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ВЛИЯНИЕ КОНСТИТУЦИОННОЙ РЕФОРМЫ НА ВНУТРИПОЛИТИЧЕСКИЕ ПРОЦЕССЫ В ГРУЗИИ В НАЧАЛЕ XXI ВЕКА

THE IMPACT OF THE CONSTITUTIONAL REFORM ON THE INTERNAL POLITICAL PROCESSES IN GEORGIA AT THE BEGINNING OF THE XXI CENTURY

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Аннотация

В статье анализируются события, сопровождаемые конституционной реформой, проведенной в республике в 2009-2010 гг. Подчеркивается, что она основательно видоизменила структуру государственной власти, отрегулировала взаимоотношения между законодательной и исполнительной властью. В то же время, соблюдение баланса между этими двумя ветвями власти не представлялось возможным без наличия сильной и независимой судебной системы. Исходя из этого, в новой редакции конституции были учтены рекомендации по реформированию судебной системы, поступающие от Венецианской комиссии. Исходя из опубликованных в 2014 г. материалов по выполнению государственной программы реформирования политической системы в Грузии следовало, что после внесения изменений в конституцию Высший совет юстиции республики приобрел гораздо более транспарантный и демократический вид. В целом, в рамках евро-грузинской ассоциации проблемам реформирования судебной системы в Грузии уделялось особое внимание.

В ходе проведения судебных реформ следовало решить важные задачи, связанные с справедливым судебным разбирательством, проведением независимых следственных мероприятий и т.д. Созданная независимая судебная системы должна была стать индикатором функционирования в республике демократических институтов. Была разработана также концепция военной реформы, которая предусматривала создание института военной службы и принятие регуляторов, способствующих ее освобождению от политического влияния. Наконец, в 2014 г. по представлению правительства парламентом был принят законопроект о ликвидации всех форм дискриминации. В заключении в работе сделан вывод, что конституционная реформа сыграла важную роль, способствуя реформированию политической системы, дальнейшей интеграции республики в европейские структуры.

Ключевые слова: Грузия, Европейский союз, конституционная реформа, реформирование политической системы, евро-грузинское ассоциированное соглашение, интеграционные процессы

Abstract. *The article analyzes the internal political processes in Georgia, accompanied by* the *constitutional reform carried out in the republic in 2009-2010. It is emphasized that she thoroughly modified the structure of state power, regulated the relationship between the legislative and executive authorities. At the same time, maintaining a balance between these two branches of government was not possible without a strong and independent judicial system. Based on this, the new version of the Constitution took into account the recommendations on the reform of the judicial system received from the Venice Commission. Based on the materials published in 2014 on the implementation of the state program for reforming the political system in Georgia, it followed that after the amendments to the Constitution, the Supreme*

Council of Justice of the Republic acquired a much more transparent and democratic appearance. In general, within the framework of the Euro-Georgian Association, special attention was paid to the problems of reforming the judicial system in Georgia. In the course of judicial reforms, it was necessary to solve important tasks related to a fair trial, conducting independent investigative measures, etc. The established independent judicial system was supposed to be an indicator of the functioning of democratic institutions in the republic. The concept of military reform was also developed, which provided for the creation of the institution of military service and the adoption of regulators that would facilitate its liberation from political influence. Finally, in 2014, on the proposal of the Government, the Parliament adopted a bill on the elimination of all forms of discrimination. In conclusion, the paper concludes that the constitutional reform played an important role, contributing to the reform of the political system, further integration of the republic into European structures.

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

Introduction. Within the framework of the European Neighborhood Policy (ENP) approved by the European Union (EU) in 2004, Georgia was given a priority place in plans for developing cooperation with the countries of the South Caucasus. The associated agreement between the EU and Georgia, concluded in 2014, was considered by the parties as a specific plan of action towards reforming the political, economic and social life of the republic. Its successful implementation was supposed to make the process of its Europeanization irreversible, which, in principle, is consistent with the US strategic plans for Georgia [6, p.178]. The article analyzes the institutional changes in Georgia in the context of the priorities outlined in the agenda of the Euro-Georgian Association; reforms on decentralization of power structures are traced, the role of constitutional reform in the democratic transformation of institutions in Georgia is revealed. The theoretical basis of the work is the presentation of the essence and specifics of the constitutional reform in Georgia in 2009-2010, the identification of problems that arose during its implementation, and the EU's cooperation with Georgia in reforming its political system.

Materials and methods of research. The empirical basis of the work was political and legal documents reflecting the internal political strategy of the legislative, executive and judicial authorities of Georgia: Opinion of the European Commission on the Constitution of Georgia; Constitution of Georgia (1995); Constitutional Law of Georgia "On Amendments and Additions to the Constitution of Georgia" (2010), etc.

In the course of covering a complex of problems related to the reform of the political system in Georgia, the authors adhered to the principle of objectivity. The study involved methods of institutional and comparative analysis; in addition, a systematic method was used, which made it possible to conduct a comprehensive analysis of the reform of the political system in Georgia.

Research results. The constitutional reform carried out in Georgia in 2009-2010 fundamentally changed the structure of state power in the republic, the relationship between the legislative and executive powers. In expert circles, the new version of the constitution, adopted in February 2004, has often been criticized, believing that it overestimates the power of the president and at the same time weakens the power of parliament – in other words, it contributes to the creation of a "super-presidential" state administration [1]. Operating in 2004-2012. the system of state power largely confirmed this assessment: indeed, the executive power consolidated around the figure of the president played a leading role in governing the country, determined its foreign policy, oriented towards the West, towards rapprochement with the United States and its NATO allies. At the same time, the role of parliament, the judiciary and local self-government in the system of power was relegated to the background: in fact, they were forced to follow the political course of the president on all major issues.

In 2009, a state commission was established in Georgia to develop and amend the current constitution of the country, aimed at creating a balanced system of state power and administration.

Representatives of the parliamentary and extra-parliamentary opposition, experts, public activists took part in its work. The fact of the creation of the constitutional commission testified that there are significant shortcomings in the constitution of the republic, and the development of its new model should be carried out in conditions of broad consultations.

The package of constitutional amendments presented in November 2010 reflected the position that in order to develop 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 mood of the majority of the citizens of the republic in favor of strengthening the power of the parliament directly reflected the constitutional trends in international practice. In the political circles of Europe, these changes were positively assessed: for example, in the opinion of the European Commission for Democracy through Law (Venice Commission) on October 15, 2010, it was emphasized that the proposed changes in the constitution of Georgia provide for several important positive improvements [3].

In accordance with the new institutional changes, the relationship between the powers of the president and parliament has changed radically: presidential power has been noticeably reduced, and the prime minister began to lead the government, having independent powers.

Challenges arising from the irresponsible domestic and foreign policy of the Saakashvili regime [2, p. 80-81], as well as increased criticism from international organizations, necessitated a constitutional reform, which resulted in the adoption on October 15, 2010 of a new version of the Georgian constitution. 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. In the draft constitutional reform, it was recorded that the measures taken to reform the constitution aim to create a balanced, efficient state system, within which any arbitrariness on the part of the highest authorities is excluded [8].

One of the grounds for the constitutional reform in Georgia was the revision of the constitutional and legal status of the president. In the course of it, sharp discussions flared up concerning the problem of constitutionally fixing the status of the presidential institution in the highest state authorities. Given this circumstance, 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, it was necessary to reduce his powers and redistribute them in favor of other branches of state power [8].

In accordance with the new version of the constitution, the president continued to be the head of state and supreme commander of the armed forces. At the same time, when reading the text of the new edition, it was evident that its authors sought to bring the functions and powers of the president into line with his status enshrined in the constitution.

First of all, this concerned the changes made to Art. 69 of the constitution: in accordance with them, the president distanced himself from the executive branch, concentrating his main efforts on directing the foreign policy of Georgia [4, art. 69]. In accordance with the amendments and additions made to the constitution, the president is the head of state, the guarantor of its unity and independence; he acted as an arbitrator, ensuring the functioning of state bodies within the powers granted by the constitution [5].

In the course of determining the role of the institution of the president in the system of state power and concretizing his powers, the constitutional commission considered that, if necessary (following from the status of the head of state), the president could resort to influencing other branches of power, but he was not authorized to exercise their functions . The new rationale for the constitutional status of the president's functions has narrowed his competence in the system of state power. In this regard, it seems necessary to compare presidential powers in the main areas of state activity, reflected in the previous text of the constitution and modified in its new edition. When introducing constitutional changes to the text, the members of the state commission believed that the president should not be endowed with direct legislative powers. He no longer had the right, on his own initiative and agenda, to convene an extraordinary session of Parliament. In this situation, one of the mechanisms of influence of the head of state on the parliament was the right

to refuse to promulgate the bill, return it with his comments for revision to the parliament, or use the right of veto in the issue of its adoption. Also, the discretionary right of the president to address the citizens of the country and the parliament could be considered a mechanism for influencing the parliament.

As a result of constitutional changes, the leading role of the president in the implementation of the country's foreign policy has also noticeably 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 coordinated with the government. A similar procedure was required for the President 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 parliament. In accordance with the constitution adopted on August 24, 1995, the parliament was assigned the status of the highest representative body, endowed with the function of legislative power, determining the main directions of domestic and foreign policy, exercising control over the activities of the government. In the text, these provisions were retained, although the political and legal conditions for maintaining the high status of the parliament and for the implementation of its legislative functions have changed [4, art. 48].

The president was no longer entitled to monopolize the legislative initiative of the parliament, he did not have the imperative rights to demand an extraordinary consideration of his bills by the parliament, the right to convene an extraordinary session or meeting of the parliament. The veto power of the head of state was significantly weakened. In turn, the right of the parliament to remove the president from office by means of impeachment, as well as dismiss other persons holding high positions in the system of state power, has become more effective and efficient. This procedure has become much more efficient, since, in accordance with the new version, the decision on impeachment was made by the constitutional court, while the supreme court had to establish signs of existing offenses.

In accordance with constitutional changes, the government began to be formed from factions that make up the majority in parliament; active participation of the president in this process was allowed only in the absence of a parliamentary majority [4, art. 80]. The number of deputies who took the initiative to create a temporary commission to solve the problem of forming a government was reduced from 1/4 to 1/5 [4, art. 56, item 2]. In the new version of the constitution, a fundamental reform of the status of the government took place: the principles of its formation, competence and responsibility have changed; in connection with a significant strengthening of the status of the government, the president was forced to distance himself from the executive branch [4, art. 78, item 1].

Within the framework of the constitutional reform, the leading functions of the parliament were fixed in determining the main directions of the country's domestic and foreign policy. In accordance with them, parliamentary control over the work of the government was carried out. Parliament had many mechanisms at its disposal to act as a flagship in carrying out reforms aimed at Georgia's European integration. An important means of parliamentary control over the executive power was the procedure for passing a vote of no confidence in the government [4, art. 80, item 4].

The government was a collegial body of executive power, formed on the basis of the confidence expressed by the parliament - the only source of legitimization of the government. It logically followed from this that the parliament was empowered to control possible future changes in the composition of the government. Parliament was entitled to express no confidence in the government. This procedure could be launched with the consent of at least 2/5 of the members of parliament. If, after a vote of no confidence, the government was renewed by 1/3, it again had to gain the confidence of the parliament [4, art. 81, item 1].

A separate chapter in the new edition of the constitution was devoted to the status of local governments. Their powers differed from those vested in the highest authorities. Local self-government had its own powers delegated to it. The basic principles for determining the powers of local self-government bodies were established by an organic law [4, art. 101, p. 1.]: in particular,

the local self-government body (sakrebulo) was elected by citizens on the territory of a self-governing unit in the course of direct, universal and equal elections, by secret ballot [4, art. 101, p. 2].

Maintaining a balance between the legislative and executive powers was not possible without the functioning of a strong and independent judiciary. Based on this, the new edition of the Basic Law took into account the recommendations coming from the Venice Commission in the course of the constitutional reform. The independent status of the judiciary was spelled out in detail in Chapter 5 of the text of the Constitution. In particular, it provided for an increase in the age limit for judges who supervised the work of courts of general jurisdiction; appointment of judges to office for an indefinite period, after they have passed a "probationary" period; increasing the total number of votes in parliament to elect members of the constitutional court; transformation of the Council of Justice into a constitutional body; the growth of the powers of the constitutional court.

In 2014, the results of the implementation of the state program on the constitutional and legal reform of the political system in Georgia were published. It followed from them that the first stage of reforms was generally successfully completed by May 2013. After the introduction of constitutional amendments to the legislation approved by the Venice Commission, the High Council of Justice acquired a much more transparent and democratic appearance. The participation of judges in the election of members of the High Council of Justice has expanded; it was pointed out that instead of various politicians, representatives of public and academic circles should be involved as non-judicial members of the supreme council [9, p . 119-120].

On May 21, 2013, the Georgian parliament adopted the first package of amendments to the legislation on the activities of general courts. They significantly improved many provisions of the legislation in the activities of the courts of general jurisdiction, in terms of the administration of all judicial procedures. The mass media were given the right to attend court hearings, which was previously prohibited by the current legislation. This approach aimed to strengthen the justice system while emphasizing the principle of transparency.

In 2014, the second stage of reforming the justice system was completed. In the course of it, in accordance with constitutional changes, it was decided to appoint the heads of courts of general jurisdiction for an indefinite period, but before that a 3-year "probationary" period was determined for judges. In the same year, Parliament adopted a package of amendments to the organic law developed by the Ministry of Justice. They contained objective criteria and principles for evaluating the professional activities of judges, who were given a "probationary" period. Evaluation of the work of judges was carried out by 6 different members of the High Council of Justice by applying two main criteria – honesty and competence. The last word remained with the High Council of Justice, which, consisting of at least 2/3 of the members, documented the appointment of judges indefinitely, or refused to do so for some of them. During 2014, a package of changes was developed during the third phase of the reform of the justice system, which was then submitted to the Venice Commission for the preparation of an opinion on the reform of the political system in Georgia.

In the course of judicial reforms, such important tasks as a fair trial, the right to defend the accused should be solved; conducting independent investigations. For the purpose of professional training of judges, as early as 1999, a training center was opened at the Ministry of Justice. Subsequently, this training center was singled out as a separate structure, and on December 28, 2005, the Law "On the Higher School of Justice of Georgia" was adopted, which fixed the structure of the educational institution, admission to training courses for judges and issuance of relevant qualification documents to them [10].

One of the priorities in the work of the government was also designated a policy aimed at protecting human rights. In 2014, the Georgian Parliament adopted the "National Strategy for the Protection of Human Rights", based on the sources of constitutional and international law. The

document stated that a prerequisite in the process of protecting human rights is a high level of efficiency in the functioning of state institutions [11].

In order to strengthen the coordination and efficiency of activities in various sectors, the government approved an action plan in this area for the next two years [12]. 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, which, among other things, was also necessary for a positive political image of the state in the conditions of formation and development of the global information space [7].

Conclusions.

Thus, the constitutional reform carried out at the beginning of the 21st century in Georgia contributed to the reform of the political system, the spread of European norms and values in the republic. After the amendments were made to the constitution, the political institutions of the republic acquired a much more transparent and democratic appearance.

The European Union played an important role in the constitutional reform in Georgia, which paved the way for the country's further integration into European structures.

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