



# Opinion about Constitutional Amendments Relating to the Electoral System

We would like to respond to a legislative package presented by the Georgian Dream majority to the Constitutional Commission. The package proposes abolishment of the majoritarian component of the electoral system but it does not ensure proportionality between votes garnered and the parliamentary seats gained by the party. Further, political parties will not be able to run as a political bloc in elections, and Georgian constituents will not be able to vote directly for the president of Georgia.

The electoral system and distribution of mandates: the fact that the package proposes abolishment of the majoritarian system is worthy of recognition; however, it also proposes granting the undistributed seats to the party that garnered most votes. As undistributed seats may amount to 10% of total seats or more, granting them to a single party will substantially increase the disproportion between the number of votes actually gained by the party and the number of seats that it was given. Here we must also note that the reason why scrapping of the majoritarian component of the electoral system has been demanded is that it leads to a disproportion between the

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



number of seats that political parties gain and the number of votes receive in elections. We understand the motivation to ensure stability but using such means to this end is unjustified and unfair. Changing the electoral system will be pointless if the proportional electoral system will still lead to unfair and disproportionate distribution of mandates. We believe that after transitioning to the proportional system, undistributed mandates should be distributed between parties in proportion to votes that they garnered.

Election of president: the package proposes abolishment of direct elections for the president to have the president elected indirectly, by the Parliament of Georgia. Considering the development of democracy and voters' best interests, we believe that the president should be elected by direct popular vote. Abolishing direct elections for the president is not a necessity driven by the parliamentary model as many European countries with a parliamentary system of governance elect the president by direct popular vote despite the president's limited powers.

If direct election of the president will still be abolished, it is important that it does not affect the upcoming presidential elections in 2018. Instead, the new regulation for election of the president should come into effect for 2023 presidential election in order for it to be free of political undertones and not be perceived as a decision made because of certain individuals. We welcome that the parliamentary majority has voiced similar position but statements made by the chair of the Constitutional Commission about how enactment of proposed new regulations for election of the president may depend on views that the president expresses is categorically unacceptable. Such statements undermine constructive discussions and reinforce suspicions that proposed new regulations are the result of personal feelings toward current president of Georgia.

Abolishing blocs: the bill proposes abolishment of electoral blocs and cites the need to support development and reinforcement of parties as an argument. We believe that even if such regulations don't come into effect for the next elections, they are too radical of a measure and are inadvisable. Such measures will be especially

unacceptable if the existing 5% threshold is maintained and the proposed rule of distribution of mandates is approved.

Here we must also note that often electoral blocs are created for financial or other material or non-material gains, which is clearly a negative fact. To address such practice and rule out any illegitimate manipulations, we recommend amending applicable legislation. Such approach will ensure that parties are no longer focused on creating a bloc for financial gains, which will help strengthen political parties in a long-term perspective; on the other hand, if parties still decide to set up an electoral bloc, such decision will be motivated purely by political interest and the desire to win elections, which is a valid justification.

Determining the date for parliamentary elections: the bill proposes a fixed date for parliamentary elections – first week of October in the calendar year when the parliament's term of office expires. This could be motivated by the intention to avoid a misunderstanding that occurred in the process of setting the date for the parliamentary elections in 2016. Having a fixed date is not a problem; however, adopting a new regulation due to a misunderstanding that occurred once seems a bit extreme. Here we must also note that scheduling elections in the first week of October will take a toll on campaigning since the pre-election period will mostly be in summer when majority of voters are on holidays. Therefore, it could be more appropriate to discuss scheduling parliamentary elections in Spring.

We urge the Chair of the Constitutional Commission and the commissioners to support:

\_replacing the existing electoral system with a proportional model of voting, including proportionate distribution of undistributed seats, in order to prevent any unfair and disproportionate outcomes;

\_maintaining electoral blocs;

\_maintaining direct election for the president, at the very least for the 2018

**საქართველოს ახალგაზრდა იურისტთა ასოციაცია**  
**GEORGIAN YOUNG LAWYERS' ASSOCIATION**



presidential elections.

International Society for Fair Elections and Democracy

Georgian Young Lawyers' Association

Transparency International - Georgia