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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**PROPOSAL
FOR A CONSTITUTIONAL LAW
ON CHANGES AND AMENDMENTS
TO THE CONSTITUTION
OF GEORGIA**

Prepared by the Liberty Institute

Article 1.

Chapter Two of the Constitution of Georgia shall be formulated in the following manner:

Charter of Rights and Freedoms

Article 12. General guarantees of rights and freedoms

1. The State recognizes and protects human rights and freedoms as eternal and supreme human values.
2. The State provides necessary guarantees for the enjoyment and protection of fundamental rights and freedoms of each person.
3. Nothing in this Constitution shall be construed as granting of the right to disregard universally recognized rights and liberties, or to restrict them at the extent greater than that permitted by the Constitution.
4. The Constitution does not renounce other universally accepted rights, freedoms and guarantees that are not referred to in here, but can be implied from the Constitution and universally accepted general principles of law;
5. No person shall be persecuted for the enjoyment of fundamental rights and freedoms.

Article 13. General grounds and rule for the restriction of rights and freedoms

1. Fundamental rights and freedoms may be restricted only in the events and according to the rules prescribed by the Constitution, in compliance with law, through proper and fair procedures, and only if all requirements provided in this article are fulfilled.
2. No fundamental right and freedom shall be restricted. No fundamental right and freedom shall be restricted in a manner that would in essence equate to their abolition;
3. Fundamental rights and freedoms may be restricted only if it is critically necessary for the existence of democratic society; directly contributes to the realization of legitimate goals prescribed by the Constitution and presents the least limiting proportional measure for the achievement of the aforementioned goals;
4. Any material restriction of fundamental rights and freedoms shall be realized only in compliance with law that itself provide direct request for such a restriction, concrete criteria and exhaustive list, as well as envisage guarantees protecting the restricting rules from their incompliant application with the goals.

Article 14. Interpretation of rights and freedoms

Fundamental rights and freedoms shall be interpreted in the manner that would promote constitution of the values of the open, free and democratic society, in consideration of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law of the European Court of Human Rights, and other universally recognized norms and precedents.

Article 15. Rights to equality

1. Each person shall be equal before the law without any discrimination, have the right to full and equal protection, and equal treatment and benefit, regardless of race, color of skin,

- language, sex, faith, ideology, political views, ethnic, cultural and social affiliation, origin, marital status, property, title, residence, health condition, or any other status.
2. Any exception shall be considered a discrimination, unless proved that such exception is fair and reasonable, does not cause abolition or violation of the right to equal enjoyment of human rights and freedoms, and contributes to ensuring:
 - a) Equal opportunities for the enjoyment of fundamental rights and freedoms;
 - b) Diversity and distinctiveness of the society and free development of each person and groups of persons.
 3. Human rights and freedoms, with the consideration of their nature, shall also apply to artificial persons/legal person.
 4. Foreign citizens and stateless persons residing in Georgia shall have rights and obligations equal to those of Georgian citizens, except for the events prescribed by the Constitution and law.

Article 16. Rights to life, dignity and personal inviolability

1. Each person shall have inalienable rights to life, dignity and personal inviolability, which primarily implies:
 - a) Prohibition of capital punishment;
 - b) Freedom from torture and cruel, inhuman or degrading treatment or punishment as well as any corporal punishment, violence or any action that causes severe physical or mental pain or suffering;
 - c) The right not to be an object of medical and scientific experiments; the right to medical service based on free choice and informed consent; the right to urgent medical assistance, without which a person would face an inevitable threat of irreversible harm to his/her life and health;
 - d) Freedom from slavery, forced labor and prohibition of human trafficking;
 - e) Prohibition of extradition/transfer to the State or tribunal, where there's an explicit, direct and substantial threat of violation of the rights and freedoms guaranteed by this article.
2. No action that results from the application of lawful, urgent necessity, precisely targeted and proportional force shall be considered as interference with the right to life and personal inviolability.
3. Military or civil service or serving of sentence, as well as performance of public service works during martial law or state emergency, in the events and according to the rules prescribed by law, shall not be considered forced labor.

Article 17. General guarantees of civil liberties

1. Regulation of freedom of belief, faith, conscience, ideology, expression, assembly and association may imply neutral limitations on the place, time and form of expression with respect to these rights and freedoms, which shall not affect the content of information or ideas, or the effect of the expression, and leave realistic chance for their expression in an alternative way.
2. The legality of the enjoyment of freedom of belief, faith, conscience, ideology, expression, assembly and association, and political and administrative rights is professed. In case of a dispute regarding these rights and freedoms, the burden of proof shall rest with the person who initiated the restriction.
3. Any doubt that cannot be proved through statutory rules shall be solved against restriction of freedom of belief, faith, conscience, ideology, expression, assembly and association, and political and administrative rights.

Article 18. Freedom of belief, faith, conscience and ideology

1. Each person shall have the right to choose or change any or no belief and ideology without any coercion, and each person shall have an absolute and inherent freedom of conscience.
2. Each person shall have the right, alone or together with others, publicly or in private, and without any obstacles, to express and preach his/her own belief or ideology, perform service, pray, establish a house of worship, pursue the teaching and observe the rules of his/her belief, and observe secrecy of confession.
3. Right to contradict morality is recognized. No person shall be imposed the obligation that is directed towards the rights recognized in the first and second paragraphs of this article and that:
 - a) Substantially contradict the person's belief, faith, conscience or ideology, and in essence, require the person to completely renounce his/her belief, faith, conscience or ideology;
 - b) Will serve as a heavy burden for the person's belief, faith, conscience or ideology, and inflict upon him/her mental pain or suffering.
4. The rights and liberties recognized and protected by this article may be restricted, if such restriction is critically necessary for the protection of national security, public order, and fundamental rights and freedoms of other persons; constitutional order from violent disrupt, and when the threat of such result is realistic.

Article 19. Freedom of expression

1. Each person shall have freedom of expression, which primarily implies:
 - a) Absolute and inherent freedom of thought and freedom from being forced to express his/her own opinion;
 - b) Freedom of political speech and debate;
 - c) The right to search, receive, create, store, process and distribute information and ideas of any form;
 - d) Prohibition of censorship;
 - e) The right of a journalist to protect secrecy of the information source;
 - f) Freedom of exposure and protection of informer;
 - g) Academic freedom of study, teaching and research;
 - h) Freedom of art, mastery and invention;
 - i) Right to charity;
 - j) The right to speak any language and use any alphabet;
2. Editorial independence of media shall be recognized. Government shall promote development of media pluralism.
3. Government shall guarantee public broadcasting free from political and commercial influence for securing high-quality and multifarious programs for the public.
4. The rights and liberties recognized and protected by this article may be restricted, if such restriction is prescribed by Organic Law and is critically necessary for the protection of other rights and freedoms, administration of justice and protection of state, commercial, professional or private secret from disclosure, and in such events, when the enjoyment of the right defined by this article in essence aims to undermine the national sovereignty and security of Georgia, violently disrupt the constitutional order, cause ethnic or religious conflict, or promote war or violence, and when the threat of such result is realistic.

Article 20. Freedom of assembly

1. Each person shall have the right to peaceful, unarmed, public assembly either indoors or outdoors, without any prior permission. The law may require prior notification of the respective authorities, if the assembly is to be held in the place of public and transport movement. The freedom of assembly is recognized for the members of the armed forces, police and security services only in events prescribed by Organic Law.
2. The rights and liberties recognized and protected by this article may be restricted, if such restriction is prescribed by Organic Law and is critically necessary for the protection of public order, rights and freedoms of other persons, and for the administration of justice.
3. Organic Law shall regulate the enjoyment of this right in consideration with the interests of the movement of public transportation and services of primary importance.

Article 21. Freedom of association

1. Each person shall have the right to association either independently or together with others, which primarily implies, according to law, the right to:
 - a) Freely found a political, professional, religious, cultural, lingual, civil, charity or other association without mandatory registration or any other permission and obtain the status of artificial person/legal person;
 - b) Freely join or abandon any association and attract new members and donations;
 - c) Elect managers and representatives independently, according to law;
 - d) Enjoy tax benefits for charity and non-commercial activities.
2. The rights and liberties recognized and protected by this article may be restricted, if such restriction is critically necessary for the protection of public order, rights and freedoms of other persons, and in the events when enjoyment of these rights and freedoms explicitly, directly and substantially aims to undermine the national sovereignty and security of Georgia, violently disrupt the constitutional order, cause ethnic or religious conflict, or promote war or violence, and when the threat of such results is realistic.
3. The right of public official to join a political party may be restricted by Organic Law.

Article 22. The right to property

1. The right to property and inheritance is recognized and guaranteed. Abolition of the universal right to property and inheritance shall be prohibited.
2. Each person shall have the right to free purchase, possession and disposition of property.
3. For the purpose of public necessity, this right may be restricted in the events and according to the rules defined by law.
4. Seizure of property for the purpose of public necessity shall be allowed in the events directly prescribed by law, based on court decision or due to the urgent necessity defined by organic law, and only in exchange for fair market value compensation of the property.
5. The guarantees and rights recognized by this article shall not exempt a person from the obligation to pay the fair taxes established by law.
6. The rights and guarantees recognized by this article shall not apply to the property purchased through illegal means, obtained from or intended for illegal activity.

Article 23. Political rights

1. Each citizen of Georgia shall have the right to participate in State governance and legislative process personally or through elected representative.

2. Each person shall have right to solve the matters of local importance through self-government.
3. Each person who legitimately stays in Georgia shall have the right and obligation to defend the Constitution and democracy, resist infringement upon constitutional order and exercise civil disobedience against tyranny.
4. Each citizen of Georgia shall have the right to fair taxing and involvement in budgeting.
5. No person shall hold a single constitutional or other elected office for the period of 10 years consecutively, except for the events prescribed by the Constitution.
6. Each citizen of Georgia shall have the right to:
 - a) Participate in free, fair, general, direct, equal and periodic elections and referendums from the age of 18;
 - b) Be elected to any elected governmental office from the age of 22.
7. Those recognized as incapable by the court shall have no electoral rights.

Article 24. Administrative rights

- 1) Public administration is based on principles of transparency and civil participation;
- 2) Public government and each public agent bears responsibility before each citizen;
- 3) Each person shall have administrative rights, which primarily implies:
 - a) Appealing to a public agency without any obstacle;
 - b) Obtaining public information and attending public meetings, except in the events and according to the rules prescribed by law, and for the purpose of protection of state, commercial, professional and private secrets;
 - c) Being heard during resolution of his/her case by a public agency and being enabled to participate in the hearing;
 - d) Prompt, transparent, unbiased, fair, justified and legitimate resolution of cases by public agencies;
 - e) Resolution of each case by a single public agency.

Article 25. Access to justice

1. Each person shall have the right of access to prompt, continuous, public, independent, impartial and legitimate trial based on equality of arms and competition of parties for the protection of his/her rights and freedoms.
2. Each person shall have the right to file a complaint with court regarding the action of a public agency or public official, have his/her injured rights and freedoms redressed, receive full compensation for the damages caused, including damages from unreasonable, unjustified, illegitimate or inexpedient search, detention, arrest, miscarriage of justice or enforcement of punishment.
3. Each person shall have the right to be informed of his/her rights and the legal consequences of their denial, in the language understood by the person, as prescribed by law.
4. In the event of restriction of rights and freedoms, a public agency or public official are obliged within reasonable time prescribed by law and in the language understood by the affected person, explain to the latter the grounds for restriction of his/her rights and freedoms. Without such explanation, any action or legal act that restricts human rights and freedoms shall be invalid.
5. Each person, in any circumstance and at any time, shall have the right to benefit from effective and professional legal advice, defense and representation, based on his/her choice.
6. Each person shall have the right to free legal aid, if it is necessary to guarantee fair trial and the person affected is unable to access effective and professional legal service;

7. Each person shall benefit from assistance of the interpreter for free, if he/she can not hear or speak the language that the legal proceeding is conducted;
8. The person who may appeal to the court for the redress of injured rights, in the events and according to the rules prescribed by law, may include those who have not suffered any injury, but act as:
 - a) Representative of any group, class or category of people;
 - b) Defender of public interests.

Article 26. Rights to liberty and inviolability

1. Each person shall be born free and entitled to personal inviolability.
2. The personality, property, personal and business communication, workplace and residence of any person, data including personal secret, as well as any information, place or circumstance, regarding which a person has reasonable expectation of private life, shall be inviolable, except in the events and for the purposes prescribed by law and based on court decision.
3. Freedom of expression regarding the events, which shall be known to a person for the purpose of implementation of public self-government in a democratic society, shall not be restricted on the grounds of inviolability of private life of public official and protection of private secret.
4. Each person shall have the right to access his/her personal data held by a public agency, or – in the events and according to the rules prescribed by law – held by a private person, obtain officially verified copies of such data, and demand correction or destruction of inaccurate or unlawfully obtained data.
5. A public agency shall:
 - a) Collect, process and store only the public information that the agency is directly authorized by law to collect, and that is necessary for the agency to exercise its authority;
 - b) Immediately inform relevant person of any request for his/her personal data by another public agency or private person, except for the events and rules prescribed by law.
6. No public agency shall collect, process, store or release personal data relating to a person's religious, sexual or ethnic affiliation, political or other ideology, except in the events and for the purposes prescribed by law and based on court decision.
7. The rights and freedoms recognized and protected by this article may be restricted if such restriction is critically necessary to prevent a crime, facilitate criminal prosecution or administration of justice, or to ensure national security.

Article 27. Freedom from unjustified wiretapping, search, detention and arrest

1. Restriction of personal freedom and the right to inviolability, including wiretapping, search, detention, arrest or other kind of restriction of liberty, shall be permitted only in case of reasonable assumption, based on court decision, or without it, in the event of urgent necessity prescribed by law.
2. For the purpose of confirming reasonability, justification and legitimacy of the wiretapping or search conducted in the event of urgent necessity, the prosecutor shall immediately, but no later than 24 hours, appeal to the court. The court shall, within 24 hours after the appeal, make a decision concerning reasonability, justification and legitimacy of the wiretapping or search based on the consideration of all circumstances related to the case.

3. Any detained, arrested or otherwise restricted person shall appear before the court of proper jurisdiction immediately, but no later than 48 hours following the detention, arrest or other kind of restriction of liberty.
4. If within 24 hours following the person's appearance before the court the latter does not make a decision concerning reasonability, justification and legitimacy of the person's detention, pre-trial detention or other kind of restriction of liberty, the person shall be immediately released.

Article 28. Rights of detainees and prisoners

1. A detainee, prisoner or a person whose liberty is otherwise restricted shall fully enjoy all fundamental rights and freedoms, except for those established by law.
2. A detainee, prisoner or a person whose liberty is otherwise restricted shall have the right to humane treatment and respect to his/her personality.
3. A detainee, prisoner or a person whose liberty is otherwise restricted shall have the right not to be fully isolated from the outer world, to communicate and meet with family members, friends, lawyer, priest, doctor and other persons, except in the events of emergency prescribed by law.
4. For the purpose of proving the reasonability, justification and legitimacy of the isolation regime, a detainee, prisoner or a person whose liberty is otherwise restricted shall be presented to the court of proper jurisdiction immediately, but no later than 48 hours following the detention, arrest or other kind of restriction of liberty.
5. A detainee or prisoner shall have the right to immediately inform his/her family members or other relatives/friends of the detention or imprisonment.
6. A detainee and a prisoner shall be entitled to pre-trial release on bail according to law, except for the urgent necessity prescribed by law and based on court decision, whenever there's a reasonable assumption that the suspect or defendant will not appear before the court or obstruct the investigation.
7. Any person shall be entitled to a preliminary hearing of his/her case and revision by the court of the reasonability, justification and legitimacy after 10 days of his/her pre-trial imprisonment or other kind of restriction of liberty and every 30 days following preliminary hearing and pre-trial detention or other kind of restriction of liberty.
8. The term of pre-trial imprisonment or other kind of restriction of liberty of a defendant shall not exceed 10 days. In the event of a statutory emergency, this term may be extended up to 30 days if, based on preliminary hearing of the case and court decision, the reasonability, justification and legitimacy of the extension is proved.
9. The full term of pre-trial imprisonment or other kind of restriction of liberty shall not exceed 100 days, except when extension of this term is required for securing defendant with legal council, right to fair trial and for administration of justice. The law may prescribe other reasonable dates that shall not exceed 6 months.
10. No person shall be held in trial imprisonment for longer than 6 months.
11. Detention, pre-trial and post-trial imprisonment should be calculated within general imprisonment period.

Article 29. Rights of suspects and defendant

1. Suspect and defendant shall have the right to be free from any physical or psychological pressure.
2. Defendant shall be entitled to reasonable lead-time and resources to prepare for defense.

3. Persecution of a defendant shall be terminated unless he/she is presented with an accusation act within 70 days after he/she was identified as a suspect or had been detained. In exceptional cases, when it is urgently necessary for ensuring defense, fair trial and justice for a defendant, another time-limit can be defined by law that cannot exceed 5 months.
4. No accusation act shall be presented, unless there's a reasonable ground to believe that the offense has been committed and that it was committed by the defendant. At the pre-trial hearing, the court shall assert the reasonability, justification and legitimacy of presenting the accusation act and trying the defendant.
5. The defendant, after being presented with the accusation act, shall have the right not to face new, more severe charges for the same action, except due to newly-discovered or newly-revealed circumstances.
6. No person shall be held liable for the action, which, at the time of its commission, was not considered as an offense according to the Georgian legislation, International Law.

Article 30. The right to a jury trial

1. In the hearing of criminal cases, in which the defendant may face imprisonment, each defendant shall have the right not to be found guilty or otherwise held liable, unless based on the verdict of an impartial jury consisting of fellow citizens.
2. The law may prescribe a jury trial in other categories of cases;
3. Each person shall have the right to willfully renounce his/her right to jury trial and according to the law, request:
 - a) Substantive hearing of the case by a judge, without jury;
 - b) Plea bargaining without substantial hearing of the case.

Article 31. The right to fair trial

1. Each person shall be judged only by the court of proper jurisdiction.
2. Each person shall be judged by a court based on the Constitution and proper legislation. Each person shall have a right of having his/her case considered based on normative act, that is in accordance with the Constitution and the Law;
3. Suspects and defendants shall have the right to attend the hearing of their cases, as prescribed by law.
4. Defendant shall have the right to have the court consider his/her case within 30 days after the accusation act was presented, except when required for providing the defendant with legal defense and securing his/her right to fair trial. The court shall make the decision to postpone the date of hearing based on the motion of the defendant.
5. A person shall have the right not to admit an offense and not to give testimony that will be used against him/her or his/her friends/relatives. A person shall have the right to silence whenever necessary for the protection of fundamental rights and freedoms. Exercising this right or giving inaccurate testimony shall not be used against, or to aggravate the case of, a suspect or defendant.
6. The parties shall have equal rights to collect evidence, summon and question witnesses, and require taking measures to secure their fundamental rights and freedoms in accordance with law.
7. Defendant shall have unlimited right to access any acquitting or alleviating evidence, including witness testimony and expert evidence.
8. The evidence obtained in violation of law and lawful evidence that was obtained based on unlawfully obtained evidence, which aggravate the condition of the defendant, shall have no legal effect.

9. If the parties had no opportunity to cross-examine specific evidence during a verbal and direct court hearing, such evidence shall be invalid, unless used in the events and according to the rules prescribed by law, based on court decision.
10. No person shall be obliged to prove his/her innocence. The burden to prove guilt rests with the prosecution. Each person shall be presumed innocent, unless his/her guilt is proved by a valid judgment passed by the court pursuant to the law.
11. A verdict of guilty shall be based only on trustworthy evidence.
12. Any doubt, which is not proved pursuant to the law, shall be resolved in favor of the defendant.
13. Each person shall have the right to benefit from a new law that alleviates his/her condition. No law shall have retroactive effect, unless it alleviates or terminates a person's liability.
14. In the event of substantial similarity of circumstances, the court shall make a decision that is identical to the previous decision made by it or higher court, unless the court substantiates the necessity to make a different decision for the purpose of securing fundamental rights and freedoms in accordance with law.
15. All court decisions shall be substantiated.

Article 32. The right to fair judgment and punishment

1. No person shall face criminal liability for the failure to perform his/her obligations under Civil Law.
2. No punishment shall be disproportional to the offense, cruel, inhumane, degrading, humiliating or unusual.
3. The major purpose of punishment shall be restoration of justice, prevention of crime and social rehabilitation of convicts.
4. Convicts shall enjoy all fundamental rights and freedoms except those prescribed by law.

Article 33. Prohibition of repeated prosecution and the right to appeal

1. No person shall be prosecuted for a single offense repeatedly.
2. A convict shall have the right to appeal from the judgment of court, as prescribed by law.
3. In the event of an appeal from judgment, a convict shall have the right not to be charged with more severe offense and not to face more severe punishment from the higher court.

Article 34. Citizenship

1. Georgia shall protect its citizens regardless of their location.
2. Georgian citizenship shall be acquired by birth or naturalization, as prescribed by organic law.
3. No person shall be deprived of Georgian citizenship.
4. A citizen of Georgia may at the same time be a citizen of another country, in the events prescribed by organic law. According to the latter, dual citizenship shall be granted:
 - a) due to special contribution to Georgia and based on state interests;
 - b) due to kinship with a citizen of Georgia;
 - c) based on minimum 5 year permanent residence with the territory of Georgia and knowledge of the state language, history and Constitution of Georgia.
5. Foreign nationals may be granted honorable citizenship of Georgia, as prescribed by law.

Article 35. Freedom of movement

1. Each person who legitimately stays in Georgia shall have the right to free movement and free choice of residence throughout the territory of Georgia, and the right to free departure from Georgia.
2. Georgian citizens may freely enter the territory of Georgia.
3. No citizen of Georgia shall be expelled from Georgia.
4. No citizen of Georgia shall be extradited/transferred to another country or international tribunal, except for the events defined by international obligations and based on court decision.
5. The rights and freedoms recognized and protected by this article may be restricted if such restriction is critically necessary to protect public health and order, to prevent a crime, facilitate criminal prosecution or administration of justice, or ensure national security.

Article 36. Rights of refugees

1. The State recognizes refugees' right to seek and secure refuge in accordance with the norms of International Law or universally recognized general principles of law, in the events and according to the rules prescribed by law.
2. For the purpose of enjoyment of fundamental rights and freedoms, refugees shall have the right to acquire refuge in Georgia according to the rules prescribed by law.
3. Collective expulsion from the territory of Georgia shall be prohibited pursuant to norms of International Law or universally recognized general principles of law.
4. No refugee who is persecuted for the enjoyment of universally recognized rights and freedoms, or for any action, which is not considered as an offense according to Georgian legislation, shall be transferred to another country.

Article 37. The right to family

The right to marriage based on free will and equality of the couple, inviolability of family life, and raising of children according to the parents' convictions is prescribed by law.

Article 38. Children's rights

Each child shall have the right:

- a) To name and citizenship upon birth;
- b) To family care;
- c) To regular personal relation and direct contact with both parents;
- d) To food, shelter, and medical and social support necessary for life and welfare;
- e) To be protected from improper treatment, neglect and insult;
- f) To be protected from any labor and activity, which is unsuitable for the child's age or which undermines his/her welfare, physical and mental health, education, and moral and social development;
- g) To legal assistance and representation;
- h) Not to be involved in military actions and be protected during wartime;
- i) Not to be arrested, except for the events defined by law, in which the child shall be placed separately from the detainees and prisoners over 18;
- j) To have his/her best interests given advantage and his/her opinion considered in any action exercised by a public official or private person with regard to the child.

Article 39. The right to education

1. The State shall ensure each person's right, through education, to:
 - a) Fully develop his/her personality and gain critical thinking, problem-solving, education usage, further education and effective communication skills in State, learn his/her native and foreign languages;
 - b) Gain respect and tolerance for human rights and freedoms and prepare for active, responsible and law-abiding citizenship;
 - c) Equal opportunities for success in private and public life and readiness for mastery innovations, free entrepreneurship and fruitful work.
2. The state shall protect freedom of educational choice, ensure diversity of forms of academic and professional education and their conformity to international standards, and facilitate integration of Georgia in the European uniform education zone.
3. The state shall ensure universal access to obligatory and free elementary, basic and secondary education in state language.
4. Each person shall have equal access to higher and continuous education. The state shall facilitate universal access to higher and continuous education, and professional training and retraining.
5. Parents shall have the right to provide their children with education according to their religious, ethical, cultural and language requirements, affiliation and convictions, and freely choose an educational institution.
6. The freedom of educational choice of parents shall not be construed as:
 - a) Evasion of obligatory education;
 - b) Any education that will prevent a person from speaking and reading the state language, acquiring national and universal values and culture, being involved in public life on equal basis;
 - c) Any education that will encourage intolerance and conflict.

Article 40. Freedom of business and labour

1. Business and labour shall be free. Free transfer of people, goods, services and capital is guaranteed in accordance with the law;
2. Each person shall have the right to safe labor and fair compensation.
3. The right to collective negotiation and strike is recognized.
4. Each citizen of Georgia shall have the equal right to undertake any position in public service, as prescribed by law.
5. Appointment or promotion to any position in public service, except for constitutional or any other elected positions, shall be made according to law and based on dignity, suitability and competitive selection.
6. The rights and freedoms recognized and protected by this article may be restricted if such restriction is critically necessary to protect cultural heritage, public health, safety of environment and sustainable development, encourage free competition, protect consumer rights, order and rule of law, facilitate administration of justice, or ensure national security.

Article 41. Access to social services

1. Each person shall have access to social services in the event of pregnancy, motherhood, illness, work-related trauma, old age, job loss, or other events defined by law.
2. Each person shall have the right of access to preventive medicine.
3. The state recognizes and respects the right of the elderly to live in dignity and independently, and shall facilitate their involvement in social and cultural life on an equal basis.
4. The state shall ensure free development and equal opportunities for the handicapped.

Article 42. The right to a healthy environment

1. The state shall ensure rational use of natural resources, protection of the environment and sustainable development for the purpose of guaranteeing a safe environment for human health, according to the ecologic and economic interests of the society and in consideration of the interests of present and future generations.
2. Each person shall have the right to obtain full, impartial, timely and clear information regarding his/her work and home environment and the factors affecting his/her health.

Article 43. Consumer rights

1. Each consumer shall have the right to informed consumer choice and to the goods and services that are not hazardous to personal health or the environment, and that do not infringe upon ownership rights.
2. Public service providers shall, pursuant to law:
 - a) Establish the purposes, priorities and standards of public service in consultation with consumers, and ensure revision and improvement of the service through periodic evaluation and comparison with other similar services;
 - b) Provide consumers with full and accurate information regarding rules, conditions and quality of operation of the public service and its responsible officer;
 - c) Treat each consumer on an equal basis and in a cooperative manner;
 - d) Efficiently and reasonably consume public funds for the provision of service and ensure its highest possible quality;
 - e) Regularly consult with consumers and consider their remarks and proposals;
 - f) Provide well-founded responses to customer inquiries and remarks;
 - g) Eliminate drawbacks and errors in service in a timely manner;
 - h) Set up an effective internal system of complaints and mechanism for independent consideration of complaints.

Article 44. Right to free development

1. Each person shall have the right to free development, including the right to preserve and develop cultural, religious, ethnic and language diversity, and heritage, traditions and distinctiveness;
2. The State shall support cultural development, unlimited participation of the citizens in cultural life, reveal and enrich cultural identity, promote adoption of national and common human values, and increase international cooperation in cultural sphere;
3. Each citizen of Georgia shall bear a responsibility for protection and preservation of cultural heritage. The State protects cultural heritage through the law.

Article 45. Rights of the minorities

1. Members of the Minorities shall have individual and collective rights on equal basis according to the Constitution and universally recognized general principles of law;
2. Members of the Minorities shall have a right to access information and ideas on their native language, ensure appearance and hearing of the minorities in the public broadcasting programs, access to programs in the minorities' languages, about the minorities and prepared by the minorities within reasonable proportions;

3.The State shall promote civil integration of the minorities. Members of the minorities shall have a right to form political representation, be represented in governmental organs, participate in the decision-making process of the public services directly or through elected representative, resolve collectively important issues; administrate justice in their native language on local level, where the minority presents majority of the population;

4.No forceful assimilation of the members of the minorities shall be permitted. Members of the minorities shall have a right independently or along with the other group, publicly or privately, without any coercion to carry out cultural self-governance, preserve or express their cultural or other identity. Members of the minorities shall have a right to use their own symbols publicly, speak their own name, geographical names and topographic signs in their native language;

5.The State shall facilitate culture of tolerance in education, culture, media and other spheres and encourage mutual respect among citizens without any distinction based on ethnic, religious and linguistic identity.

Article 46. Restriction of fundamental rights and liberties in the state of emergency or martial law

1. During state of emergency or martial law, fundamental rights and freedoms may be restricted pursuant to the Constitution and organic law.
2. During state of emergency or martial law, fundamental rights and freedoms may be restricted according to the general rule for the restriction of fundamental rights and freedoms, only when:
 - a) All requirements established by this article are observed;
 - b) The restriction is compatible with the obligations undertaken by Georgia with regard to the norms of International Law dealing with state of emergency and martial law.
3. Proclamation of state of emergency or martial law shall not result in:
 - a) Exemption of the state or a person from legal liability;
 - b) Restriction of the rights and freedoms defined in articles 15, 16, 25, 31, 32, 34, 37 and 38 of the Constitution.
4. As a result of proclamation of state of emergency or martial law, the restriction of active expression of civil liberties shall not result in the interference with freedom of choice, possession and change of faith and ideology, and freedom of conscience and thought.

Article 47. Ombudsperson

1. Ombudsperson shall oversee the protection of rule of law and uniform application of law, protection of human rights and freedoms, reveal the facts of violations, and facilitate prevention and elimination of such violations and reinstatement of affected rights and freedoms.
2. In his/her capacity, Ombudsperson shall have the right to:
 - a) Without any delay or impediment, obtain any valuable information or proof from any public agency, public official or private person, and summon and question any public official or private person, who is expected to provide Ombudsperson with valuable evidence for the execution of his/her duties;
 - b) Freely enter any location and meet any person;
 - c) Examine the decisions of public agencies or public officials and compliance of decision-making process with applicable law, procedure, standards and best practice, and reveal the facts and reasons of incompliance and responsible persons.

- d) Produce recommendations for the reinstatement of injured rights and freedoms, and receive a substantiated response from a public agency or public official for the improvement of relevant practice within reasonable time;
 - e) Submit biannual report to the Parliament regarding the condition of the rule of law and human rights and freedoms, and submit an annual activity report to the Parliament;
 - f) Whenever a fact of miscarriage of justice is revealed, appeal to the Supreme Court in the events and according to the rules prescribed by law, to commence disciplinary measure against liable judges;
 - g) Submit a lawsuit to the Court in the events and according to the rules prescribed by law;
 - h) In the events of infringement on the authority and disrespect of Ombudsperson, take necessary measures prescribed by organic law with respect to relevant person;
 - i) Exercise other powers, as prescribed by law.
3. Ombudsperson's authority with regard to constitutional officials shall be defined by organic law.
 4. Each person shall have the right to appeal to Ombudsperson without any impediment regarding violation of his/her rights or freedoms.
 5. The appeals, letters and complaints sent to Ombudsperson shall be confidential. No information concerning the contents and author of such communication shall be accessible to any person without the consent of the author.
 6. Ombudsperson shall have the right, both during and after his/her tenure, not to testify regarding facts that were confided to him/her in the position of Ombudsperson. No communication relating to this matter shall be blocked or wiretapped or its confidentiality violated in any way.
 7. Ombudsperson shall be independent in the execution of his/her authority and shall comply only with the law. Any influence on Ombudsperson or interference with his/her activities shall be prohibited and punished by law.
 8. Ombudsperson shall not be held liable for the thoughts and beliefs expressed in the course of execution of his/her duties.
 9. No Ombudsperson shall be detained or arrested without the consent of the Parliament, except when caught in the act. If the Parliament denies its consent, detained or arrested Ombudsperson shall be immediately released.
 10. The Parliament, with the majority of its full composition, shall elect one or more Ombudspersons for the period of 5 years. The Parliament shall elect a new Ombudsperson 100 days prior to the expiration of the authority of previous Ombudsperson or within 30 days after termination of his/her authority.
 11. Ombudsperson may be dismissed in the events prescribed by law under Article 64 of the Constitution, and due to no confidence vote, as prescribed by law.
 12. Inability of Ombudsperson to exercise his/her authority shall be acknowledged by the Supreme Court based on the appeals of bureaus of parliamentary chambers, in the events and according to the rules prescribed by organic law.
 13. The number, authority, organizational structure and rules of activity of Ombudspersons, and guarantees of their independence shall be determined by organic law.

Article 2.

Paragraph 1 of Article 49 shall be formulated in the following manner:

1. The Parliament of Georgia consists of one hundred and fifty deputies elected for a term of four years on the basis of universal, equal and direct suffrage by secret ballot.

Article 3.

Paragraphs 1 and 2 of Article 50 shall be abolished.

Article 4.

The word "Constitutional" in paragraph 1 of article 54 shall be changed with the word "supreme".

Article 5.

Words "or Constitutional Court" shall be removed from paragraph 1 of article 63, and "Constitutional Court" from paragraph 2.

Article 6.

The word "Constitutional" in paragraph 4 of article 65 shall be changed with the word "Supreme"

Article 7.

Change words "Chairman of the Supreme Court" with "the judge" and "General Prosecutor" with "the Ombudsperson" in paragraphs 1 of Article 64.

Article 8.

Add 3¹ to Article 66:

"3¹. The Parliament shall not consent to the appointment of a person to the office, if the candidate does not satisfy qualification standards as prescribed by the law or if his/her appointment shall contradict with the democratic order."

Article 9.

Paragraph 2 of article 75 shall be formulated in the following manner:

"2. In case of violation of the Constitution, commission of high treason and other criminal offence, the Parliament shall be authorised to dismiss the President in accordance with a procedures of Article 63 of the Constitution and in accordance with the procedures determined by the Organic Law if the violation of the Constitution or corpus delicti of high treason and other criminal offence is confirmed by a conclusion of the Supreme Court.

Article 10.

Article 76¹ shall be removed.

Article 11.

1. Chapter Five of the Constitution of Georgia shall be formulated in the following manner:

"The Judiciary

Article 82

1. Judicial power is exercised by uniform court system through Constitutional supervision, administration of justice and other procedures determined by law.
2. Courts make decisions on behalf of Georgia.
3. The source of the judiciary is the people. The forms of participation of the public in the common courts shall be determined by law. The jury shall decide cases in the events and rules as prescribed by law.
4. Court shall base its decision on the Constitution and legal acts that are in accordance with the Constitution, and refuse to use any legal act that contradicts Constitution and the Law.
5. A judge is independent in his activity and is subject only to the Constitution and the Law. Any interference in a judge's activities in order to influence his/her decision is prohibited and punished by law.
6. Any norm limiting independence of judges shall be deemed invalid.
7. No person shall have a right to request report from a judge on any concrete case.
8. The decision of the court could only be annulled, altered or suspended by a court as prescribed by law.

Article 83

1. Entire court system includes:
 - a. Supreme Court;
 - b. Appellate Court;
 - c. Common Court; and Other special courts, including the courts for military situations – Military Courts that can be prescribed by law in the system of common courts;
 - d. Magistrates' Court;
2. No Court of Emergency shall be created.
3. The Supreme Council of Justice shall ensure independence and access to judiciary as defined by law, support professional self-governance of judges and public accountability. Supreme Council of Justice and its representatives shall act impartially as prescribed by law;
4. Composition of the Supreme Council of Justice shall be representative, portray public diversity, embrace persons who possess different professional experiences, public trust and acknowledgment.
5. The authority, organization and activities of the Supreme Council of Justice shall be defined by law.

Article 84

1. Cases in court shall be considered in open sittings. Cases may be closed only as provided by law. Decisions of courts shall be announced publicly.
2. Court proceedings shall be exercised based on equality and competition of the parties;
3. Acts of courts shall be mandatory on the whole territory of the country for all state bodies and persons;
4. A Court shall be authorized in the events and rules prescribed by law to:
 - a. have an immediate and free access from any public agency, public servant or a private individual, to any information or to examine any material evidence relevant for the case, also subpoena and interview any private individual, or a public servant, whose testimony is expected to be valuable for administration of justice;

- b. apply measures provided for by law against any individual for any infringement by him/her of the authority of the Court or contempt of the Court;
 - c. Exercise other powers determined by law.
5. The Court in the administration of justice shall be assisted by Court Marshal. The powers and rules governing appointment of the Court Marshal shall be defined by law.

Article 85

1. A judge must be a citizen of Georgia, who has attained the age of thirty and satisfies certain criteria determined by law. The position of a judge is incompatible with any other occupation or remunerative activity, except pedagogical activities. A judge cannot be a member of a political party, or participate in political activities;
2. Selection and appointment of judges shall be done via open competition as defined by law;
3. The Chairman of the Court shall be appointed by the President of Georgia upon nomination from the Supreme Council of Justice. The same person can be elected as a Chairman of the Court only for two consecutive terms;
4. A judge is appointed for a period of no less than ten years.
5. The upper age limit of a judge shall not exceed 70 years.
6. The State guarantees security of the judge and his/her family;
7. Selection, appointment and dismissal from the office of the judges shall be determined by law;
8. A judge shall be subject to disciplinary liability, suspension from the case-hearing, removal from the post before the term or transfer to another office based on substantive procedures in the events prescribed by law;
9. A judge shall be dismissed under Article 64 of the Constitution, and due to no confidence vote, in the events and rule as prescribed by law.
10. A judge is immune. He/She shall not face criminal charge, detention or arrest, search of his/her place of residence, car, working place or personal search without the consent of the Chairman of the Supreme Court, except for the cases where he/she is caught committing a crime, which should be immediately reported to the Chairman of the Supreme Court. If the Chairman of the Supreme Court withholds its consent, the detained or arrested judge must be released forthwith.

Article 86

1. The Supreme Court of Georgia is the highest authority in constitutional oversight and administration of justice.
2. The Supreme Court decides on disputes related to Constitution, exercises supervision over administration of justice in Common Courts of Georgia and ensures the uniform application of the Constitution and law by Common Courts under the procedure defined by law;
3. The Supreme Court as a supreme appellate body, in the events as determined by law, adjudicates upon the constitutionality of the judgments of the Appellate Court that can establish an important precedent in case-law;
4. Only the Supreme Court based on the special competences granted by the Constitution and organic law considers:
 - a. disputes on competence between central and local authorities, and among territorial entities;
 - b. disputes on competence between different branches and state bodies;
 - c. constitutionality of international treaties;

5. The Supreme Court decides upon the issues relating to its special competence on the basis of the claim or submission of the President, Government, no less than one fifth of the members of the Parliament, Court, the higher representative authorities of the Autonomous Republic of Abkhazia and Autonomous Republic of Adjara or Ombudsperson in the events determined by the Constitution and organic law;
6. The Supreme Court shall be authorized on the basis of constitutional claim to halt ratification of international treaty or agreement or referendum in the events of urgent necessity as prescribed by law;
7. Under the circumstances and by the procedure stipulated in the Constitution and the law, the Supreme Court shall be authorized to revise a sentence passed by a trial, which entered into legal force.
8. The judgments of the Supreme Court shall be final. A normative act or a part thereof recognized as unconstitutional shall cease to have legal effect from the moment of the promulgation of the respective judgment of the Supreme Court;
9. No normative act shall be adopted similar to a normative act recognized as unconstitutional by the Supreme Court, except for the changes and amendments to the Constitution;
10. Under the circumstances and by the procedure stipulated in the law, the Supreme Court shall draft and propose to the Parliament for adoption commentaries on Laws and rules for administration of justice;
11. The incapability of the President of Georgia, a member of the Parliament, the Ombudsperson, a member of the Independent Regulatory Agency and Board of the National Bank, a Parliamentary Auditor to perform his/her functions is subject to confirmation by the Supreme Court under the circumstances and by the procedure stipulated in the Constitution and the organic law;

Article 87

1. The Supreme Court shall consist of no less than nine judges. Composition of the Supreme Court shall be determined by law;
2. The members of the Supreme Court shall be appointed by the President of Georgia upon nomination from the Council of Justice with the consent of the Parliament.
3. The Supreme Court decides upon the final judgment of case in reasonable time, but no later than in 4 months, and in case of suspension of the law, ratification of the international treaty or agreement, or referendum, no later than in 2 months.
4. The authority, organization and activity of the Supreme Court shall be determined by the law.

Article 88

1. The Appellate Court shall consider appeals of the citizens from Common Courts, including Special Courts and on legality of decisions of the Magistrates' Courts in accordance with the events and procedures prescribed by law;
2. The authority, organization and activity of the Appellate Court shall be determined by the law;
3. The Appellate Court shall consist of no less than 15 judges. Composition of the Appellate Court shall be determined by law;
4. The judges of the Appellate Court shall be appointed by the President of Georgia upon nomination from the Supreme Council of Justice;

Article 89

1. Common Courts, including Special Courts consider cases of first instance as determined by law;
2. The authority, organization and activity of the Common Courts shall be determined by the law;
3. The Common Court shall consist of no less than 5 judges;
4. The judges of the Common Court shall be appointed by the President of Georgia upon nomination from the Council of Justice;

Article 90.

1. The Magistrates' Courts shall consider the cases as determined by law;
2. The Magistrates' Courts shall not consider cases dealing with the constitutionality of the law;
3. The authority, organization and activity of the Magistrates' Courts shall be determined by law;
4. The judges of the Magistrate Court shall be appointed as determined by law."

Article 12.

Article 91 shall be removed.

Article 13.

Paragraphs 2 and 3 of Article 101 shall be formulated in the following manner:

- "2. Discharge of military and civil service shall be a duty of each citizen;
3. The forms of military and civil services shall be determined by law."

Article 14.

The following paragraph 2 shall be added to the Article 103:

"2. No such changes and amendments shall be permitted in the Constitution that restrict fundamental constitutional human rights and freedoms, rule of law principles and aim revision of the Georgian Statehood - a political system of national democratic republic.

Article 15.

1. Two years after entry into force of this Law Parliament of Georgia, President and the Government shall ensure state registration of the normative acts, their conformity with the Constitution, or confirm legality of the laws that were adopted before the entry into force of this Law.
2. The existing Laws shall stay in force before the adoption of the new Laws conforming to the Constitution;
3. Paragraph 5 of Article 25, paragraph 4 of Article 26 and Article 28 of the Constitution shall enter into force after the adoption of proper normative acts in Criminal and Civil Procedure;
4. The Law or its parts thereof shall stay in force two years after entry into force of this Law, if it complies with the Constitution, has been state registered and determined by a competent authority lawful as prescribed by law;
5. Statutory limitations for the prosecution shall be suspended in accordance with the rules established under the law for the period of five years after the adoption of this Law when a person for a political reasons incompatible with democratic values, rule of law and order was not

charged for an offense carried out by public agency or public servant, or for an offense carried out under the latter's directions or patronage, till the elimination of these reasons;

6. The composition of the Supreme Court and the Appellate Court shall be determined within the six month after the entry into force of this Law. The composition of Common Courts and the Magistrates' Courts composition shall be determined within a year after the entry into force of this Law.