

D R A F T

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

Chapter I

General Provisions

Article 1

The Constitutional Court of Georgia (hereafter the Constitutional Court) is the body of the Constitutional Supervision, which guarantees supremacy of the Constitution of Georgia, constitutional justice, and protection of constitutional rights and freedoms of individuals.

Article 2

The Constitutional Court performs its activities on the bases of legality, cooperation, publicity, and competition within the whole term of the authority on the bases of independence, immunity and irremovability of the members of the Constitutional Court.

Article 3

The arrangement of the Constitutional Court, its competence and general order of the activities are determined by the Constitution and this Law. Other rights of organisation and constitutional justice of the Constitutional Court are determined by the regulations of the Constitutional Court. The regulations are confirmed by the plenum of the Constitutional Court on submission of the chairman of the Constitutional Court.

Article 4

1. The member of the Constitutional Court is independent in performing his duties. He estimates actual circumstances and takes decisions with his inner belief and only in accordance with the Constitution of Georgia. Illegal interference in his activities is impermissible and punishable by law.
2. The Constitutional Court has the great seal with arm and its own name.
3. Expenses connected with the organisation and activities of the Constitutional Court are determined by the state budget of Georgia, by the separate article on the bases of submission of the chairman of the Constitutional Court.

Article 5

1. Jurisdiction of the Constitutional Court of Georgia extends to the whole territory of Georgia.
2. The place of location of the Constitutional Court is Tbilisi.

Chapter II

Staff of the Constitutional Court and structure

Article 6

The Constitutional Court consists of nine judges --- members of the Constitutional Court, among which are the chairman of the Constitutional Court, two vice-chairs and the secretary.

Article 7

1. Three members of the Court are appointed by the President, three members are appointed by the Supreme Court and three members are elected by the Parliament of Georgia.
2. While submission, appointment and election as a member of the Constitutional Court written agreement is necessary.

Article 8

The member of the Constitutional Court must be a citizen of Georgia who has attained the age of 35 and has a high legal education and by his moral and professional features corresponds to high statute of member of the Constitutional Court.

Article 9

1. The term for a member of the Constitutional Court is 10 years. Election or appointment of one and the same person as the member of the Constitutional Court is permitted for one term only.
2. The authority of the member of the Constitutional Court starts from the day the oath was taken.
3. If the term of the member of the Constitutional Court expires by the time he participates in the discussion of the case at the Constitutional Court his term of the authority is prolonged till the final decision of the case.

Article 10

Members of the Constitutional Court, before the occupation of the office must take the following oath: "I solemnly swear to observe faithfully the duties of the members of the Constitutional Court and while executing them subject to nothing and no one else except the Constitution of Georgia".

Article 11

1. After election and appointment of all members of initial composition of the Constitutional Court the chairman and two vice-chairs of the

Constitutional Court by the members for the five-year term.

2. Right of nomination of a candidate for the chairman if the Constitutional Court has the President of Georgia.
3. Candidates for the vice-chairs of the Constitutional Court are nominated by the chairman of the Constitutional Court.
4. The chairman and the vice-chairs of the Constitutional Court are considered elected if supported by five members of the Constitutional Court by secret balloting.
5. Election of one and the same person as the chairman of the Constitutional Court for the second time is impermissible.
6. Pre-term termination of duties of the chairman and the vice-chairs of the Constitutional Court is permitted in case of the resignation and existence of bases listed in the Article 19 of this Law.

Article 12

1. The Constitutional Court consists of a plenum and two collegiums (bars).
2. In the composition of the plenum enter all nine members of the Constitutional Court and its sittings are presided over by the chairman of the Constitutional Court.
3. In each composition of the collegium enter four members of the Constitutional Court. Sittings of the collegiums are presided over by the vice-chairs of the Constitutional Court.
4. Composition of the collegium is determined and submitted to the plenum for confirmation by the chairman of the Constitutional Court. Submitting bodies in the collegiums should be represented as equally as possible.
5. The staff of the collegiums should be changed within 10 days after election of a new chairman of the Constitutional Court.

Article 13

1. The chairman of the Constitutional Court:
 - a) guarantees distribution and preparation of the cases at the plenum of the Constitutional Court or discussions at the collegium.
 - b) submits to the plenum of the Constitutional Court candidates for the vice- chairs and the secretary of Constitutional Court for confirmation.
 - c) submits to the plenum the regulations of the Constitutional Court and later propositions for changes in regulations and additions for confirmation.
 - d) convenes plenum by the right established by the regulations of the Constitutional Court, presides over its setting, signs decision, judgments, conclusions and acts of the sittings adopted at the plenum.
 - e) determines functional duties of the vice-chairs and the secretary of the Constitutional Court.
 - f) directs activities of the staff at the Constitutional Court, has the right of the appointment and the dismissal of the employees according to the legislation.
2. Once a year the chairman of the Constitutional Court submits the information letter to the President of Georgia and to the parliament on the conditions of the Constitutional Justice.
3. The chairman of the Constitutional Court is the director of budget assignments of the Constitutional Court.

Article 14

1. The vice-chairs of the Constitutional Court according to the occupations lead the sittings of the collegium, by the task of the chairman perform his separate functions, one of the vice-chairs performs the duties of the chairman by the decision of the plenum in the case of the absence of the chairman of his temporary disabilities to perform his office duties.
2. in the case the vice-chair temporarily performs duties of the chairman and because of it is unable to perform his functions his duties are performed by the eldest member of the appropriate collegium.

Article 15

1. The secretary of the Constitutional Court is elected at the plenum from the members of the Constitutional Court for five-year term.
2. The Secretary of the Constitutional Court enjoys the rights of the members of the Constitutional Court and performs the duties of the member of the Constitutional Court.
3. Besides his authorities as the member of the Constitutional Court the secretary of the Constitutional Court:
 - a) exercises preparatory measures of the sittings of the plenum and collegiums.
 - b) takes measures for fulfilment of decisions of the Constitutional Court.
 - c) organises execution and right registration of acts of the sittings of the plenum and the collegiums.
 - d) signs decisions, judgments, conclusions and acts of the sittings of the plenum of the Constitutional Court.
 - e) fosters formation of system for elaboration of necessary information by Computers.
 - f) organises sending of official documentation of the Constitutional Court to the corresponding bodies, institutions and enterprises.

Article 16

1. Members of the Constitutional Court have personal immunity. Bringing a member of the Constitutional Court before a criminal court, his detention

or arrest, the search of his place of residence, car, his work place or his personal search without consent of the Constitutional Court is impermissible. Exception is where he is caught committing a crime, what should be immediately notified to the Constitutional Court. If the Constitutional Court does not give its consent the detained or arrested member must be released forthwith.

2. In the case when the Constitutional Court gives its consent for bringing the member of the Constitutional Court before the Criminal Court, his detention or arrest the authority of the member of the Constitutional Court ceases till the final decision is adopted by the Court. If the verdict "not guilty" is adopted or the case against him is stopped the authority of the member of the Constitutional Court restores from the day the final decision is adopted.
3. The decision envisaged in the first and the second points of this Article is adopted by the Constitutional Court by the majority of the total number.

Article 17

1. The authority of the member of the Constitutional Court can be preliminarily terminated by the decision of the Constitutional Court if:
 - a) he is unable to perform his duties for 6 months because of his disability
 - b) there is the verdict of "guilty" enforced against him
 - c) he violates professional ethic and secrets
 - d) he holds an occupation incompatible to the member of the Constitutional Court or performs activities forbidden by law.
2. The decision on pre-term termination of duties of the member of the Constitutional Court is adopted at the plenum of the Constitutional Court by the majority of the total number.
3. The decision will be sent to the President of Georgia, the Parliament and the Supreme Court of Georgia. The authority of the member of the Constitutional Court is terminated on appointment or election of his substitute, what is performed within the month after suspension of his authority.

Article 18

1. The occupation of the member of the Constitutional Court is incompatible with any other occupation and remunerative activities, except scientific and pedagogical activities. He can not be a member of a political party, or participate in the political activities.
2. The member of the Constitutional Court must resign or cease his activities envisaged by the first point of this Article from the day the oath was taken.

Chapter III

Competence of the Constitutional Court

Article 19

The Constitutional Court is authorised to discuss and decide on the bases of constitutional compliance or submission:

- a) issue on correspondence of the law, regulations of the Georgian Parliament, the President of Georgia, also normative acts of Abkhazian and Adjarian supreme state bodies with the Constitution.
- b) disputes on competence among state bodies.
- c) issues on creation of political amalgamation of citizens and on constitutionalism of activities.
- d) disputes on referendum and constitutionalism of elections.
- e) issues on constitutionalism of normative acts adopted in connection with the issues of the second chapter of the Constitution of Georgia.
- f) issues on constitutionalism of international treaties and agreements.
- g) recognition or non recognition of the authorities of the member of the Parliament of Georgia, also questions on preliminary termination or non termination of the authorities.
- h) issues on violation of the Constitution of Georgia by the President of Georgia, the Chairman of the Supreme Court of Georgia, officials, Procurator General, the Chairman of the Chamber of Control and members of the Council of the National Bank.

Article 20

When considering a definite case at the general court if by the request of one party participating in the case, the Court concludes that there are enough bases for considering the law or other normative act, used by the court for decision of this case, fully or partially incompatible with the Constitution, it ceases consideration of the case and applies to the Constitutional Court. The case will be renewed by the Constitutional Court after resolving this question.

Article 21

The term for discussion of the Constitutional compliance or submission should not exceed 30 days from the day of starting the discussion of the case at the Constitutional Court.

Article 22

1. The decision of the Constitutional Court is final and its non fulfilment is punishable by law.
2. The normative act of the part of it recognised as non constitutional loses legal power from the day of publishing of the appropriate decision of the Constitutional Court if other term is not indicated in decision or conclusion of the Constitutional Court.
3. If the Constitutional Court considers that the action of the act evokes irreparable results for one party it can cease action of the disputable act for the term of one month before taking the final decision.

Article 23

1. Every state body, legal person and individual, political and public amalgamation of citizens, local self-government bodies are obliged to fulfil demands connected with the Constitutional Court and with the decision of the case of its members.
2. The Constitutional Court is authorised to demand and accept information from every state body, legal person and individual, scientific institutions and information centres, invite specialists for carrying out expert and consultative work according to the regulations.
3. Non fulfilment of the demands connected with the Constitutional Court and with the decision of the case of its members of prevention from fulfilment is punishable by law.

Article 24

1. Issues envisaged in Article 19 points a), d), f), h) and Article 20 of this law are discussed by the plenum at the Constitutional Court.
2. Issues envisaged in Article 19 points b), c), e), g) of this law are discussed by one of the collegium at the Constitutional Court.
3. If while discussing and deciding the case at the collegium votes of the Members of the collegium were equally distributed when taking the decision the case will be considered on the plenum of the Constitutional Court.
4. While discussion of the case and taking the decision the collegium acts as the Constitutional Court of Georgia.

Article 25

1. Satisfaction of the Constitutional submission on the issues envisaged in Article 19 points a), e) and Article 20 of this law evokes abrogation of the act or part of it as non constitutional from the moment of publishing of the corresponding decision of the Constitutional Court if no other term is indicated.
2. Satisfaction of the constitutional submission on the issue envisaged in Article 19 point b) of this law evokes abrogation of the act violating the competence from the moment of its enforcement.
3. Satisfaction of the constitutional submission on the issue envisaged in Article 19 point c) of this law evokes abrogation of act of registration of citizens' political amalgamation.
4. Satisfaction of the constitutional compliance on the issue envisaged in Article 19 point d) of this law evokes impermissibility of holding the referendum on the issue submitted to the referendum and recognition of results of elections as nullified.
5. Satisfaction of the constitutional submission on the issue envisaged in Article 19 point f) of this law evokes termination of international treaty or agreement or their separate provisions recognised as non constitutional. They become acting only in the case the appropriate change takes place in the Constitution.
6. Satisfaction of the constitutional compliance on the issue envisaged in Article 19 point g) of this law evokes abrogation of appropriate decision of the Parliament of Georgia and from the day of publishing the decision of the Constitutional Court restores the authority of the member of the Parliament if it was suspended, and causes preliminary termination of his authorities if his authorities were not suspended by the Parliament of Georgia.
7. The conclusion prepared by the Constitutional Court on the issue envisaged in Article 19 point h) of this law does not evoke any legal result and has consultative character only.

Article 26

VERSION I

The Constitutional Court has no right to judge on the correspondence of the whole law or other normative act with the Constitution if the applicant or author of the submission requires recognition only of certain norm of the normative act as constitutional.

VERSION II

The Constitutional Court has the right to judge on the correspondence of the whole law or other normative act with the Constitution, despite the applicant's or author of the submission's request to recognize the whole normative act or its certain norm as constitutional.

Chapter IV

General rights of consideration and decision of cases at the Constitutional Court

Article 27

1. The case is considered openly at the Constitutional Court.
2. Sitting of the Constitutional Court or the part of it can be closed by the initiative of the Court or by mediation of the parties of a case if preservation of person's private or family life, his/her professional, commercial, state or other kind of activity in secret is required.
3. The decision of the Constitutional Court is announced publicly.
4. The right of publicity and attendance at the sitting of the Constitutional Court is determined by the regulations of the Constitutional Court.

Article 28

According to the Constitution of Georgia the constitutional jurisdiction is exercised in Georgian. The Constitutional Court by the request of persons being participants of the case and having no command of Georgian guarantees explanation of the case with the help of interpreters and possibility of speech in their native language at the sittings.

Article 29

The parties have the right to familiarize themselves with the case, make transcripts and copies, deliver proofs, participate in investigation of proofs, put questions to witnesses, experts, specialists, mediate in the Court, put oral questions to it and express their opinions concerning every issue raised during discussion of the case, deny mediation, conclusions and considerations of the second party.

Article 30

1. The parties have the right to trust protection of their interests to an advocate or other person having high legal education on every stage of considering the case.
2. The party has the right to trust execution of his/her authorities to his/her agent-representative.

Article 31

1. The bases of jurisdiction at the Constitutional Court are constitutional compliance or submission.
2. Constitutional compliance or submission should be motivated and submitted in written form. The constitutional compliance and submission should necessarily contain those proofs, which confirm bases of compliance or submission by applicant's or author of submission's opinion.

Article 32

1. The President of Georgia, and not less than one fifth of members of Georgian Parliament have the right to introduce the constitutional submission on correspondence with the Constitution of Georgian Laws at the Constitutional Court, regulations of Georgian Parliament, President of Georgia, normative acts of Supreme State Bodies of Abkhazia and Adjara and also normative acts adopted by appropriate bodies before enforcement of the Constitution of Georgia.
2. The body on whose normative acts the submission is submitted is answerable on matters envisaged by the first point of this article and in the case when the submission deals with the act adopted before enforcement of the Constitution answerable is the appropriate successor body adopting this act and in case of non existence of such a body answerable are the President of Georgia, the Parliament, also appropriate bodies of Abkhazia and Adjara with their agreement.
3. The deadline for introducing of the submission is not limited.

Article 33

1. The right to submit constitutional compliance and submission at the Constitutional Court on frames of competence among the state bodies has the President of Georgia if he considers that his competence is violated or constitutional frames of authority of state bodies are violated; such right has also the state body considering its frames of constitutional authority being violated.
2. In the case envisaged in the first point of this article answerable is the state body whose acts evoke violation of its constitutional authority by applicant's or author of the submission's opinion.
3. As soon as the constitutional compliance or submission on competence is received the Constitutional Court sends copy of the compliance or submission to the President of Georgia, the Parliament and supreme representative bodies of Abkhazia and Adjara. If within 15 days after handing over the copy one of them declares that satisfaction of constitutional compliance or submission evokes violation of its authorities the Constitutional Court is obliged to involve applicant in the case as a party.
4. The deadline of the constitutional compliance or submission on the competence should not exceed 6 months from the day of enforcement of the act by which the constitutional compliance of the other body was violated.

Article 34

1. The right to introduce the submission at the Constitutional Court on creation of political amalgamation of citizens and on constitutionality of activities have the President of Georgia and not less than one fifth of members of the Georgian Parliament.
2. In the case envisaged in the first point answerable are political amalgamation of citizens and the body who has registered it.
3. The deadline for submission of issues at the Constitutional Court connected with creation of political amalgamation of citizens or their activity is 6 months from registration.

Article 35

1. The right to submit the constitutional compliance at the Constitutional Court on Constitutionality of holding the referendum have:
 - a) Parliament of Georgia - if President of Georgia on his own initiative or by demand of electors has fixed or by demand of Georgian Parliament has not fixed referendum; the term of submission of the compliance should not exceed 30 days from the day the decision was taken by the President of Georgia.
 - b) Initiative group of holding the referendum if the President of Georgia on his own initiative or by the demand of the Parliament has fixed or by the demand of electors has not fixed the referendum; the deadline of submission of the compliance should not exceed 30 days from the day of taking the decision by the President of Georgia.
2. In disputes envisaged in subpoints a), b) of the first point of this Article answerable is the President of Georgia.

Article 36

1. The right to introduce the constitutional submission or their separate provisions on constitutionality at the Constitutional Court have the President of Georgia or not less than one fifth of members of the Constitutional Court and supreme state bodies of Abkhazia and Adjara.
2. Introduction of the constitutional submission on correspondence with the Constitution of such international treaties and agreements or their separate provisions which are liable to ratification is possible only after their ratification.

Introduction of the constitutional submission on correspondence with the Constitution of international treaties and agreements concluded and acting before enforcement of the Constitution is possible by the Parliament after the refusal of their denunciation or abrogation and also after 30 days from raising the question on denunciation or abrogation before the Parliament, if within this period the Parliament of Georgia has decided or has not

decided the raised question.

3. In the case envisaged in paragraph 2 of this article answerable is the Parliament of Georgia. In the case when the matter deals with such international treaty and agreement, which was concluded after enforcement of the Constitution and which is not liable to ratification answerable is the body or person who has concluded the treaty or the agreement.

Article 37

1. The right to submit the constitutional compliance on constitutionality of normative acts or their separate norms in the Constitutional Court have legal persons and individuals of Georgia and other states, if they considered that the norms established in second chapter of Georgian Constitution are violated.
2. In disputes envisaged in the first point answerable is the body whose act violated norms established in the second chapter of Georgian Constitution by the applicant's opinion.
3. The deadline for submission of constitutional compliance envisaged in this article should not exceed one month from the day of enforcement of act of the appropriate body.

Article 38

1. The right to submit the constitutional compliance on constitutionality of decision of the Parliament, on recognition of authorities of the member of the Parliament or on preliminary termination of his duties have President of Georgia, the Parliament and the Parliamentary faction.
2. In the case envisaged in the first point, the Parliament of Georgia is answerable.
3. The deadline of submission of the Constitutional compliance or the President's submission envisaged in this article should not exceed two weeks from enforcement of the appropriate decision of the Parliament of Georgia.

Article 39

1. The right to introduce the constitutional submission at the Constitutional Court for adoption of the decision on violation of the Constitution by the President of Georgia, the Chairman of the Supreme Court of Georgia, officials, Procurator General, Chairman of the Chamber of Control and members of the Council of the National Bank has the Parliament of Georgia.
2. The Constitutional Court is authorised to convene officials listed in this point while preparing conclusion on issues determined in point one of this article.
3. The deadline of the constitutional submission on violation of the Constitution of Georgia should not exceed one month from violating the Constitution by above mentioned officials.

Article 40

The right to introduce the constitutional submission at the Constitutional Court in the cases envisaged by article 20 of this law has the case discussing court.

In such case the Constitutional Court discusses the case without presence of the author of the submission and the body the act of which became the matter of dispute.

Article 41

1. The acts of the Constitutional Court are: decision, judgment and conclusion.
2. The actual decision of the case by the Constitutional Court occurs in written form.
3. The question on acceptance or non acceptance of the Constitutional compliance or submission for discussion by the Constitutional Court is made in written form.
4. The question of violation or non violation of the Constitution by the President of Georgia, the Chairman of the Supreme Court, officials, Procurator General, Chairman of the Chamber of Control and members of the Council of the National Bank is decided by the Constitutional Court in the form of written conclusion.
5. The decision, judgment and conclusion should be motivated.
6. The decision, judgment and conclusion of the plenum of the Constitutional Court are final and are not liable to appealation or revision.
7. Non acceptance of the constitutional submission or compliance for discussion by the Constitutional Court excludes acceptance for discussion of another constitutional compliance or submission with the same subject and the same motives repeatedly within one year after the refusal.

Article 42

1. The plenum of the Constitutional Court is authorised to discuss the Constitutional compliance or submission and adopt the appropriate decision if its sitting is attended by not less than six members.
2. The constitutional compliance or submission is considered satisfied if supported by the absolute majority of participants of the plenum's sitting.

The chairman of the Plenum has the right of one vote.

3. In the case of split of votes of the participants of the Plenum's sitting the Constitutional compliance and submission are not satisfied.

Article 43

1. The collegium of the Constitutional Court is authorised to discuss the Constitutional compliance or submission and take decision if its sitting is attended by not less than three members.
2. The adoption of the decision by the collegium takes place by the absolute majority of the participants of the sitting. In the case of split of votes of

the participants of the Collegium's sitting the case is discussed on the plenum of the Constitutional Court.

Article 44

1. The member of the Constitutional Court is obliged to avoid participation in discussion of the case if there are circumstances making suspicious his impartiality.
2. The statement of withdrawal of member of the Constitutional Court will be satisfied if supported by the majority of participants of sitting of the Plenum or the Collegium.

Article 45

1. Any member participating in discussion of the case has the right to stay on his opinion during the adoption of the decision on Constitutional compliance or submission what should be made in written form.
2. Separate opinion of the member of the Constitutional Court shall be added to the act of the meeting of the Constitutional Court and upon the request of its author, shall be published together with the announcement on the decision of the Constitutional Court.
3. Decision of the Constitutional Court together with the separate opinion shall be published in the printed body of the Constitutional Court.

Article 46

A member of the Constitutional Court has no right to proclaim the contents of the meeting of the Constitutional Court during the adoption of a decision, as well as position of the members of Constitutional Court held during balloting.

Article 47

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

Article 48

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

Article 49

The Secretary of the Constitutional Court supervises execution of decision of the Constitutional Court and once a month report the plenum of the Constitutional Court on the situation connected with the execution.