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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

**OPINION ON THE LAW ON THE
CONSTITUTIONAL COURT OF
THE REPUBLIC OF GEORGIA**

by

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Opinion on the Law on the Constitutional Court
of the Republic of Georgia

Competence of the Court

There are some dispositions concerning the competence of the Court in the Law that are not easy to interpret in their relationship to each other. On one hand article 1 para 1 sets the Court the task both of providing the supremacy of the Constitution and of protecting human rights. On the other hand article 17 lists the questions that fall into the competence of the Court. Para f/ of that article - especially considering the persons who may lodge a constitutional complaint - seem not to cover the general task of the Court to protect human rights.

Persons to initiate a procedure

The definition of the persons to initiate a procedure are in no case belong to the procedural questions as the competence of a Constitutional Court heavily depend both on the scope of questions it may decide and the persons who may initiate the procedure.

Constitutional complaint

It is not clear from the translation what kind of violation may be the subject of a constitutional complaint.

It is also not clear in article 38 on what basis the non acceptance of a constitutional complaint may occur.

Plenum - senats

The division of tasks between the plenum does not reflect the equality of importance of both tasks of the Court.

The Law does not decide how many members of the chambers should be it only states that at least three of them must be present at its meeting.

Competence of the president of the Court

The justices of the Constitutional Court are elected by the Parliament. Among others it is this election that gives the Court and its members the needed legitimation. Since the president of the Court is elected by the members of the Court from among themselves he or she has the same legitimation as the other justices. In deciding cases and questions that indirectly influence the decisions of the Court the president of the Court should be considered as one of the justices with equal rights and duties. Beyond those rights and duties he or she should have merely representing and administrative functions.

In article 46 para 2 the Law seems to authorize the president to turn over a question and by that determine the the amount of the required votes of its acceptance. This is also for the very reason questionable that article 47 states that the judgment of the Plenum is final.

Responsibility for the violation of the Law

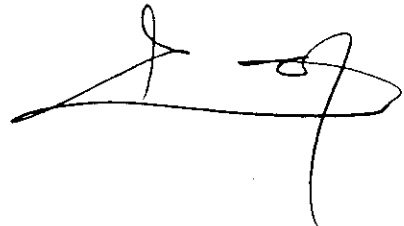
The Law several times refers to the responsibility determined by law for the violation of the law. it would be very interesting to know what kind of responsibilities and legal consequences are thought by that?

Disqualification of a member of the Court /article 42/

The Law does not provide a solution for the problem if in case of disqualification of one or more members of the Court the remaining members do not form a quorum.

Compensation of the expenses

Shall state dues mentioned in article 49 as expenses of a party be compensated according article 48?

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