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The transformation of electoral system in Post-Soviet Georgia

Abstract

This paper deals with the issues of transformation of the electoral system of Georgia since 1990 to present. The issues of political parties' representation at the supreme legislative body based on the results of the parliamentary elections at various times are also discussed. There are used the legal sources as well as the opinions of different political actors and representatives of non-governmental organizations and etc.

The election system is the most important and essential element of any democratic regime, which has an impact on the democratization process and structuring of the electoral area. The term "election system" is used in two context – “in the broadest and narrowest sense”. I'll talk about the election systems in the narrowest sense i.e. the rule of mandate allocation in the elected bodies (in particular, the legislative authority) of the state authorities among the candidates according to the election returns of voters (or other authorized persons) on the example of Georgia.

Objectively there is no perfect electoral system and the election of a system is generally based upon the correlation of political forces in the country and the Parliament. Still, are there any electoral systems which provide more or less fair outcome? For answering this question, we must answer: What is the goal the electoral system must ensure to reach? At first glance, the answer is simple: the goal is to provide fair representation election of groups with various political views. It's true, the winners are those who receive the majority of votes (a majority principle), or when the number of obtained mandates of the party is proportional to votes

obtained (the principle of proportionality). There are basically met the mixed models of electoral system which is formed in the condition of political system of specific state taking into consideration the existing realities and according to the appropriate ratio, try to overcome the imperfections of separate system and provide the representation.

While speaking about the election system, the importance of electoral threshold should be mentioned. The setting of threshold allows to avoid the representatives of weak parties to get into the representative agencies, which can't obviously create the "weather" in the power, but can cause the problems not only to setting up the majority, the formation of the government and subsequently, the decision-making power, but the formation of strong opposition as well. However, a great caution must be observed while setting the electoral threshold, as in the event of high threshold there may happen that the total number of obtained votes by parties who overcame the threshold may be less than the number of their opponents and there may be presented only the minority (and, possibly, a large minority) in the elected body. In order to avoid this, the electoral threshold should not exceed 3-5%.

The electoral system of modern Georgia dates back to 1990 and it is in the stage of constant changes and development since that.

In August 1990, on the background of a sharp rise of the national liberation movement, the Soviet Georgian Authority was forced to take a multi-party election law that, we could say, became the basis for the current election system and the law. The elections were held in mixed electoral system - 125 deputies were elected by the proportional election system. 125 – according to the single-seat electoral districts, majoritarian system of absolute majority; Every voter has 2 votes - one for the party-list and the other – for a single-seat district candidate. The electoral threshold for political parties was introduced for the first time this year. This threshold was 4% and its introduction aimed only the access of the most powerful in the parliament among the numerous political organizations (G. Nodia. Alvaro P. Scholtbach, 2006, p. 63). Only the new ruling bloc "Round Table Free Georgia" (proportional election system, 81 seats) and the Communist Party (44 seats) were able to overcome the set limit in the first election conducted under the new rules. However, in August 1991, 30% of the population, who had voted for the Communist Party, lost their representatives in the Parliament. They were expelled from the Parliament. (Stephen Jones. 2013, p. 217).

Pursuant of the law adopted in 1992, the parliamentary electoral system was still mixed, but in comparison of 1990th system, it was different. Parliament was composed of 225 members, including 75 members elected from single-mandate districts based upon the majoritarian electoral system of relative majority and 150 by proportional election system. 1992 proportional election system was significantly different from all other election systems held in Georgia. Voting was three-point system. Each voter had 3 votes. Quotas and the votes were counted on multi-mandate district levels, the rest voices were distributed under the preference rule at the national level.

For this period, the electoral threshold was 2%¹. There were established 10 large multi-mandate districts for proportional elections, the number of voters in each of them ranged from 230 000 – to 250 000.

36 political parties and electoral blocs participated in the elections from which 24 parties and political blocs won the seats. Together with the Parliament the Speaker of Parliament was elected - Head of State with direct, universal, equal and secret ballot. Parliament in 1992 was the most representative, this situation made it difficult to reach a consensus for particular decisions, however, the main achievement of this Parliament was the adoption of the Constitution on August 24, 1995.

Since 1995, the Parliament of Georgia is elected for 4 year term. The Parliament of Georgia consists of 235 members and it's formed based on the mixed majoritarian-proportional system: 150 members are elected from party-lists, while 85 members – by the majoritarian election system of relative majority. For the parliamentary elections there are set 85 single-mandate electoral districts, including 10 in the city of Tbilisi and 75 administrative territorial divisions. By the proportional election system, Georgia still remains as one electoral district and the electoral threshold is 5%; electoral quota method for the allocation of Mandates is used.²

¹ Regarding the 1992 election, we often find the information about the absence of electoral threshold, for example. See. 4. G. Nodia, Alvaro P. Scholtbach. 2006. p. 63) which is probably due to the 2% electoral threshold that has failed to provide a deterrent factor role for weak political parties.

² In the event of full restoration of the jurisdiction at the whole territory of the country, 1995 Constitution provides a possible for bicameral Parliament, the Council of the Republic and the Senate. The Council of the Republic is composed of members elected by the proportional election system, while the Senate is composed of the members elected in Abkhazia, Adjara and

According to the party lists, the mandates of the members of Parliament are distributed only among those parties and election blocs who obtain at least 5 percent of the votes in the elections conducted by the proportional system. Each voter casts only one vote for a party-list. The Party lists are linked. The sequence of candidates is made by the parties and election blocs themselves. The number of mandates obtained by the Party is determined by the electoral quota method.

As for the rules of obtaining the mandates by majoritarian electoral system:

- The candidate is considered to be elected in single-member district who receives the majority of votes, but not less than one-third of participants in the election. If the winner can not be determined in the first election, a second ballot is held, in which a simple majority is sufficient for victory;
- If a candidate has been elected with a party list as well as in a single-mandate electoral district, he will be considered as elected in the electoral district and will be removed from the party-list and replaced by the next candidate in the list;
- In the event of early termination of power of the member of Parliament elected by the party-list, he will be replaced by a first candidate in sequence in the same list. If the list turns out to be exhausted, this mandate of the member of Parliament will be canceled.³

2% threshold by 1992 electoral law and the current electoral system in general turned out to be a reason for political diversity and weak effectiveness of the legislative body, but even the election system established by the 1995 electoral law failed to be a guarantee for fair allocation of mandates among the political actors in the legislative body. In particular, 68.17% of the total voters participated in the proportional votes in the parliamentary elections in 1995, as for the number of participating parties in the election, it reached 53. According to the official statistics, only three political parties were able to overcome 5% threshold: 23.7% - the Union of Citizens of Georgia, 7.95% - National Democratic Party and 6.84% - the Union for Revival of All Georgia.

other territorial units and 5 members appointed by the President. (The Constitution of Georgia. 1995. Article 4).

³ See Avtandil Demetrashvili. "Constitutional Law Textbook". 2005. pp. 180–181

All three parties, who had overcome 5% threshold, gathered 23, 71% of votes of participants in the election, the rest 50 parties who failed to pass 5% threshold, earned 55.63% of votes cast in total. It should be noted if some of the political parties with the same orientation had united, they would have been able to overcome 5% threshold. The fact that 55% were "lost" in the proportional election, conditioned the low representation of elected Parliament. That allowed "Union of Citizens" to form the majority of the Parliament.

In comparison with the proportional vote, the participation in majoritarian voting was much lower. This indicates that part of the population has lost confidence in local representatives. It should be noted that the Union of Citizens won the majority of votes in proportional votes in all electoral districts of Tbilisi while all the candidates who were included in the party list, failed to obtain the necessary votes in the first round of majoritarian voting (M. Matsaberidze. 2003. pp. 385-387).

The amendments were made before the parliamentary elections in 1999 according to which the electoral threshold was increased up to 7%. In spite of the fact that the part of parties applauded this aspect, the election results showed the opposite. In particular, 45 parties participated in the parliamentary elections in 1999 and only three political parties could cross 7% threshold: the Union of Citizens - 42.07% (85 seats), the block "Revival of Georgia" - 25.41% (51 seats), Block "Industry Will Save Georgia" - 7.13% (14 seats) (See the history of elections 2009. p. 42). A large portion of the votes (26%) came to the parties who had failed to overcome the threshold. This has led to the confusion among voters, it was not clear who was winning the elections. 7% high threshold gave advantage to the ruling party.

The assumptions of possible lowering of 7% threshold were suggested a year before the parliamentary elections in 2003,⁴ but the election was still held in the condition of 7% threshold. 18 parties participated in the election, but this time six political parties overcame the electoral threshold: Block "For New Georgia" - 21.32% (38 seats), "Democratic Union for Revival" - 18, 84% (33 seats), the bloc "Saakashvili-National Movement" - 18.08 % (32 seats), the Labor Party of Georgia - 12.04% (20 seats), the bloc "Burjanadze-Democrats" - 8,79% (15 seats), bloc "New Rights Party (News) - 7.35 (12 seats) (History of elections in 2009. pp. 43-44). Based upon the results, the representation of political actors was increased, but the

⁴ For example, see Ia Antadze. „Two Possible Scenarios for the Development of Political Process“ 14.04.2002. <http://www.tavisupleba.mobi/a/1520124.html> Viewed on 21.02.2016

recruitment of the legislative bodies with the given configuration failed, because the Supreme Court annulled the results of proportional election system and the result of majoritarian electoral system remained in full force, for which a new election was held only in the proportional election system on March 28, 2004 with 17 political parties.⁵ It should also be mentioned that after the Rose Revolution the configuration of political forces has changed at the political field. Only 2 political parties were able to cross 7% threshold in the condition of modified political environment: National Movement Democrats - 66.24% (135 seats) and the Right Opposition – Entrepreneurs (news) - 7,56% (15 seats) (see election history 2009, p. 45).

235-member parliament composition under the constitution as of 1995 was considered too much for Georgia and an issue of reducing the number of Members of Parliament in parallel to the parliamentary elections on November 2, 2003, was taken to the referendum. Most of the voters supported the reduction of the number of Members of Parliament up to 150. While the legitimacy of the referendum results still remained questionable, including on the grounds that it did not take place throughout the country, the results of the referendum with amendments came into force in the constitutional law in 2005 (2005.02.23. # 1010 Is.).

According to the amendments, the mixed electoral system remained in force with the ratio: 100 proportional and 50 majoritarian electoral systems. The Parliament composition in 2004 before the expiration of its powers should have to be formed according to the previously existing law (Article 104.¹²). It should be noted that before the law came into force i.e. before the parliamentary elections in 2008, the discussion of the allocation of the mandates still continued. Some argued that 50 majoritarian can't afford the real representation and therefore to ensure that all regions have own majoritarian candidate, they demanded to increase the number of majoritarian at the expense of reducing the proportional representation.

As a result, the amendment was still made in the Constitution two months before the Parliamentary elections in 2008 with the following correlation of mandates allocation: 75 members must be elected upon the proportional election system and 75 by majoritarian

⁵ See Application on Preliminary Findings and Conclusions 30/March/04
<http://www.civil.ge/geo/article.php?id=6390> Viewed on 20.02.2016

electoral system. In addition, the previously existing 7% threshold for the political parties that significantly reduced the number of Parliamentary parties still reduced up to 5%.⁶

The Parliament was formed according to the constitutional amendments after the parliamentary elections on May 21, 2008. However, the constitutional amendment failed to secure a consensus among the political parties on the electoral system and the discussion on this issue still continued. Later an idea to increase the number of the Members of Parliament up to 190 was offered in the political circles. However, this offer was opposed by some parties, for example, Vakhtang Khmaladze said the Parliament had no authority to increase the number of Members of Parliament as the decision of its reduction was taken through a referendum, so the issue to increase the number should be decided in a referendum.⁷ But some, for example, the members of ruling party "United National Movement" doubted the legitimacy of 2003 referendum,⁸ for which they considered legitimately the constitutional amendments in relation to the mentioned issue. Finally, this initiative failed, but the discussion was not over.

A number of formats has been created on issues of electoral system reforms, including the so-called Opposition "Eight"⁹, who initiated the replacement of majoritarian system by a regional proportional system. Despite the long discussions on these issues, the substantive changes had not yet entered into force. As for the changes made before 2012 parliamentary elections (27.12.2011, # 5630 Rs.) concerning the rule of allocation of seats, it was caused by Russia-Georgia war in August 2008, in particular due to the loss of control over two districts, two seats were added to the number of members elected by proportional election system.

It should be noted that even the amendments in the Electoral Code before 2008 could not ensure a fair allocation of seats in the legislative body and compensation of the number of lost votes.

⁶ The Resolution of the Parliamentary Assembly of the Council of Europe as of January 24, 2005 "About the Obligations Fulfillment by Georgia " states the necessity to reduce 7% threshold, "in order to create the conditions for a pluralist and genuinely representative parliament". The ruling party did not support the request to lower the electoral threshold that raised the suspicions among the opposition that the government used the electoral system to maintain power. Despite the resistance, the ruling party still had to make a compromise.

⁷ In order to increase the number of members of Parliament, a plebiscite should be held at least. Gera Mamulashvili. 2011.06.30. http://for.ge/view.php?for_id=5560&cat=2 Viewed on 21.02.2016

⁸ Visit the link: Pavle Kublashvili – The referendum as of November 02, 2003 was held through violations. 30.06.2011 <http://www.interpressnews.ge/ge/politika/173333-pavle-kublashvili-2003-tslis-2-noembris-referendumi-konstituciis-darghvevith-chatarda.html?ar=A> Viewed on 20.02.2016

⁹ The electoral system of the Parliament was identified. Civil Georgia, Tbilisi/27Jun.11/20:05. <http://www.civil.ge/geo/article.php?id=24247> Viewed on 20.02.2016

For example, non-governmental organizations mentioned in their reports about the faults and deficiencies in the electoral system, often remembered the parliamentary elections in 2008 when the United National Movement received 80% of the seats by winning 60% of votes conditioned by the outcome from the majoritarian electoral districts.

One more important problem was revealed in the electoral system, namely the different size of the single-seat districts which created a problem of unequal votes.¹⁰ In addition, 30% limit for candidates by majoritarian electoral system created the risk of losing a large number of votes and reduced the degree of legitimacy of the elected candidate.

For today, a mixed electoral system still acts in Georgia, 73 from 150 members of Parliament are elected from single-mandate district under a majoritarian electoral system and 77 by proportional election system. The amendment, the fulfillment of which are supported for 2016 election by the Georgian political spectrum and most of the public, means the replacement of majoritarian components (73 seats) by the regional proportional system.

Pursuant to the amendments adopted after the third and final hearings of the Electoral Code by the Parliament on December 24, 2015, that was initiated by the majority of fractions of the Georgian Dream, the majoritarian deputies will be elected by 50% threshold within the changed limits¹¹ of single-mandate district for 2016 parliamentary elections. If no candidate passes 50% threshold, a second voting will be held between the two candidates with the best results and wins the one who receives the most votes.¹² But the mandates will be allocated by the proportional election system among those parties and election blocs which receive at least 5% of votes.

The President of Georgia spoke about the issue of election reforms in his annual report in the Parliament, saying: "Therefore, the changes should be considered now in order to avoid the force majeure situation in electoral reforms constantly"¹³.

Despite the consensus reached between the political forces on the issue of reforms of the electoral system, there is a disagreement regarding the terms of its implementation. For

¹⁰ Visit the link. Why the electoral system must be changed in Georgia.

<http://www.isfed.ge/main/783/geo/> Viewed on 20.02.2016

¹¹ Organic Law "The Election Code of Georgia" Article 110¹

¹² 50% threshold has been set for electing the majoritarian in amended boundaries of single-mandate districts. 24.12.2015 <http://www.civil.ge/geo/article.php?id=30008> Viewed on 20.02.2016

¹³ The annual report 2016 of the President of Georgia to the Parliament. 03.02.2016 <https://www.president.gov.ge/PressOffice/Documents/AnnualReports?p=10058&i=1> Viewed on 17.02.2016

example, the inter-party opposition member of the group working on the improvement of electoral environment, Mr. Mamuka Katsitadze considers that the implementation of the reform in 2016 is hindered by the lack of political will of the ruling coalition.

If the changes in the electoral system may be executed before the parliamentary elections in 2016, why a major political team wishes to postpone this issue for 2020 elections? One reason may be that the election campaign has already begun, the procedure of enforcing the amendment in the law will last for a few months and changing the rules within the inter-election campaign will become a background for the political destabilization. These changes are likely to be confusing for the population as well.

The second reason is that today's mixed electoral system increases a chance to hold the more number of seats for the ruling coalition in the parliament due to the fact that the parties' candidates being in the power usually win the majoritarian elections.

In conclusion, it can be said that since 1990s to present, there is a failure to adopt such an electoral system that will ensure the real representation of the parties and political pluralism in the supreme legislative body.

The existing experience showed that neither high 7% nor low 2% threshold aren't the best option for ensuring the real representation in Parliament. Party diversity and fragmentation prevents to reach a consensus in individual decision-making and puts the stability under doubt, while the high electoral threshold, which places a filter role, assists the ruling party to gain the majority from the public even in the condition of low support, which leads to the low degree of legitimacy.

As for the majoritarian system, the experience has shown that rarely, but still, the separate political parties even failing to overcome the threshold by the proportional election system manages to have representatives in the Parliament. For the most part, the victories of ruling party candidates in the majoritarian districts have further promoted to strengthen the ruling parties rather than to protect and implement the interests of the population.

In the future, the regional proportional election system may reduce the number of lost votes of the electors, but if failing to increase the level of institutionalization of political parties and to reduce the degree of fragmentation on the political fields, I am afraid the ratio between the position and the opposition in the Parliament may be changed only by the systemic changes.

Only the determined form of electoral system and the ratio is meaningless if not implemented the systemic changes in different directions in order to improve the electoral environment. And finally, even if the regional proportional election system is acceptable for everyone, it will not be a final change in terms of forming the electoral system as there are always the disputable articles and rules.

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