposition leaders has created favorable conditions to move forward the constitutional amendments on the 2020 electoral system, however another high-profile case involving an opposition supporter and investor of a critical media outlet Rurua is still pending. Opposition parties maintain their support to the constitutional amendments depends on whether Mr. Rurua is released.

Full implementation of the March 8 agreement and adoption of the constitutional amendment regarding the electoral system is critically important for stability of the pre-election environment in Georgia and to ensure that political landscape is more fair, equal and competitive ahead of the 2020 Parliamentary Elections.

What should be done?

In order to prove its commitment to democratic development, Georgia needs to ensure that the 2020 Parliamentary elections are democratic. To rebuild trust towards political process and continue democratic progress, implementation of the March 8 agreement is necessary to improve the electoral system and achieve stabilization by removing impression of political influence over the justice system. GD should refrain from exerting political pressure over opposition, media, civil society and independent activists and ensure fair and equal pre-election environment free from intimidation, abuse of state resources, vote buying or other undue influence over the voters, including through sponsored discrediting campaigns and other social media disinformation operations.

What can the EU do?

- Continue close monitoring of political developments in Georgia and demand from authorities to remain committed to democracy, rule of law, protection of human rights, political pluralism, media freedom, and common European values.
- Continue diplomatic efforts to ensure that the March 8 agreement between the GD and the opposition parties is implemented in full to ensure that the electoral system is reformed and politically motivated cases are stopped ahead of the elections.
- Increase engagement with the Georgian authorities to demand that pre-election environment provides for equal playing field and necessary safeguards for democratic conduct of the 2020 parliamentary elections. During communication with the stakeholders in Georgia underscore the importance of conduct of democratic, free and fair elections as well as potential consequences should questions arise over the legitimacy of the 2020 elections.
- Further encourage implementation of the OSCE/ODIHR and domestic election observers’ recommendations with regard to reform of the election administration composition, election dispute resolution, social media campaigning regulations, etc.
- Monitor that the COVID-19 and its related regulations are not abused to provide undue advantage to the ruling party and limit opposition and other critical opinions during the 2020 election period.
- Continue providing political, technical and financial support to civil society, particularly, election observer groups and independent activists ahead of the 2020 parliamentary elections in Georgia.

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For more information, please visit: www.isfed.ge/eng

⁹ European, U.S. Lawmakers Appeal to Georgian Parties to Implement March 8 Deal, Civil.Ge, 13 May 2020, <https://civil.ge/archives/351611>

¹⁰ Georgian president pardons imprisoned opposition politicians, former Tbilisi mayo Ugulava, ex defense minister Okruashvili, JamNews, 15 May 2020, <https://bit.ly/3d86CH5>