

# LAW OF THE REPUBLIC OF GEORGIA ON THE CONSTITUTIONAL COURT OF THE REPUBLIC OF GEORGIA

## Chapter one

### The system of the Constitutional Court of the Republic of Georgia

#### Article 1

1. The Constitutional Court is an independent Court, the function of which is providing of the supremacy of the Constitution of the Republic of Georgia, protecting of human rights and freedoms.
2. The Constitutional Court carries out its authority, in accordance with the Constitution of the Republic of Georgia, this law and the rules of procedure, adopted itself.
3. The seat of the Constitutional Court shall be in the city of Mtskheta.

#### Article 2

1. The Constitutional Court consists of 12 (version 8) members. Three (version 2) of them are appointed by the Council of the Republic, the Senate, the President of the Republic and the Supreme Court of the Republic of Georgia.
2. For the appointment and nomination of the members of the Constitutional Court their previous consent is obligatory.

#### Article 3

A member of the Constitutional Court shall be a citizen of Georgia who is not less than 35 and not more then 67 years old, has higher legal education, has at least 10 years of experience in this field, and has a good command of Georgian language.

#### Article 4

Before the occupation of the office, the members of the Constitutional Court in the presence of the President of the Republic, the chairmen of the chambers of the parliament and the chairman of the Supreme Court of the Republic of Georgia, take the following oath:

"I, -- do solemnly swear, before the nation and the country, to observe faithfully the duties of the member of the Constitutional Court of the Republic of Georgia, as assigned to me by the Constitution of the Republic of Georgia and nothing and no one else except the Constitution."

#### Article 5

1. The term of the office of the members of the Constitutional Court is 10 years, the term of the office of the 6 members (version 4) of the first composition of the Constitutional Court is 8 years. Their names would be decided by the voting in the Constitutional Court, within a month after the formation.
2. Appointment of a person, who has already held this position is prohibited, except for the person appointed in cases determined by the paragraph 3 of this Article.
3. In case of pre-term expiration of the power of the members of the Constitutional Court, an alternate shall be appointed in 2 months after the expiration of his authority by the term which is before the expiration of length of his appointed body.
4. An alternate of the member of the Constitutional Court shall be appointed, not earlier than in three months, the expiration of the term of office of his predecessor and not later than in two months, after the expiration of this time. In the first case, the term of office of the member of the Constitutional Court would be suspended immediately with the expiration of power, but in the second case with the appointment of his alternate.
5. If the alternate of the member of the Constitutional Court has not been appointed in terms determined by paragraphs 3 and 4 of this Article, in a month after the expiration of this term, he will be appointed by the plenum of the Constitutional Court by the nomination of the chairman with the decision of the absolute majority of its total number.

#### Article 6

1. In seven days, after the appointment of all members of the Constitutional Court, they shall choose the chairman and the deputy-chairman of the Constitutional Court, with the term of five years, by the absolute majority of the total number.
2. Election as a chairman or deputy-chairman of the same person once again, is inadmissible.
3. Regular elections of the chairman or deputy-chairman are held in 10 days, after the expiration of the authority or release.

#### Article 7

The Constitutional Court consists of chambers and plenum. The plenum consists of members of the chamber, chairman of the Constitutional Court and his deputy. The number of chambers and the rule of their composition shall be determined by the procedural rules of the Constitutional Court.

#### Article 8

1. Only the plenum of the Constitutional Court is authorised to make decisions on the affirmation of the rules of procedure of the Constitutional Court and amendments in it. This decisions shall be made by the absolute majority of the total number of the Constitutional Court.
2. The chairman of the Constitutional Court, within 15 days after his election, submits draft rules of procedure of the Constitutional Court to the plenum for consideration.

3. The rules of procedure shall be confirmed within 30 days after the election of the chairman of the Constitutional Court.
4. Proposals on amendments to the rules of procedure of the Constitutional Court shall be considered by the plenum of the Constitutional Court in a month after its submission and after a relevant decision is made.

#### Article 9

The Chairman of the Constitutional Court:

- a) submits to the plenum of the Constitutional Court, the number, personnel of chamber and changes in composition of chamber, for confirmation;
- b) divides discussed issues between chambers, by the rules determined by the rules of the procedure of the Constitutional Court;
- c) leads the staff of the Constitutional Court, confirms enactment on its structure and personnel;
- d) in necessity, but not less than once a month, convenes the plenum of the Constitutional Court;
- e) leads the meetings of the plenum of the Constitutional Court and signs protocols, judgments and decisions;
- f) appoints the secretary of the Constitutional Court.

#### Article 10

In case the chairman of the Constitutional Court is unable to perform his duties or in case of his absence, the deputy of the Constitutional Court implements his functions; as well as the organizational functions delegated to him by the chairman.

### **Chapter two**

#### Status of the members of the Constitutional Court of the Republic of Georgia

#### Article 11

1. A member of the Constitutional Court is independent in performance of his activities and makes decisions on the basis of the Constitution of the Republic of Georgia, his own personal belief and factual information.
2. No one has the right to request interpretation or report on a concrete case from the member of the Constitutional Court.
3. Interference in the activity of the Constitutional Court is prohibited and it is followed by the responsibility determined by law.

#### Article 12

1. For the providing of the independence of the members of Constitutional Court, the state is obliged to create merited conditions for his activity.
2. Expenses necessary for the relevant functioning of the Constitutional Court shall be determined by a separate Article in the state budget. The Cabinet of Ministers is obliged to envisage the project proposed by the Constitutional Court during the elaborating of a draft.
3. Lowering of a salary and limiting of the privileges of the members of Constitutional Court is inadmissible.

#### Article 13

1. A member of the Constitutional Court cannot be arrested, detained or put into custody without the permission of the Council of Justice, except in cases when he is arrested while committing a crime. In such a case, the Council of Justice shall be notified immediately.
2. A member of the Constitutional Court shall be released immediately if the Council of Justice does not give its agreement and he/she will not be brought before the criminal justice.

#### Article 14

A member of the Constitutional Court, chairman and deputy-chairman can voluntarily resign from the office anytime. He/She has to apply to his appointing body and the chairman of the Constitutional Court for this.

#### Article 15

The power of a member of the Constitutional Court shall be suspended:

- a) From the day of attaining the age of 67.
- b) If there is final decision of the Supreme Court of the Republic of Georgia, on his blame. In case of consent by the Council of Justice, of the detention or arrest of the member of the Constitutional Court, the power of the member of the Constitutional Court will be suspended before the adoption of a final decision by the Court. In case of suppression of the case or adoption of the justified decision the power of the member of the Constitutional Court will be restored simultaneously with the adoption of the final resolution.
- c) If he is unable to work, he does not implement his official duties and there is an announcement of the plenum of the Constitutional Court to his appointed body. The authority of a member of the Constitutional Court shall be suspended, immediately after the adoption of the decision on such an announcement by the Plenum and shall be terminated with the appointment of his alternate person.

#### Article 16

1. The office of a member of the Constitutional Court cannot be combined with any other office, or other professional or commercial activity, except for pedagogical ones in high schools. He cannot be a member of a political party, or participate in political activities.
2. The implementation of the activities determined by the 1 paragraph of this Article is prohibited as well for the member of the Constitutional Court after his appointment.

### **Chapter three**

#### Authorities of the Constitutional Court of the Republic of Georgia

#### Article 17

The Constitutional Court is authorised to settle, on the basis of the constitutional complaint or petition, issues:

- a) appointment of the referendum on the constitutionality;
- b) disputes on constitutionality of the normative acts of the parliament, president of the Republic, cabinet of ministers and bodies of land, as well as

of the normative acts adopted before the adoption of the Constitution;

- c) disputes on constitutionality of the international treaties and agreements or their separate provisions, as well as of the international treaties and agreements concluded before the adoption of the Constitution;
- d) disputes on authorities between central bodies, central and Lands bodies, and Lands bodies among themselves;
- e) pre-term expiration or non expiration of the power of deputies and senators, in case of holding the office which is incompatible with his functions or within a month after the submission of a constitutional complaint on his activity;
- f) breach of rights and freedoms listed in the second chapter of this Constitution, on the basis of the constitutional complaint submitted by the separate persons or groups of persons, if the decision of the dispute is not within the competence of any other court.

#### Article 18

The terms defined by Article 17, except for paragraph "e", should be determined by the procedural rules of the Constitutional Court.

#### Article 19

1. If an ordinary court decides to consider a law or other normative act wholly or in part unconstitutional, which shall be used by the court during the solution of the case during the discussion of a case or upon the request of any party, it shall suspend the proceeding and applies to the Constitutional Court. The legal proceeding shall be renewed after the solution of that matter.
2. The recognition of an act as unconstitutional does not mean the abolishment of the judgment or decision of the Constitutional Court made previously.

#### Article 20

1. Everyone is obliged to implement decisions of the Constitutional Court.
2. All bodies of the state power, legal and physical persons, political and public organizations are obliged to implement all requests of the Constitutional Court and its members, connected with the judgment of the matter.
3. The refusal or prevention of execution of the requests connected with the judgment of the case, causes the responsibility determined by law.

#### Article 21

The Constitutional Court is authorised to request and receive information from all bodies of state power, legal and physical persons, scientific institutions and information centres, to invite specialists for expertise and consultative activity in accordance with the rules of procedure.

#### Article 22

1. Matters determined by paragraphs a,b and c of Articles 17 and 18 shall be discussed by the plenum of the Constitutional Court.
2. Matters determined by paragraphs d,e and f of Article 17 shall be discussed by the Chamber of the Constitutional Court.

#### Article 23

1. Satisfaction of the constitutional complaint on matters determined by paragraph a of Article 17 of this law causes inadmissibility of the holding of referendum on matters which should be submitted on it.
2. Satisfaction of the constitutional complaint on matters determined by paragraphs b and f, of Articles 17 and 18 of this law causes recognition as an unforced of acts recognised as unconstitutional or any other act, from the date of publishing such a decision of the Constitutional Court, if it is not otherwise specified.
3. Satisfaction of the constitutional complaint on matters determined by paragraph c, of Article 17 of this law, causes termination of the action of international treaties and agreements or their separate provisions, recognised as unconstitutional, from the date of their signing, if the Court does not determine a different date. They shall enter into force only in case of relevant amendment of the Constitution.
4. Satisfaction of the constitutional complaint on matters determined by paragraph d, of Article 17 of this law, causes recognition of that act, as enforceable from the date of its publication, which becomes a reason for the breach of judges's authority.
5. Satisfaction of the constitutional complaint on matters determined by paragraph e, of Article 17 of this law causes recognition of the relevant decisions of the Council of Republic and Senate, and from the date of the publication of such decisions of the Constitutional Court, on the restoration of powers of the deputies and senators, if their capabilities had been terminated and on the pre-temporal termination of the capabilities of the deputies and senators, if it had been done by the Council of Republic and Senate.

#### Article 24

The Constitutional Court has no right to discuss the constitutionality of the whole law or normative act, if the author of the complaint or petition requests the recognition as unconstitutional only of provisions of law or normative act.

### **Chapter four**

#### General procedural rules of the Constitutional Court of the Republic of Georgia

#### Article 25

1. Discussion of the case shall be public and decisions shall be announced in the same way in the Constitutional Court. Persons who have not reached age of 16 should not be accessed, except when they are witnesses, as well as armed persons, except for those of securities of the Constitutional Court with the permission of the chairman of the Constitutional Court.
2. Sessions of the Constitutional Court should be closed in cases of protection of personal and family life or in cases of a state secret.
3. The discussion of a case on a closed session of the Constitutional Court, shall be made by the initiative of the Court, as well as by the motion of parties. The Court can announce as closed all session or part of it. In case of necessity only witnesses, experts and interpreter should be allowed to present on closed session. By the motion of parties, the Court can give a right to attend the closed session to other persons, too.

#### Article 26

The legal proceeding shall be conducted in Georgian language. The Court is obliged to insure the interpreter for the parties, which are not fluent in the language of the legal proceeding.

#### Article 27

The constitutional legal proceedings shall be adversarial. Parties have equal rights and possibilities, to repeat over their requests, refuse or deny demands, opinions and proofs raised by the second party.

#### Article 28

1. The parties have the right to introduce all materials, to write down some notes from them, to make copies, to submit proofs, to participate in an examination of proofs, to question witnesses, experts, specialists, to apply to the Court by the motion, to give oral or written explanation, to submit their summaries and talk about all raised issues during the legal proceeding of the Court, to refuse motions, conclusions and appointments of the second part.
2. The search of proofs shall be governed by the rule of the Code of Civil Procedure of the Republic of Georgia.

#### Article 29

1. The parties have the right, at any stage of the legal proceeding, to entrust the protection of their interests to an attorney or any other person with high legal education.
2. A party has the right, at any stage of the legal proceeding, to confide the implementation of his authorities to a person entitled by confidence representative.

#### Article 30

1. The basis of the constitutional legal proceedings is constitutional complaint or petition.
2. The constitutional complaint or petition shall be accompanied by proofs and shall be submitted in a written form. There have been such proofs in a constitutional complaint or petition which, by the opinion of the author, confirm considerability of a constitutional complaint or petition.

#### Article 31

The right to submit constitutional complaint to the Constitutional Court, on the holding of referendum, have:

- a) The President of the Republic, with the request of the recognition as an unconstitutional of a matter adopted for the submission on referendum by the parliament, or as a breached of the procedure determined by the chapter twelve of the Constitution, within 15 days, after the publication of a decision of parliament. In such a case the parliament of Georgia is the respondent.
- b) One fifth of each chamber of the parliament of Georgia, in case of the appointment of the referendum by the president of the Republic upon the request of the electorate, on the recognition as an unconstitutional of a matter submitted on referendum, or in case of refusal of the appointment of referendum, with the request of the recognition as an unconstitutional of a matter, within 30 days, after the publication of a decision of parliament. In such a case the President of the Republic is the respondent.
- c) The initiative group for the holding of referendum, in case of refusal by the president of the Republic upon their initiative and request of the electorate, with the request of the recognition as an unconstitutional of a matter, within 15 days, after the publication of a presidential decision. In such a case, the President of the Republic is the respondent.

#### Article 32

1. The right to submit constitutional complaint to the Constitutional Court, shall have the President of the Republic, the Prime Minister, at least 1/5th of the total number of each chamber of Parliament, and bodies of the state power of lands, on the constitutionality of the normative acts of Parliament of Georgia, the President of the Republic, Cabinet of Ministers and bodies of state power of the lands, as well as on normative acts adopted by the relevant bodies before the entering into force of the Constitution.

In such a case, respondent is that body, on the act of which such complaint was submitted, but in case the complaint is connected with the act, adopted before the entering into force of the Constitution the respondent is an appropriate body of the act-making body.

2. The right to submit constitutional complaint to the Constitutional Court, on the constitutionality of the normative acts of the bodies of state power of the lands, have the President and the Prime Minister. In such a case, relevant bodies of state power of the lands are the respondents.

#### Article 33

1. The right to submit constitutional complaint to the Constitutional Court, on the constitutionality of the international treaties and agreements or their various provisions, shall have President of the Republic, Prime Minister, at least 1/5th of the total number of each chamber of Parliament.

2. The right to submit constitutional complaint to the Constitutional Court, on the constitutionality of the international treaties and agreements or their various provisions, is possible, only after the objection of denunciation or abolishment by Parliament, as well as if 30 days after the rising of a matter of denunciation or abolishment before the parliament, or within this time, the parliament does not decide it.

3. In cases determined by paragraph 2 of this Article, as well as in the case of international treaties and agreements ratified after the entering into force of the Constitution, the parliament of Georgia is respondent, but in case of such international treaties and agreements, which are not considered for referendum and have been concluded after the entering into force of the Constitution or which have not been ratified yet, the respondent is that body or person who had concluded such international treaties and agreements.

#### Article 34

1. The right to submit constitutional complaint to the Constitutional Court, on the breach of the powers of the central and lands bodies of the state power, have the President of the Republic, if he considers, that the authority of any above mentioned body has been violated, as well as that body of power, which considers, that its power has been violated. In such a case, respondent is a body of state power, act of which, by the opinion of the author of complaint, caused the breach of power of other body of state power.

2. The Constitutional Court is obliged to transfer to the President of the Republic, Council of Republic, Senate, Prime Minister and bodies of the state power of the lands, the copies of complaint as soon as it receives it for consideration. If within 15 days after the receiving of the copy any of the state body determined by this Article announces that the satisfaction of the constitutional complaint causes the breach of its power, Constitutional Court is obliged to make it participate in case as a party, but if such an announcement has not been made, Constitutional Court is capable of solving the dispute.

3. Before the adoption of a final decision the Constitutional Court is authorised upon the request of the author of complaint to terminate action of the act by which the constitutional complaint has been brought.

#### Article 35

- A right to submit constitutional complaint to the Constitutional Court, in cases determined by the paragraph "e" of the Article 17 of this law, have:
- deputies and senators, if an appropriate chamber of the parliament makes decision on the pre-temporal terminations of the power within 15 days from the adoption of such a decision;
  - parliamentary fraction, or at least 10 deputies if within 15 days from the raising of a question before the Council of Republic, decisions on terminations of the power of the deputies within 15 days from the expiration of the mentioned time;
  - at least 10 senators, if within 15 days from the raising of a question before the Council of Republic, decisions on terminations of the power of the deputies, in 15 days after the expiration of the mentioned time;
  - an appropriate chamber of parliament of Georgia is respondent, in cases determined by this Article.

#### Article 36

The right to submit constitutional complaint to the Constitutional Court, in cases determined by paragraph f of Article 17 of this law, has any person with legal or transactional capacity, who considers that his any right listed in the Chapter 2 of the Constitution has been violated by the normative act of the body of state power, as well as by the group of people, political party or public union of citizens; if they consider that their rights determined by the Articles 22, 23, 24, 32 and 36 of the Constitution have been violated. In such a case the respondent is that body of state power the act of which, in accordance with the author of the complaint, caused the breach of his rights.

#### Article 37

The right to submit Constitutional petition to the Constitutional Court, in cases determined by the Article 19 of this law, has the court discussing that case. In such a case, the Constitutional Court discusses the case without the author of the petition and that body the act of which becomes the subject of dispute.

#### Article 38

- The question of acceptance or non-acceptance of the constitutional complaint, by the Constitutional Court shall be decided by the judgment, which should be motivated in written form.
- Non-acceptance of the constitutional complaint, by the Constitutional Court makes impossible acceptance of any other constitutional complaint on the same subject and on the same basis, for consideration, within a year after the rejection.

#### Article 39

Settlement of disputes by the Constitutional Court should be motivated and in written form

#### Article 40

- The plenum of the Constitutional Court is obliged to consider constitutional complaint and petition and make decisions, if not less than 8 (Version 6) members are present.
- Constitutional complaint and petition shall be considered as satisfactory if it is supported by absolute majority of the participants of the meeting of Plenum. The chief of the Plenum has only one vote.
- In case of equal division of votes of the participants of the meeting of Plenum, constitutional complaint and petition shall not be satisfactory.

#### Article 41

- The chamber of the Constitutional Court is obliged to discuss constitutional complaint and petition and make decisions, if not less than three members are present at the meeting.
- The decisions shall be made absolute majority of the participants of the meeting. In case of equal division of votes of the participants of the meeting of Chamber, the vote of the Chief is conclusive.
- The power of the chiefs of the Chambers, is exercised by the members of this Chamber, in accordance with the graphic determined by the rules of procedure of the Constitutional Court.

#### Article 42

- In case of existence of the mentioned circumstances in the Code of Civil Procedure of the Republic of Georgia, parties or their representatives have the right to request disqualification of a member of the Constitutional Court. In case of existence of the same circumstances a member of the Constitutional Court is obliged to disqualify himself.
- The statement of a member of Constitutional Court on disqualification or self-disqualification shall be satisfied, if it will be supported by present majority of the participants of the meeting of Plenum or Chamber. In case of equal division of votes self-disqualification shall not be permitted.

#### Article 43

During the consideration of a judgment or decision, the presence of the parties is inadmissible.

#### Article 44

- Any member participating in a discussion of a case, has the right, during the adoption of a decision on constitutional complaint or petition, to stay on his opinion, which will be made in written form.
- The dissenting opinions of a member of Constitutional Court shall be added to the protocol of the meeting of Constitutional Court and upon the request of its author, shall be published with the announcement in the decision of the Constitutional Court.
- The decision of the Constitutional Court, accompanied by the dissenting opinion, shall be published in a printed organ of the Constitutional Court.

#### Article 45

No member of the Constitutional Court has the right to proclaim the content of the meeting of the Constitutional Court, during the adoption of a decision, as well as the position of the members of the Constitutional Court during the voting.

#### Article 46

1. The chairman of the Constitutional Court is obliged, on the basis of the dissenting opinion of the member of Chamber, as well as by his own initiative, to ask the Plenum of the Constitutional Court to revise the judgment or decision.
2. Satisfaction of the asking of chairman and making of a final decision on a case, by the Plenum of the Constitutional Court, shall be made in accordance with the rule determined by the Article 40 of this law.

#### Article 47

1. The judgment and the decision of the Plenum of the Constitutional Court is final.
2. Dissatisfaction of the constitutional complaint or petition causes impossibility to receive the constitutional complaint or petition on the same subject and on the same basis, for consideration, within four years from the rejection.

#### Article 48

Compensation of the expenses spent during the legal proceeding shall not be made by the parties of a case. Compensation of such expenses shall be made from the state budget.

#### Article 49

1. The state dues shall be imposed on:
  - a) constitutional complaint;
  - b) judgment and decision of the Constitutional Court, while delivering them again.
2. Paying of the state dues shall be made in accordance with the law.
3. Constitutional Court, except the cases determined by law, has no right to release someone from the paying of state dues, as well as to increase or lower its value.

#### Article 50

The Secretary of the Constitutional Court examines the execution of decisions of the Constitutional Court and reports to the Plenum of the Constitutional Court once a year on the situation connected with the execution.