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Georgia after the Riga Eastern Partnership Summit

Teona Turashvili, Konrad Zasztowt

With the Eastern Partnership summit in Riga set for 21–22 May, Georgia is seen as one of the most advanced EaP members in terms of adoption of European standards. The country is quite successful in terms of building a democratic and transparent state, which is both rare and sets an important precedent in the post-Soviet region. Still, such positive changes in Georgia are not irreversible, and many reforms are only at the initial stage. The EU should offer more support, and encourage the government in Tbilisi in reforming state institutions. Priority should be given to the justice sector, public administration, and local government in order to secure democratic governance and a fair political environment for further transformation. Moreover, the EU should also increase support for Georgia's civil society, which is the most efficient "whistle-blower" in the event of bad practices such as corruption, cronyism or use of prosecutors and the judiciary against political opponents.

Georgia initialled its Association Agreement with the EU at the Vilnius EaP summit in November 2013 and signed it in June 2014. The agreement was ratified by the European Parliament in December 2014, and so far the parliaments of 21 EU Member States have followed suit. The government in Tbilisi has made progress in the visa liberalisation dialogue with the EU, and the implementation of the Visa Facilitation and Readmission Agreements. The second phase of the visa liberalisation process, focused on implementation, was launched in October last year.¹ The latest European Commission report assessed positively the implementation of the Visa Liberalisation Action Plan by Georgia, however it claimed that the country still needs to address the remaining recommendations in the areas of asylum, anti-corruption, trafficking in human beings and drugs.² Another progress report is scheduled to be published by the end of 2015. Afterwards, the country will have a chance to achieve a functioning visa-free regime with the EU.

However, even if Georgia is seriously advanced in terms of democratisation and rapprochement with the EU, the country is still only at the initial stage of some important reforms, which may safeguard a stable democratic system and free market economy. At the same time, the ruling Georgian Dream coalition faces mounting external and internal challenges. One of the most challenging foreign policy issues is resistance to Russian diplomatic and propaganda pressure on Georgia due to its Euro-Atlantic and European course. This external problem is intertwined with internal challenges. According to the 2014 European Neighbourhood

¹ Joint Staff Working Document. *Implementation of the European Neighbourhood Policy in Georgia Progress in 2014 and recommendations for actions*, 25 March 2015, http://eeas.europa.eu/enp/pdf/2015/georgia-enp-report-2015_en.pdf.

² European Commission, *Commission assesses the implementation of Visa Liberalisation Action Plans by Ukraine and Georgia*, 8 May 2015, http://europa.eu/rapid/press-release_IP-15-4949_en.htm.

Barometer, 25% of Georgians do not trust the EU³ and 26% would prefer to join the Russian-led Eurasian Economic Union rather than join the EU.⁴ Georgian Euro-sceptics do not appreciate the advantages arising from the process of the EU recommended reforms. They are afraid either of the deterioration of political relations and losing opportunities to trade with Russia,⁵ or of the detrimental influence of Western culture on the traditional Georgian way of life. Such views are disseminated by several Russia-friendly, “Eurasian” NGOs (for instance, the Eurasian Institute) and media outlets.

Even if the Euro-sceptical section of Georgian society is growing,⁶ 68% of Georgians still support integration with the EU.⁷ The European and U.S. institutions support the government in Tbilisi financially, and constantly assess progress of the reforms of Georgia’s state. The EU’s priorities for Georgia are agriculture, public administration and justice reform. Another field is economic reform, in context of Georgia’s adjustment to the DCFTA. In these areas, the government in Tbilisi is receiving EU financial support and technical assistance.⁸ Thus, the authorities, due to internal and external pressure, simply cannot abandon either the European or the Euro-Atlantic foreign policy course, nor can they withdraw from reforms.

The government indeed launched some reforms (in agriculture, social policy, health care, the justice sector, public administration and local government), but the results differ in regards to each of them. The general mood in society is disappointment with the economic policies of the government and living standard, although some of the changes are assessed positively, for instance healthcare reform, and the situation in regards to human rights and freedom of speech.⁹

There are several traps awaiting the Georgian government. One of them is the temptation to avoid making reforms that are perceived the society as not so important, although they are substantial from the point of view of the whole transformation process. Another even more serious trap is the government’s tendency not to loosen its grip on power by delegating competencies to other institutional bodies. The most acute examples of such a problem are in the justice sector and local government reform. These are related to another trap, which is excessive concentration on the aggressive, internal political fight with the opposition.

From the EU perspective, the issue of the independence of Georgia’s judiciary and prosecutor’s office is a top priority, which was underlined by the president of the European Council, Donald Tusk, at a meeting with the Georgian prime minister, Irakli Gharibashvili, in Brussels on 26 February 2015. The EU officials remain concerned about “selective justice,” that is, the investigation and trials of officials of the old ruling elite, members of the United National Movement, the party of former president Mikheil Saakashvili.

³ *EU Neighbourhood Barometer Results Spring 2014*, <http://euneighbourhood.eu/wp-content/uploads/2014/09/FS-ENPI-Wave-5-GE-EN.pdf>.

⁴ *Public attitudes in Georgia: Results of August 2014 survey carried out for NDI by CRRC-Georgia*, https://www.ndi.org/files/NDI_Georgia_August-2014-survey_Public-Issues_ENG_vf.pdf.

⁵ It is noteworthy that Georgian companies intensified delivery of their products to Russia after the latter revoked restrictions imposed in 2006. In 2014, total trade turnover with Russia amounted to \$852.6 million, a 9.5% increase relative to 2013, accounting for 7.4% of Georgia’s foreign trade. The country’s trade turnover with the EU Member States increased by 4% and amounted to \$2.99 billion in 2014, which accounts for about 26% of the country’s total trade turnover. According to estimates of the Trade Sustainability Impact Assessments, Georgian exports to the European Union are expected to increase by 12% after the full implementation of the reforms stipulated in the Association Agreement. As of 2015, the most important trade partners for Georgia include Turkey (15.7%), Azerbaijan (10.2%), China (7.8%), Russia (7.4%) and Germany (6.5%). See: http://geostat.ge/index.php?action=page&p_id=137&lang=eng.

⁶ In 2013, 11% of respondents had positive attitudes towards joining the Russian-led Eurasian Union. Public opinion remained the same in the first half of 2014, but there was a nine per cent increase in positive attitudes towards this trade bloc in August, 2014, followed by a 6% increase in April 2015. Source: *Public Attitudes in Georgia*, National Democratic Institute, https://www.ndi.org/georgia?quicktabs_country_page_tabs=3#quicktabs-country_page_tabs.

⁷ *Public attitudes in Georgia...*, *op. cit.*

⁸ EU support for the years 2014–2017 amounts to up to €410 million in key areas, such as public administration reform, agriculture and rural development, and justice reform. See: *ENP Country Progress Report 2014—Georgia*, 25 February 2015, http://europa.eu/rapid/press-release_MEMO-15-4686_en.htm.

⁹ See: *Public attitudes in Georgia...*, *op. cit.*

Justice Sector Reform

In 2013, the newly introduced rules of appointing members of the High Council of Justice (HCoJ) made it more independent from the influence of the executive power. Six of the judges in the HCoJ are now elected by a two thirds majority in parliament, and eight by the judiciary's self-governing body, the Conference of Judges. However, the most controversial change was the exclusive right of the Supreme Court chairman to nominate candidates for HCoJ membership. This was reversed and every judge was entitled with the right to nominate a candidate. Although the changes were criticised by the opposition United National Movement, they were assessed positively by representatives of civil society.

The term of office of the previous chairman of the Supreme Court, Kote Kublashvili, who was appointed during Saakashvili's presidency, and who was regarded as being close to the former president's United National Movement party, expired in February.¹⁰ On 20 March 2015, parliament approved Nino Gvenetadze, nominated by Georgia's president, Giorgi Margvelashvili, as the new Supreme Court chairman for a ten-year term. Her candidacy triggered criticism from the opposition, which stressed her previous membership of the Republican Party (which is part of the ruling Georgian Dream coalition), and pointed out that she had been a judge during Eduard Shevardnadze's presidency, when whole judicial system was corrupt. She was among the judges who openly blamed the previous government for imposing pressure on judges in 2005.¹¹ Between 1998 and 1999 she was head of the reputable and bi-partisan Georgian Young Lawyers' Association (GYLA). Whether she will be impartial in her new post remains to be seen.

Perhaps more serious problems are related to the work of the prosecutor's office. After the arrests of Ministry of Defence officials who were charged with corruption in October 2014, then defence minister Irakli Alasania claimed that the arrests were politically motivated and aimed at distorting Georgia's Euro-Atlantic and European course.¹² In protest, Alasania, himself perceived by many as the staunchest supporter of a Western orientation in the coalition, left the government together with foreign minister Maia Panjikidze and minister of European and Euro-Atlantic integration Alexi Petriashvili.¹³ These developments triggered criticism of the government, in Georgia and abroad, and raised concerns about the impartiality of the prosecutor's office. Responding to this critique, Gharibashvili instructed the Ministry of Justice to create a working group at the end of 2014, with the brief of elaborating a plan for institutional reform of the chief prosecutor's office for the purpose of increasing its independence and accountability. In order to secure the neutrality of the mentioned state agency, the government of Georgia declared the importance of establishing a balanced model. Members of civil society organisations, and foreign and Georgian experts working on these issues, were invited to take part in this process. The Criminal Justice Reform Inter-Agency Coordination Council, responsible for preparation of a reform package, has already published a draft concept, which included several amendments to the rules of appointing the chief prosecutor.¹⁴ Despite increased involvement of the legislative body in this process, NGO representatives claim that these changes are not sufficient for substantial modification of the prosecutorial system, since "selection and appointment of the Chief Prosecutor based on professional, rather than political grounds, and involvement of the opposition political forces still remains an outstanding challenge."¹⁵

¹⁰ Z. Anjaparidze, "Judges Allege that Saakashvili's Team Is Purging Georgia's Judicial Bench," *Eurasia Daily Monitor*, vol. 2, issue 228, 8 December 2005, [www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=31193#.VRqU615ghfA](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=31193#.VRqU615ghfA).

¹¹ *President Names Supreme Court Chair Candidate*, 15 February 2015, www.civil.ge/eng/article.php?id=28052.

¹² On 3 April 2015, Irakli Alasania said at a press conference that the arrests of ministry officials, which took place while he was visiting Paris in late October, were aimed at exerting pressure on him with the purpose of dissuading him from signing the memorandum on purchasing air defence systems from France. *Accusations Fly in Georgia's Potential French Arms Deal*, 4 April 2015, www.civil.ge/eng/article.php?id=28181.

¹³ See also: K. Zasztowt, *Georgian Dream in Crisis: Free Democrats Leave the Coalition*, *PISM Bulletin*, no. 130 (725), 14 November 2014, www.pism.pl/publications/bulletin/no-130-725.

¹⁴ According to the concept, nominated candidates by the Minister of Justice are reviewed and supported by the Prosecutorial Council, a new body initiated under the concept. Afterwards, the candidate supported by the Council is nominated to the government, and if it grants consent then parliament reviews the candidacy and makes a decision with a simple majority. According to the current model, the prime minister appoints and dismisses the chief prosecutor upon the justice minister's recommendation.

¹⁵ *Coalition Opinion on the Prosecution Reform Concept*, 22 April 2015, <https://idfi.ge/en/coalitions-opinion-on-prosecutors-office-reform-concept>.

According to a Transparency International Georgia report, among main achievements of the judiciary reform are relatively higher level of openness and transparency of court hearings. However, the main problems, such as violations of procedural regulations in favour of the governing party and restrictions on attendance at hearings remain and require proper attention. The report claims that “the most alarming problems were observed in high-profile cases.”¹⁶

Moreover, the Georgian government has just presented a concept paper of the Ministry of Internal Affairs’ reform. The plan implies the separation of Security Services from the Ministry with the aim of transforming it into a civil service institution. However, some Georgian civil society organizations are not satisfied with the scope of the reform package and they request fundamental changes in the ministry. In particular, they claim that issues such as politicization of the law enforcement system, unsafe preventive police actions, impartiality of General Inspections, transparency and accountability, are not covered by the proposal.¹⁷

Public Administration

With the signing of the Association Agreement, Georgia undertook an obligation to take action to further pursue public administration reform, and build an accountable, efficient and effective civil service. With the participation of local civil society organisations and the financial support of United States Agency for International Development (USAID), the government elaborated a new concept of public service reform, which was endorsed at the end of 2014.

Moreover, there were improvements in the accessibility of public information. Specifically, in 2013 standards for the proactive disclosure of and responses to electronic requests for public information were implemented in Georgia. Consequently, central government agencies became obliged to publish particular data (expenses, budget, salaries, number of employees, procurements, and so on) on their official websites. Also, rules relating to online requests for information (via governmental portals, emails to an FOI officer or the websites of public authorities) were defined. Now the government plans to present a new freedom of information law.

Furthermore, the government implemented several measures to cope with corruption. In April 2014 the Conflicts of Interest and Corruption in Public Service law was amended in an attempt to improve regulations regarding so called “whistle-blowers,” and to ensure that they received greater protection. Several changes, including the introduction of the “presumption of confidentiality” principle, guarantees against coercion, intimidation, retribution, correction, corrections to previous ambiguity concerning the form of disclosure of information, and replacement of the term “disclosure appeal” with the more legally precise “disclosure notice,” were evaluated by NGOs positively. However, they emphasised several aspects that had not been considered by the legislators, such as the fact that current legislation applies only to serving or former public officials, leaving experts, specialists or volunteers working for certain public institutions, as well as private sector employees out of the system. Neither does it imply provisions guaranteeing damages or covering whistle-blowers’ court or legal expenses.

Despite these positive achievements, the Georgian government was accused by the opposition of increased nepotism in public service. Research conducted by Transparency International Georgia revealed that recruitment for the civil service is often conducted in a non-transparent manner. In order to overcome the existing bad practice and deal with legal loopholes and inadequate regulations, the organisation proposed the criminalisation nepotism. The report of the Institute for Development of Freedom of Information

¹⁶ Transparency International Georgia, *Three years of court monitoring on administrative cases revealed significant improvements, but problems still remain*, 4 December 2014, <http://transparency.ge/en/node/4854>.

¹⁷ Human Rights Education and Monitoring Center, *EMC’s assessment of the reform process and reform concept of the Ministry of Internal Affairs*, 4 May 2015, <http://bit.ly/1IG6pZe>.

revealed signs of nepotism in particular public institutions.¹⁸ Moreover, the 2015 European Neighbourhood Policy report indicates that Georgia still has problems with corruption among the elite.

Local Government Reform

In 2014, Georgia took significant steps towards decentralisation. As a result of the latest changes to the Organic Law of the Georgian Local Government Code, mayors of cities and chairpersons of municipalities were elected directly by local populations in June 2014.

However, civil society members regard these changes as insufficient for achieving real and effective decentralisation and higher autonomy for local governments. The initial proposal for reform entailed the direct election of the mayors of 18 towns and the heads of all municipalities (of 11, as adopted by the government), more than advisory power for consultative councils (containing representatives of local councils), and the establishment of a third, lower tier of local government (borough councils in Tbilisi and public councils in the villages). However, due to criticism from Orthodox Church, conservative politicians and parties, these proposals were not reflected in the bill ultimately adopted by parliament. Additionally, there was a lack of clear division between the competences of local and national government, especially regarding financial issues.¹⁹

Now the issue of the fiscal independence of local authorities is on the political agenda. Some experts in Georgia criticised government for not involving representatives of local government during the planning of the 2015 state budget. In particular, the Ministry of Finance had to propose rules defining the proportion and mechanism of distributing income tax among budgets of different levels. The adoption of these rules would make it possible for the government to define the exact amount of money allocated to local governments from the 2015 state budget. The state budget would also have to be calculated according to the new rules. The proposition of planned amendments was sent to parliament together with the state budget. Consequently, the amount of money allocated to local governments for the next fiscal year was planned solely by the ministry. Some Georgian experts assessed this action as “legislative budget blackmail.”

While discussing the issue of the fiscal independence of local self-government entities, a recent statement by Gharibashvili should be noted. In response to concerns raised by the Ministry of Finance regarding the delay in implementation of local infrastructure projects due to “some bureaucratic” problems, he warned the newly elected local officials that they were not “untouchable,” and that the issue of their responsibility could be raised. This illustrates that local government is still vulnerable to potential pressure from central government. Another controversial issue is the provision allowing for a majority of local council members to impeach a directly elected mayor, which may potentially be used by the ruling party to dismiss independent individuals from their posts.

Awareness of local government reform and its importance is low in Georgia (only 6% of Georgians indicated this reform as the most important, according to a 2014 NDI survey). The public opinion polls show that trust in local government institutions is low among the rural population. According to the CRRC survey, 30% trust local government, while 50% are ambivalent.²⁰ At the same time, 39% do not have sufficient understanding of the work of local governments. Only 11% of respondents claimed that they had enough information in this regard.

¹⁸ Institute for Development of Freedom of Information, *Advisors at Public Institutions*, 1 April 2015, <http://idfi.ge/ge/report-advisors-at-public-institutions>. Cases observed at Georgian National Communications Commission (GNCC): Institute for Development of Freedom of Information. *Signs of Nepotism in GNCC*, 27 March 2015, <http://idfi.ge/ge/signs-of-%20nepotism-in-gncc>.

¹⁹ On the question of drawing a precise line between the competences of the two levels of government, according to the amendments as of December 2014, the government of Georgia should prepare a legislative package by 1 July 2015.

²⁰ “The Caucasus Research Resource Centres,” *Caucasus Barometer 2013 Georgia*, 2013, <http://caucasusbarometer.org/en/cb2013/ge/TRULOCCG-withoutdkra>.

Explaining Eastern Partnership Goals and Reform Agenda

Even though the pace of reforms is continuing in Georgia, the country's reform agenda is still full of substantial challenges to be overcome. This could be achieved only through comprehensive and coherent strategy, which needs coordinated work by all major public institutions. The EU should push the government in Tbilisi for further reforms in the crucial spheres.

The EU should persuade the Georgian authorities to continue reforms of the prosecutor's office and the Interior Ministry, as well as to seriously consider proposals of the civil society organisations in this regard. In particular, the government should cooperate with the Coalition for an Independent and Transparent Judiciary, uniting up to 30 non-governmental organisations in Georgia. The coalition has already presented its recommendations to the government, on how to improve the independence, effectiveness, and accountability of these government agencies (including rules of appointing the chief prosecutor, the status of the prosecutor's office in the governmental system, decentralisation of the powers of the Interior Ministry and so on).

With regard to the public administration sector, anti-corruption measures are still needed to eliminate and prevent corruption among the elite. Furthermore, signs of nepotism raise concerns regarding prospects for the actual implementation of the recently adopted strategy in this field. Consequently, EU officials, together with representatives of local civil society, should monitor developments closely, and push for adequate and appropriate reactions from the government to cope with revealed problems.

The EU and its Member States should also consider deeper engagement in support of local government reform in Georgia. Effective rules defining local and national competences should be introduced, and fiscal autonomy should be ensured. European expertise, experience and support are essential in this regard. At the same time, there should be significant focus on enhancing awareness among the population, about the main advantages of this reform. Representatives of local government should elaborate a strategy to communicate with residents, with the aim of increasing their involvement in policy planning. This would probably increase the level of trust towards the local institutions.

Improvement of the legislation on local government should be preceded by discussions held with the participation of wider society. The participation of activists will push central government to take into account their suggestions. It is especially important, in the light of the obligation undertaken by the government, to lay out suggestions regarding the competencies of self-government structures.

In order to break down existing prejudices against local government among the Georgian citizens, best practices and successful stories from foreign experience could be used. For the same purposes, the main essence and benefits of reform (for instance, improvement of public service delivery, locally resolved problems, and so on) should be explained to the public.

The EU should also raise awareness in Georgian society concerning the EaP's goals. Russian and Russian-sponsored NGOs and media are contributing significantly to disinformation about the EU's policies towards the EaP members. The EU should respond with even more active support for pro-European civil society organisations not only in Tbilisi, but also in other regions of Georgia.

The EU should define its long-term future goals. Even if thinking about Georgia's membership in upcoming years is unrealistic, excluding such a possibility a priori would be harmful from the point of view of the EU's relations with Georgia and the EU's transformative power in the broader region of Eastern Europe.