

**STATUS REPORT**  
**Georgia: Recent & Upcoming Democratic Reforms**  
**June 2008–September 2009**

**A. INITIATIVES TO ENCOURAGE POLITICAL DIALOGUE & STRENGTHEN PARLIAMENTARY DEMOCRACY**

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**1. Constitutional Reform**

- A Constitutional Commission was established under the auspices of the President of Georgia. Its mandate is to draft a new Constitution with an enhanced system of checks and balances, a stronger Parliament, a more independent judiciary, and greater constraints on presidential power.

The Chair of the Commission—who was nominated by the opposition—is an impartial and widely respected scholar who is one of the authors of Georgia’s current Constitution and formerly served as chairman of Georgia’s Constitutional Court.

The Commission is designed to be as politically balanced as possible and to produce consensual positions. Its members include one representative from each of Georgia’s political parties, as well as representatives of key state institutions, respected academics, NGO officials, and other members of civil society. All of the Commission’s decisions must be made by a two-thirds majority.

The Commission is working in close cooperation with relevant international organizations, and is studying a number of EU member-state constitutions as possible guiding models.

STATUS: THE COMMISSION HAS BEEN ESTABLISHED AND IS CURRENTLY DELIBERATING

**2. Electoral**

**Code**

**Reform**

- Under the auspices of the Chairman of the Parliament, a cross-party working group has been established to help draft a new electoral code. The group includes representatives from the majority party, Parliamentary and non-Parliamentary opposition parties, relevant international organizations, and NGOs.

The cross-party group already unanimously has agreed to:

- Clarify how complaints about election abuses are processed, and increase the timeframe in which complaints can legitimately be made;
- Empower the opposition with managing voter lists.

The launch of the cross-party group was marked by the adoption of a new Code of Conduct for all political parties. The document enshrines the following principles:

- ✓ Constructive cooperation;
- ✓ Decision making by consensus; and,
- ✓ Open dialogue.

The Code was signed by all seven political parties currently represented in Parliament, and three parties outside Parliament; it is open to all parties and the hope is to have all of them join. National NGOs—as well as international organizations such as the CoE, the OSCE, NDI, and IRI—also participate in the work of the cross-party group as Observers. Similarly, representatives from the US and EU act as Observers as well. The Central Election Commission, meanwhile, is invited to the group’s meetings.

The Council of Europe’s Venice Commission and the OSCE’s Office for Democracy and Human Rights provide expert technical assistance to the working group.

STATUS: THE CROSS-PARTY GROUP HAS BEEN ESTABLISHED AND IS CURRENTLY CONSULTING WITH INTERNATIONAL ORGANISATIONS AND NGOS ON KEY ISSUES. THE NEW CODE OF CONDUCT HAS BEEN SIGNED.

### **3. Expanding the National Security Council (NSC) to Include Parliamentary Opposition Representatives**

- In his address to Parliament in July 2009, the President announced a number of reforms to the National Security Council. The foremost of these included expanding the membership of the NSC: the Council now includes government representatives, 7 parliamentary opposition representatives, and 4 non-parliamentary opposition representatives. This expanded format aims to ensure greater transparency in the work of the NSC, and ensure that opposition members are included in deliberations concerning Georgia's security and foreign policy.

STATUS: THE NEW NSC FORMAT HAS TAKEN SHAPE, AND THE FIRST MEETING OF THE EXPANDED NSC TOOK PLACE ON AUGUST 6, 2009. FUTURE MEETINGS WILL TAKE PLACE PERIODICALLY.

### **4. Offer to Non-Parliamentary Opposition to Take Seats in Parliament**

- As a part of the Government's efforts to strengthen Georgia's democracy and hasten the country's reconciliation process, representatives of the non-parliamentary opposition groupings that boycotted the 2008 parliamentary elections have been offered the chance to assume their Parliament seats. The offer aims to ensure that all political viewpoints are represented in Parliament. The necessary constitutional amendments have been passed in their first reading and are expected to be adopted in October 2009.

STATUS: THE NECESSARY CONSTITUTIONAL AMENDMENTS ARE LIKELY TO BE ADOPTED IN OCTOBER 2009. POLITICAL CONSULTATIONS WITH THE NON-PARLIAMENTARY OPPOSITION PARTIES CONTINUES.

### **5. Local-Self Governance Reform, Direct Election of Tbilisi Mayor**

- In his address to Parliament in July 2009, the President offered to reform the system of local government and introduce direct elections for the position of Tbilisi mayor (currently the mayor of Tbilisi is indirectly elected by the elected city council). This reform is now under consideration by the Electoral Reform group.

This reform will ensure that Tbilisi's politically active residents have a direct say in local government decisions, and enables the opposition to contest the next mayoral elections in May 2010.

STATUS: THE INITIATIVE IS UNDER ACTIVE CONSIDERATION BY THE ELECTORAL REFORM GROUP. IF A CONSENSUS IS REACHED, THE REFORM WILL BE INCORPORATED INTO THE NEW ELECTORAL CODE.

### **6. Establishment of Direct Communication Between the Opposition & Interior Ministry**

- At the meeting of the National Security Council on August 6, 2009, an agreement was reached to ensure direct lines of communication between opposition parties and the Ministry of Interior in order to cooperate in any investigations of alleged violence related to political rallies. As a result of the agreement, representatives of the parliamentary and non-parliamentary political parties held a special meeting with the Interior Minister on August 12, 2009. Contact persons were designated for both the government and the opposition, and both sides agreed to set up an emergency "hot line."

STATUS: COMMUNICATION CHANNELS ESTABLISHED: FIRST MEETING WAS HELD ON AUGUST 12, 2009: FUTURE MEETINGS WILL TAKE PLACE PERIODICALLY.

## 7. Anti-Crisis Council

- An Anti-Crisis Council was created by the President of Georgia. Its mandate is to discuss and design further democratic reforms, strengthen the role of the opposition in Georgia's political life, facilitate the exchange of views between the Government and opposition, monitor the distribution of international donor aid to victims of the Russian aggression, and oversee the post-aggression reconstruction process. The Council is composed of representatives of the Government of Georgia, as well as parliamentary and non-parliamentary opposition parties; it is chaired by an opposition Member of Parliament.

STATUS: THE COUNCIL HAS BEEN ESTABLISHED AND PLANNED WORK WILL CONTINUE THROUGH THE 18-MONTH STABILIZATION PERIOD.

## 8. Temporary Parliamentary Commission on Military Aggression & Other Acts of Russia Against the Territorial Integrity of Georgia and Government Response

- At the initiative of the majority and minority parties, a parliamentary Commission was established to study in detail the August 2008 aggression. The Commission provided the public with complete and objective information regarding how the Georgian Government acted prior to, during, and after the Russian invasion.

Following agreement between the Government and the opposition, the Commission was granted the right to call any government official to testify as a witness. The Commission—which was chaired by an opposition MP—included an equal number of governing party and opposition representatives.

In the interest of transparency, Commission proceedings were open to the media and general public, and were broadcast live on national TV. In addition, journalists were able to attend all hearings and full transcripts were placed on Parliament's website.

The general public had the option to submit questions via email, and this option was well advertised in both the national press and on the internet. Moreover, prior to the hearings, the Commission members held meetings with members of the diplomatic corps and experts. The Commission also studied domestic and international media, academic studies of the conflict, and reports of international governmental and non-governmental organizations into the war, so as to be able to formulate questions that would address key concerns of both domestic and international stakeholders.

In total, the Commission conducted over 50 hours of hearings, and heard testimonies from over 22 high-ranking Government officials. These included: the President; the Chairman of Parliament; the Prime Minister; the Defense, Foreign, and Interior Ministers; the Secretary of the National Security Council; the Chief of Armed Forces; the Head of the Foreign Intelligence Service, and numerous other officials. The Commission published a 200-page report that studied the circumstances surrounding Russia's aggression last August and analyzed the actions and shortcomings of the Government of Georgia during this period.

STATUS: COMPLETED; REPORT DELIVERED IN DECEMBER 2008; THE COMMISSION WAS SUBSEQUENTLY DISSOLVED.

## 9. Cross-party Group to Monitor the Adjara Elections

- Under the auspices of the Chairman of Parliament, a cross-party group was established to monitor the Adjara regional elections on November 3, 2008. The Group monitored the campaign, voting-day procedures, and the vote-counting process. The Group reacted to reports of alleged violations of the electoral law and other problems during the process. As a result of the cross-party group's work, the Central Election Commission of Adjara annulled the election results from the Khelvachauri district—one of the six constituencies in the region—and organized new elections in this district.

STATUS: ALREADY COMPLETED & GROUP DISSOLVED IN DECEMBER.

## **B. THE NEW WAVE OF DEMOCRATIC REFORMS**

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### **1. Institutional Strengthening of the Parliament**

- Adoption of constitutional amendments requiring an obligatory vote of confidence by the newly elected Parliament for the Cabinet of Ministers.

UNDERWAY; AMENDMENTS FORMALLY INITIATED; WAITING FOR THE RECOMMENDATIONS OF THE VENICE COMMISSION TO PROCEED.

- Adoption of constitutional amendments simplifying the procedure for a parliamentary no-confidence motion against the Cabinet of Ministers. This includes a reduction in the quorum necessary to achieve a no-confidence vote, and the granting of the right to initiate no-confidence motions to the parliamentary minority.

UNDERWAY; AMENDMENTS FORMALLY INITIATED; WAITING FOR THE RECOMMENDATIONS OF THE VENICE COMMISSION TO PROCEED.

- Adoption of constitutional amendments limiting the right of the President to dissolve the Parliament and call for the new parliamentary elections. According to amendments, the President will have the power to dismiss Parliament only once during a Presidential term. If the grounds for dismissal occur again during the same Presidential term, the question of the dissolution of Parliament will be resolved via a referendum. In the event that a majority of the electorate votes against the dismissal of Parliament, extraordinary Presidential elections will be held.

UNDERWAY; AMENDMENTS FORMALLY INITIATED; WAITING FOR THE RECOMMENDATIONS OF THE VENICE COMMISSION TO PROCEED.

### **2. Strengthening Judicial Independence**

- One member of the High Council of Justice—the administrative body that manages the judiciary system and makes all key judicial decisions—will now be elected from amongst opposition MPs. This will guarantee transparency and political neutrality in the work of the Council, and will allow the parliamentary minority to take part in overseeing the judiciary and in ensuring that reform of the High Council of Justice continues.

ALREADY IMPLEMENTED.

- In July 2007, the Parliament of Georgia adopted a Law on Rules of Communication with Common Court Judges that outlawed any contact between the presiding judge, the parties involved, and public servants involved in the case at hand.

Judges are obliged to inform the chairman of the relevant Court if any such communication occurs. If such communication took place with a Court Chairman, he/she must inform the Chairman of the higher court. If this does not happen, she/he will be sanctioned by a fine and disciplinary procedures will be initiated.

In his appearance at political debates in the Parliament in July 2009, the President proposed expanding sanctions for illegal communication (especially for such communications by public servants). He also proposed making such violations a criminal offence in order to strengthen the preventive purpose of the legislation.

LEGISLATIVE AMENDMENT WILL BE INITIATED IN SEPTEMBER 2009; WORKING MEETING BETWEEN THE CHAIRMAN OF PARLIAMENT AND CHAIRMAN OF THE SUPREME COURT TOOK PLACE ON AUGUST 5, 2009.

- In close cooperation with local and international NGOs, the new Criminal Procedure Code has been drafted to fundamentally reform Georgia's criminal justice system. The draft, which has already passed its first and second readings, was discussed once again on 28-29 January 2009 in Paris under the auspices of the Council of Europe. According to the report of the CoE expert, Dr. Richard Vogler (Sussex University): *"...In summary, my conclusion is that this [Georgian] CPC has a great deal to commend it, its terms are fully compliant with European human rights norms and it has many features which could, with advantage, be adopted in other jurisdictions, including my own."*

The central philosophy of the proposed reforms of the criminal justice system is to set up a democratic system of criminal justice based on the tenets of an independent judiciary, adversariality, equality of arms, and strong emphasis on human rights. The draft CPC is therefore based on the following principles:

- ✓ Introduction of trials by juries;
- ✓ Full application of adversarial proceedings and speedy trial;
- ✓ Transfer of operational activities to the domain of pre-trial investigation and its placement under the strict control of judges;
- ✓ In the process of pre-trial investigation, reinforcement of the role of the judge for the protection of the rights of the defendant;
- ✓ Strict time limit of 60 days for the investigation;
- ✓ Maximum restriction of pre-trial detention by emphasizing non custodial, alternative measures, as well as reduction of pre-trial detention terms;
- ✓ Making testimony of witnesses voluntary in the pre-trial stage of investigation;
- ✓ Making pre-trial hearings a separate stage of the case proceedings;
- ✓ The construction of judicial investigation on the principle of direct examination of the evidence and principle of orality;

UNDERWAY; THE NEW CODE ADOPTED THROUGH SECOND HEARING; EXPECTED TO BE FINALLY ADOPTED BY THE END OF OCTOBER 2009.

- Lifetime appointment of judges.

LEGISLATION TO BE INTRODUCED AFTER THE ADOPTION OF THE NEW CRIMINAL PROCEDURAL CODE, BY THE END OF 2009.

### 3. Facilitating Media Pluralism

- Legal amendments have been adopted that enable an opposition representative to be appointed to the Georgian National Communications Commission. This will allow the opposition to become directly involved in all decision-making that pertains to media-related technical regulations.

ALREADY ACCOMPLISHED; AMENDMENT ADOPTED, OPPOSITION REPRESENTATIVE APPOINTED.

- Adoption of legislative guarantees in order to ensure the regular broadcast of live political talk-shows with the equal participation of all major political parties on the Georgian Public Broadcaster (as is already the case with political debates during election periods).

ALREADY ACCOMPLISHED; FOUR WEEKLY LIVE POLITICAL TALK-SHOWS BROADCAST EVERY TUESDAY, WEDNESDAY, THURSDAY, AND SUNDAY.

- In his address to Parliament in July 2009, the President proposed expanding the Public Broadcaster's Board so that it is based on the principle of parity. This would mean that out of 15 members, 7 would be nominated by the opposition, 7 by the ruling party, and 1 would be named by civil society.

UNDERWAY; RELEVANT LEGAL AMENDMENTS ADOPTED THROUGH FIRST AND SECOND HEARINGS; EXPECTED TO BE FINALLY ADOPTED BY OCTOBER 2009. POLITICAL CONSULTATIONS WITH OPPOSITION CONCERNING THE COMPOSITION OF THE BOARD UNDERWAY.

- The commercial TV channel "Maestro" has received a license to air live political talk-shows. This resolves a long-standing legal dispute between the channel and the Georgian National

Communications Commission and was mediated by the Chairman of Parliament. In July 2009, "Maestro" also received a license to broadcast via satellite.

ALREADY ACCOMPLISHED; CURRENTLY "MAESTRO" BROADCASTS SIX WEEKLY LIVE POLITICAL TALK-SHOWS, INCLUDING ONE NON-STOP REALITY POLITICAL SHOW "CELL #5"; SATELITE LICENSE ISSUED.

- Creation of a special political television channel modeled after C-SPAN and BBC Parliament. The channel was formed by a joint initiative of the Chairman of the Parliament, the Chairman of the Board of Trustees of the Georgian Public Broadcasting Corporation, and the Director General of the Georgian Public Broadcasting Corporation.

The channel will provide live coverage of all important political events. In addition, political parties and groups will have direct access to the channel in order to reach out to the public. A parliamentary working group consisting of representatives of the ruling and opposition parties has been established to finalize the channel's operational guidelines. Public hearings have been held since March 2009 with the help of NDI. The majority of the audience comprises ordinary citizens, though journalists, NGO representatives, and local government officials are welcome to attend. The hearings have already taken place in the cities of Batumi, Zugdidi, and Kutaisi. In parallel to this process, representatives of TV channels will hold meetings with the opposition. The final phase of the hearings envisages meetings with NGO's, experts, and journalists; a memorandum is to be elaborated on the code of conduct.

THE PROCESS HAS BEEN INITIATED AND TECHNICAL PROCEDURES ARE UNDERWAY; FINANCIAL AND OPERATIONAL GUIDELINES HAVE BEEN PREPARED; COMMUNICATION WITH THE BBC PARLIAMENT CHANNEL HAS BEEN ESTABLISHED; CHANNEL IS EXPECTED TO BE OPERATIONAL BY THE END OF 2009.

- Georgia's political leadership, including the Chairman of the Parliament and members of the Parliamentary majority, continued to call on all major commercial TV channels to air more live political talk-shows. As a result, practically all Georgian channels feature a plethora of political talk-shows on which politicians from the opposition, the ruling party, and outside experts participate in vibrant debates on topical issues of relevance to Georgian politics.

THREE NATIONAL BROADCASTERS (PUBLIC BROADCASTER, "IMEDI", "RUSTAVI2") FEATURE SEVEN POLITICAL TALK-SHOWS PER WEEK. ADDITIONALLY, 23 TALK-SHOWS ARE BROADCAST BY TWO STATIONS ("KAVKASIA", "MAESTRO") PRIMARILY COVERING TBILISI AND THE SURROUNDING REGIONS, WHILE FOUR RADIO CHANNELS BROADCAST 41 POLITICAL TALK-SHOWS PER WEEK.

#### **4. Strengthening Constitutional Protections for Property Rights**

- Constitutional amendments have been initiated that aim to strengthen constitutional guarantees for property rights. Currently, there exists an exceptional rule to expropriate private property under public interest orders (subject to a court decision). Deprivation of property rights shall be reimbursed with adequate compensation.

The proposed initiative guarantees that: a) compensation for expropriated property should be reimbursed in advance; b) compensation shall be a full and fair sum amounting to the market value of the property in question; and, c) compensation for expropriated property is free from taxes and fees.

UNDERWAY; PUBLIC DISCUSSION ONGOING; WAITING FOR THE RECOMMENDATIONS OF THE VENICE COMMISSION TO PROCEED.

#### **5. Strengthening the Public Defenders Office**

- The Government of Georgia is committed to implementing its obligations under the United Nations Optional Protocol on Convention against Torture (OPCAT). Among the highest priorities is for the development of a framework for the designation of the National Preventive Mechanism in a transparent and participatory process. The Inter-Agency Coordinating Council on the Fight against Torture (the Council) has served as a forum for these discussions. Membership of the Council is open to international/donor organizations and local NGOs/individual experts.

In July 2009, the Parliament of Georgia adopted amendments to the Law on the Public Defender that designated the Public Defender of Georgia as a National Preventive

Mechanism in accordance with OPCAT at the Council session. The amendment has been drafted in accordance with the requirements of OPCAT and good practices existing in Europe. Apart from general provisions designating the Office of the Public Defender of Georgia as a NMP, this proposal describes in detail the privileges and duties of the members of the National Preventive Group.

ALREADY ACCOMPLISHED: AMENDMENT ALREADY ADOPTED.

## **6. Encouraging Development of Party Institutions**

- Parliament adopted amendments to the Law on Political Organizations that will improve the financial sustainability of all qualifying political parties. The basic state financing of parties has been increased (including the resumption of financing for those parties that lost funding due to their refusal to take seats in Parliament). Simultaneously, budgetary funding for the ruling United National Movement has been decreased. In addition, a special foundation has been set up to finance research and development activities for political parties and other non-governmental organizations. Part of the allocated funds will be spent on strengthening civil society (NGOs, think-tanks, etc).

ALREADY ADOPTED.

## **7. Facilitating Non-custodial Sentences**

- In December 2008, the Parliament adopted amendments to the Criminal Code of Georgia that widened the scope of community service as an alternative sentence. A custodial sentence can be substituted for community service, allowing certain convicts to serve their sentences outside of detention facilities and thus render a benefit to the public at large.

ALREADY IMPLEMENTED.

## **8. Adopting the New Law on the Chamber of Control**

- A new law on the Chamber of Control has been adopted that increases its independence, strengthens public oversight over budgetary expenses, brings existing regulations into line with EU standards, increases the transparency of Government activities, and establishes a new institutional framework that should enable the opposition to exercise greater control over the work of the Chamber (including the appointment of an opposition MP to the special "council of disputes" that makes decisions on all Council disputes).

ALREADY IMPLEMENTED

## **9. Increasing Public Accountability and Control over the Government**

- A new law on State Statistics has been initiated by the Government. The draft law establishes a national body of statistics that is completely independent from the Government (under current legislation, the State Department for Statistics is part of the executive branch). This will exclude any possible conflict of interest in establishing national statistics, and should ensure the provision of unbiased and reliable information to the general public.

UNDERWAY: DRAFT LAW FORMALLY INITIATED. EXPECTED TO BE ADOPTED BY DECEMBER 2009.

## C. OTHER INSTITUTIONAL GUARANTEES FOR OPPOSITION PARTICIPATION IN GOVERNANCE

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### 1. Increasing Opposition Role in Adopting Constitutional Amendments:

- Under Georgian law, proposed constitutional amendments are subject to a one-month period of public debate. This process is conducted and supervised by a parliamentary commission and, as a result of recently adopted amendments, opposition MPs are now a majority on this commission.

ALREADY IMPLEMENTED

### 2. Increasing Opposition Participation in the Civilian Control of Defense & Security

- Recent legislation has increased the number of opposition representatives in the Trust Group, a parliamentary body that supervises defense procurements and has access to all defense-related information, including classified documents, the use of state funds, etc.

ALREADY IMPLEMENTED

### 3. Strengthening the Opposition Role in Parliamentary Governance & Decision-Making

- Opposition factions have been granted the right to nominate candidates for up to three of Parliament's Vice Chairmanships.

ALREADY IMPLEMENTED

- The minority has been granted the right to nominate one candidate for the position of Deputy Chairman in each parliamentary committee.

ALREADY IMPLEMENTED

- Individual factions and the parliamentary opposition have been granted the right to nominate the chair of *ad hoc* investigative commissions.

ALREADY IMPLEMENTED

- Procedures for establishing a faction within Parliament have been simplified. Previously, a minimum of 10 MPs were needed to form a faction; this requirement has been reduced to six. This reform has allowed the opposition to set up a second faction within Parliament, resulting in greater pluralism in debates, discussions, and decision-making.

ALREADY IMPLEMENTED

### 4. Parliamentary Delegations & "Groups of Friendship"

- In addition to being represented in all permanent parliamentary delegations, opposition factions have also received additional quotas in every parliamentary "Group of Friendship". This has ensured the full-scale participation of opposition representatives in all inter-parliamentary relationships. The opposition was also granted the right to nominate the chairmen of "Groups of Friendship" with Canada, Belgium, Portugal, and Switzerland.

ALREADY IMPLEMENTED