

ELECTIONS OF THE PRESIDENT OF GEORGIA

Koba Fachoshvili

Doctoral student at the Caucasus International University

visiting lecturer at Telavi Iakob Gogebashvili

Telavi State University

Introduction

The presidential election is a very relevant topic in the political life of our country. Because the elections and the constitutional procedure for conducting them are directly related to the degree of legitimacy of the president and the limit of competences. In addition, the elections held in the country are the only and best way to realize the most important political right of a person, the right to vote. Among the elections held in democratic countries, the presidential election is particularly important, during which the state body is formed, and the president takes office after taking the oath. Accordingly, "the president represents not only the body of the state government, but also the position." Direct elections were legalized shortly after the introduction of this institution as a method of holding presidential elections, which was in effect for years and had a significant impact on determining the quality of the president's legitimacy and competences.

he procedure for electing the president and constitutional amendments

"On Amendments to the Constitution of Georgia." With the adoption of the Constitutional Law of October 13, 2017 by the Parliament of Georgia, the current rule of electing the president was changed, which became the most important and main innovation of the constitutional reform, because this change brought the indirect rule of election, different from the direct rule of election of the president. , which was not accepted by any reform of the Constitution of Georgia.

According to the first paragraph of Article 50 of the amendments made to the supreme law of the country, "the president of Georgia is elected for a term of 5 years, without debate, by secret ballot, by the electoral college, the same person can be elected as the president of Georgia only twice."

The electoral college includes 300 voters, including all representatives of the Parliament of Georgia, representative bodies of the autonomous republics of Abkhazia and Adjara. Other voters are appointed by the Central Welfare Commission of Georgia, on the basis of the organic law, in accordance with the quotas determined by the principle of proportional, geographical representation, from the composition of the representative bodies of local self-government, by the relevant political parties. The composition of the electoral college is approved by the Central Election Commission. Presidential elections are held in the Parliament building. In the first round of elections, the candidate who receives the most votes, but not less than the majority of the total number of voters, will be considered elected.

If the president is not elected in the first round, the two candidates with the best results in the first round are elected in the second round. In the second round, the candidate who receives more votes will be considered elected.

The authors of the constitutional reforms often mentioned the change in the form of state government in the country, first semi-presidential (mixed), and then the introduction of parliamentary government, and in this direction they used the practice and experience of foreign states as an argument for the maximum limitation of the legitimacy and competences of the head of state, the president. It was that the president with broad rights and higher legitimacy would have more claims and the desire to gain advantage in the system of state bodies, which would create a certain danger in the direction of authoritarianism and power seizure in the country. Therefore, I consider it expedient to consider the examples of foreign countries in this sub-chapter of the work, to what extent it is possible to have the principle of direct election of the president in the country under the conditions of parliamentary governance. Modules for electing presidents in foreign countries

Since there is no exact dividing line between parliamentary and semi-presidential (mixed) forms of government, in this chapter of the paper I will discuss the constitutional principles of electing presidents in foreign countries, both parliamentary and semi-presidential (mixed) forms of government.

The direct rule of electing the president, during which voters directly vote for the candidate for the position of president, is in effect in the Republic of Austria.

2.1. Austria is a republic of Central European parliamentary government, both domestically and internationally, the main range of competences belongs to the executive power, the Austrian federal government and its head, the federal chancellor, who is responsible for his activities not to the president of Austria or the president and the federal assembly of the legislature, but only before the Federal Assembly. The president is clearly not the head of the executive power, at the same time, he does not have the high status of the head of state, his limited competences are subject to the signature of the federal chancellor or the competent minister. Nevertheless, it still has the highest degree of legitimacy, because in the conditions of parliamentary government, despite the reduced power, according to the first paragraph of Article 60 of the Austrian Constitution,

"The Federal President of the Republic of Austria is elected by the people of the Federation, with equal suffrage, directly, in person, by secret ballot." 2.2. Ireland-Northern Europe is a democratic republic of parliamentary governance, the status of the head of state and supreme commander of the armed forces is held by the president, although his competences, both within the country and in foreign relations, are very limited and are carried out with the prior advice and consent of the government.

The President appoints the Prime Minister on the instructions of the House of Representatives, and other members of the government with the consent of the latter and on

the instructions of the House of Representatives. Appoints judges on the advice of the Government, summons and requisitions Parliament on the advice of the Government or its Commander in Chief, appoints senior public officials such as the Commander-in-Chief of the Irish Armed Forces, appoints officers of the Army. Despite the existing parliamentary government in the country and the limited power of the President, according to the basic law of Ireland, Article 12, Clause 2 of the Constitution,

The president is "elected directly by the citizens." According to paragraph 3 of the same article, "elections must be secret," which, of course, is a sign of equipping the president of Ireland with the highest legitimacy.

Presidents are elected by the principle of direct election even in semi-presidential (mixed) government countries.

2.3 Poland is a semi-presidential (mixed) governance-administrative republic located in Central Europe. The executive power is headed by the chairman of the Council of Ministers, who implements domestic and foreign policy and holds the main levers of state governance. The president in the mixed government republic of Poland has access to only minimal competences. Nevertheless, the President of Poland still enjoys high legitimacy in the country, according to the first paragraph of Article 127 of the Basic Law, the Constitution.

The President takes office in a direct manner: "The President of the Republic is elected by the nation, by equal, direct, secret ballot through elections."
Indirect presidential elections abroad.

The principle of indirect election of the president is currently valid and acceptable for both parliamentary and semi-presidential (mixed) countries, however, in this case, it is extremely important that which and what kind of state body elects the president indirectly (indirectly), it will be the legislative body of a unicameral country. Electoral college or bicameral parliament.

In the case of the election of the president by the unicameral parliament, the president is generally elected by one political force in the parliamentary majority, and accordingly, the president elected on such a principle is only the defender and carrier of the interests of one political party dominant in the parliament. Along with this, the degree of legitimacy of the president elected in such a manner is very low. Accordingly, the election of the president by the unicameral parliament can be considered the least democratic of the principles of indirect election of the president. In this direction, it is possible to cite: the parliamentary model republics of Hungary and Estonia.

3.1. Hungary - Democratic Republic of Parliamentary Government, located in Central Europe.

The executive power is headed by the Prime Minister and the main part of the powers is in his hands. The president is elected by the unicameral legislative body, the Parliament, on the principle of indirect elections.

According to Subsection 29/a of Chapter III of the Basic Law of Hungary, "The President of the Republic is elected by the Parliament for a term of five years."

3.2. Estonia is a democratic republic of Northern European parliamentary governance. The executive power of the country is the government, which directs and implements the domestic and foreign policy of the Estonian state, directs and coordinates the activities of government institutions.

The main part of the domestic and foreign powers is exercised by the president, at the proposal of the government, or in accordance with the principle of conscription with it. In accordance with Article 79 of the Constitution of Estonia, the President is elected by the unicameral legislative body, the National Assembly of Estonia.

According to the constitution, three rounds may be held in Estonia to elect the president. In the event that the Estonian legislature fails to elect the president in three rounds, the president is elected by the electoral college, which consists of representatives of the relevant state assembly and local self-government councils.

The degree of democracy and the level of legitimacy of the president are also very low in the case of the election of the president by the electoral college, which consists only of members of the legislative and local self-government representative bodies, because in this case there is a great danger that the same political force will be dominant in the parliamentary majority and local self-government bodies. In such a situation, the president will be elected by one political force.

Examples of the election of the president by the bicameral parliament on the indirect principle can be considered the Republic of Italian democratic government.

3.3 The Parliamentary Democratic Republic of Italy is located in the southwestern part of Europe. The President of the Republic has no governmental power and is not active in the management of state affairs. Its power is more or less manifested in the period of political crisis in the country, when the constitutional government and political forces cannot rule the country due to disagreement. In such a case, the president is called upon to take on the role of arbitrator and not allow the political crisis to intensify.

The president of the republic is elected by a special electoral college consisting of members of the parliament and delegates of the regional council, "delegates of the regional councils are elected in the same councils, three from each region, except for "Valle d'Aosta" which has one delegate. As for the Parliament, it consists of two chambers, the Chamber of Deputies and the Senate. Both chambers are elected by direct universal suffrage.

The duration of the mandates of the chambers was different from the beginning, eight years for the Senate, five years for the Chamber of Deputies. During the constitutional revision of 1963, it was decided to equalize the duration of the mandates of the Senate and the Chamber of Deputies. After the revision, both chambers are elected for five-year terms, but sometimes

their mandates may not coincide, if necessary, the law provides for the dismissal of one of the two" according to Article 83 of the Italian Constitution,

"The President of the Republic is elected by the Parliament at the joint session of its members. Three delegates from the self-governing region, who are elected by the regional council representing the minority in Valle d, Aosta region have one delegate, participate in the elections. It seems that the threats of limiting democracy in the election of the president by the bicameral parliament are relatively reduced in the presence of independent chambers of regional representatives in the parliament. However, the election of the president in this form of the indirect principle is natural, it is possible only in those countries where a bicameral parliament functions, which unfortunately cannot be said for the example of our country, because the existence of a bicameral parliament in Georgia is possible only after the restoration of territorial integrity and the extension of the jurisdiction of the state government to the entire territory of the country. According to the first paragraph of Article 37 of the Constitution of the Basic Law, "after the full restoration of Georgian jurisdiction over the entire territory of Georgia, two chambers, the Council of the Republic and the Senate, will be established within the Parliament." The Council of the Republic consists of proportionally elected members, the Senate consists of members elected in the Autonomous Republic of Abkhazia, the Autonomous Republic of Adjara and other territorial units of Georgia, and 5 members appointed by the President of Georgia. The composition, authority and election procedure of the chambers are determined by the organic law. Until the restoration of territorial integrity, the existence of a bicameral parliament is impossible in Georgia.

However, the election of the president in this form of the indirect principle is natural, it is possible only in those countries where a bicameral parliament functions, which unfortunately cannot be said for the example of our country, because the existence of a bicameral parliament in Georgia is possible only after the restoration of territorial integrity and the extension of the jurisdiction of the state government to the entire territory of the country. According to the first paragraph of Article 37 of the Constitution of the Basic Law, "after the full restoration of Georgian jurisdiction over the entire territory of Georgia, two chambers, the Council of the Republic and the Senate, will be established within the Parliament." The Council of the Republic consists of proportionally elected members, the Senate consists of members elected in the Autonomous Republic of Abkhazia, the Autonomous Republic of Adjara and other territorial units of Georgia, and 5 members appointed by the President of Georgia. The composition, authority and election procedure of the chambers are determined by the organic law. Until the restoration of territorial integrity, the existence of a bicameral parliament is impossible in Georgia.

Indirect election of the president and legislative loopholes

The legislative innovation implemented in the Basic Law has a number of legal flaws, which are reflected negatively and create problems on the way of democratic development of the country.

"In direct elections, citizens participate in the election of their representative without an intermediary. Direct elections are equally well suited to both universal and limited parliamentary systems, but it can be considered truly democratic when it is both universal and direct.

Indirect elections are, of course, less democratic than direct, universal elections. The reasons for this are both sociological and political. Indeed, mediators almost always belong to the circle of well-known personalities, in whose hands it turns out that influence is not commensurate with their low quantitative indicators. It should be added that the danger of distorting and misinterpreting the will of the lower strata increases significantly as the steps increase and the distance from these strata increases. From the flaws in the system of local self-government elections and giving the ruling team the opportunity to get more mandates than it deserves based on the support of the voters, which leads to the monopoly of one party. In such a situation, "the composition of the parliament itself and the practical problems observed during the elections of self-governing bodies, which lead to the dominance of the ruling team, ultimately cannot ensure the high degree of legitimacy of the president elected in this manner." The indirect (indirect) principle of electing the president does not correspond to the high constitutional-legal status of the president as the head of state of Georgia, the guarantor of the country's unity and national independence, defined by the first paragraph of Article 49 of the Constitution of Georgia. Therefore, the president, as "the head of the state, as the guarantor of the country's integrity, the arbiter of the constitutional bodies, the constitutional-legal institution with the ability to solve the political crisis, will be able to better realize his role only in the case of direct elections." In the new reality, the head of state will no longer be elected by the majority of the country's citizens with the right to vote, directly and indirectly, which will significantly reduce the importance of the president as a symbol of the country's unity and his political weight, because only direct elections are a form of direct democracy that allows voters to be personally involved. In political processes, he can directly express his will and influence the decision of state importance, and the president elected according to this principle is actually the only official in the system of higher state bodies, who enjoys the direct legitimacy of the people. In order for the head of state to perform the function of an arbitrator effectively in the conditions of political crisis and party conflict, "it is desirable for the legitimacy of the president to have an independent basis from the parliament in the form of public support." Because only the president directly elected by the people will be able to show principles, dare to defend an opposing position in front of the parliament and even confront him if necessary. .

This will become especially noticeable if we take into account the issue of the possibility of re-election of the president for a second term. There is no doubt that the president will not want to confront the majority of the parliament, even if there is a valid reason for this, in whose hands is the mechanism of his re-election. On the other hand, since the president has the power to dissolve the parliament, when selecting the candidate for the head of state, the parliament will take care to choose the most loyal and acceptable figure. conclusion

Thus, from the analysis of the discussed issue, it is clear that during the parliamentary rule, the president has limited power and a large part of it is exercised only on the basis of an agreement with the government, consresignation. As a rule, there are more claims and the desire to gain advantage in the system of state bodies, which can create a certain danger in the direction of authoritarianism, appropriation of power, in the case of parliamentary government countries, it is meaningless and unrealistic, because the narrowly regulated powers of the president make the mentioned danger unrealistic. Depriving the right to vote is a backward step in the way of building a young democracy in the country. Accordingly, in order to solve the existing legislative gaps and problematic issues and to completely regulate them, the following changes should be made in the basic law of the country and in the Constitution of Georgia: The current wording of the first paragraph of Article 50 of the Constitution should be changed and formulated as follows: "The President of Georgia shall be elected on the basis of universal, equal and direct suffrage, by secret ballot. The same person may be elected President only twice in a row for a period of 5 years."

Paragraphs 3 and 4 should be removed from the same article. Paragraphs 2, 5, 6 and 7 of the same article shall remain unchanged with the same wording

Used literature

1. Marinashvili M, The procedure for holding office and resigning by the President of Georgia, Journal of Justice and Law, Tbilisi, #1(49), 2016,
2. O. Melkadze, Constitutional Law of Foreign Countries, Collection I World Parliamentarism Research Center, Tbilisi, 2008
3. Lovo F, Modern Great Democracies, Institute of Political Science of the Georgian Academy of Sciences, Tbilisi, 2002,
4. Pakte P, Melen-Sukramiani F, Constitutional Law, Publishing House of Ivane Javakhishvili Tbilisi State University, Tbilisi, 2012
5. Pertaia L., Czech views on Georgia, Uzzeloba news, Tbilisi 2016,
6. Pegari L, Italy's complex governance between Europe and regions, Davit Batonishvili Law Institute Publishing House, Georgian translation, Tbilisi, 2016.
7. K. Kublashvili, Basic human rights and freedoms, Tbilisi, 2017.
8. Khatidze L, Arguments in favor of directly electing the president, Tbilisi, 2017

9. Lebanidze B, who should be elected president? Myths about parliamentary governance, publishing house of the Institute of Political Science of Georgia, Tbilisi, 2017
10. International Society for Elections and Democracy of Georgia, why do we need a directly elected president? 2017.

