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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

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

(as adopted on 31 January 1996)

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Chapter 1

General Provisions

Article 1

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.
2. Jurisdiction of the Constitutional Court of Georgia extends to the whole territory of Georgia.

Article 2

The Constitutional Court performs its activities on the bases of legality, corporation, openness, equality and adversary of the parties 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 organisation of the Constitutional Court, its competence and 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 law and regulations of the Constitutional Court.

Article 4

1. The member of the Constitutional Court is independent in performing his/her duties. He/She estimates actual circumstances and takes decisions only in accordance with the Constitution of Georgia. Interference in his/her activities is impermissible and punishable by law.
2. Expenses connected with the organisation and activities of the Constitutional Court are determined by the separate article of the state budget of Georgia. The chairman of the Constitutional Court submits draft of expenses connected with the activity of the Constitutional Court by the right determined by law.
3. The state is obliged to guarantee to the member of the Constitutional Court worth

conditions for activity and life to ensure his/her independence.

4. The state guarantees security of the member of the Constitutional Court and his/her family.

Chapter II

Staff and structure of the Constitutional Court

Article 5

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

Article 6

1. Three members of the Court are appointed by the President, three members are elected by the Parliament of Georgia by not less than three fifth of total number and three members are appointed by the Supreme Court.
2. While appointment as a member of the Constitutional Court his/her prior written agreement is necessary.

Article 7

The member of the Constitutional Court shall be a citizen of Georgia who has attained the age of 35 and has a high legal education.

Article 8

The term of the authority of the member of the Constitutional Court is 10 years. The member of the Constitutional Court shall not be a person who held this position before.

Article 9

1. The member of the Constitutional Court, before occupation of the office take the following oath in the presence of the President of Georgia, the Chairman of the Parliament and the Chairman of the Supreme Court: "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".
2. The authority of the member of the Constitutional Court starts from the day the oath was taken.

Article 10

1. After taking an oath by every member of the Constitutional Court or not later than 10 days after pre-term termination of the duties of the chairman of the Constitutional Court the sitting of the Constitutional Court is held, which elects the chairman of the Constitutional Court for 5 year-term. By the same right and term are elected two vice-chairs of the Constitutional Court.
2. The new chairman of the Constitutional Court or his/her vice-chair is elected not earlier than one month and not later than one week before expiration of the duties of the chairman of the Constitutional Court or his/her vice-chair.
3. Nomination of a candidate for the chairman of the Constitutional Court occurs by the agreement of the President of Georgia, the chairman of the Parliament and the chairman of the Supreme Court.
4. Candidate for the vice-chair of the Constitutional Court is nominated by the chairman of the Constitutional Court.
5. The chairman and the vice-chairs of the Constitutional Court are considered elected if supported by not less than five members of the Constitutional Court by secret ballot.
6. The chairman of the Constitutional Court or his/her vice-chair shall not be a person who held this position before.
7. Pre-term termination of the duties of the chairman of the Constitutional Court or his/her vice-chair is permitted in case of existence of bases listed in the Article 17 of this Law.

Article 11

1. The Constitutional Court consists of 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 the 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 confirmed by the plenum by the submission of the chairman of the Constitutional Court. Members of the Constitutional Court appointed by the President of Georgia, by the Parliament and the Supreme Court should be represented in the collegiums as equally as possible.
5. The staff of the collegiums should be renewed within 10 days after election of the new chairman of the Constitutional Court.

Article 12

1. The chairman of the Constitutional Court:
 - a) submits regulations of the Constitutional Court to the plenum of the Constitutional Court for confirmation. The right to submit request on changes and additions in regulations has the member of the Constitutional Court;
 - b) distributes cases by the right established by the regulations of the Constitutional Court;
 - c) submits to the plenum of the Constitutional Court candidates for the vice-chairs and the secretary of Constitutional Court;
 - d) convenes plenum by the right established by the regulations of the Constitutional Court, presides over its sitting, signs decisions, judgments, conclusions and acts of the sittings adopted at the plenum;
 - e) 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;
 - f) directs budget assignments of the Constitutional Court;
 - g) exercises other authorities envisaged by the legislation and the regulations;
2. Once a year the chairman of the Constitutional Court informs the President of Georgia, the Parliament and the Supreme Court on the conditions of the Constitutional Justice in Georgia.

Article 13

1. The vice-chair of the Constitutional Court leads the sitting of the collegium. He/She performs separate functions of the chairman by the task of the chairman of the Constitutional Court. In the case of absence of the chairman or his/her disability to perform his office duties, duties of the chairman, by his order, are performed by one of his/her vice-chairs and in the case of absence of such order - by the eldest vice-chair.
2. If the vice-chair of the Constitutional Court temporarily performing duties of the chairman is unable to perform his/her own functions then his/her duties are performed by the eldest member of the appropriate collegium.

Article 14

1. The secretary of the Constitutional Court is elected at the plenum from the members of the Constitutional Court for five-year term.
2. Besides his/her 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) organises execution and right registration of acts of the sittings of the plenum and the collegiums;
- c) signs acts of the Constitutional Court by the right envisaged by the regulations of the Constitutional Court;
- d) takes measures for fulfilment of decisions 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;

Article 15

1. Member of the Constitutional Court has personal immunity. Bringing a member of the Constitutional Court before a criminal court, his/her detention or arrest, the search of his/her place of residence, car, his/her work place or his personal search without consent of the Constitutional Court is impermissible. The sole exception being, if he/she is caught committing a crime, the Constitutional Court will be immediately notified. If the Constitutional Court does not give its consent the detained or arrested member must be released forthwith.
2. In case when the Constitutional Court gives its consent for bringing the member of the Constitutional Court before the Criminal Court, his/her 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/her is stopped on the bases of rehabilitation 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 point of this Article is considered adopted if supported by more than half of the plenum's sitting of the Constitutional Court.

Article 16

1. The authority of the member of the Constitutional Court can be preliminary terminated by the decision of the Constitutional Court if:
 - a) he/she is unable to perform his/her duties for 6 months in succession;
 - b) there is the verdict of "guilty" enforced against him;
 - c) reveals professional secrets;
 - d) holds an occupation incompatible with the statute of the member of the Constitutional Court or performs activities forbidden by law;

- e) loses citizenship of Georgia;
 - f) Court recognizes him/her as disabled;
 - g) dies;
 - h) resigns.
2. The decision is considered adopted if supported by more than half of the participants of the plenum's sitting of the Constitutional Court.
 3. The decision is sent to the President, the Parliament and the Supreme Court of Georgia.
 4. The new member of the Constitutional Court is appointed not earlier than one month and not later than one week before expiration of term of the authority of the member of the Constitutional Court.

Article 17

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/She can not be a member of a political party, or participate in the political activities.
2. The member of the Constitutional Court must resign from the other occupation or cease activities forbidden by this Article from the day the oath was taken.

Article 18

If the term of the member of the Constitutional Court expires by the time he/she participates in the discussion of the case, his/her term of the authority is prolonged till the final decision of the case.

Chapter III

Authority 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 with the Constitution of Georgian laws, regulations of the Georgian Parliament, normative acts of the President of Georgia, Abkhazian and Adjarian supreme state bodies.

- b) disputes on competence among state bodies.
- c) issues on creation of political amalgamation of citizens and on constitutionality of activities.
- d) disputes on referendum and constitutionality of elections.
- e) issues on constitutionality of normative acts adopted in connection with the issues of the second chapter of the Constitution of Georgia.
- f) issues on constitutionality of international treaties and agreements.
- g) issues on recognition of the authorities of the member of the Parliament of Georgia, or on preliminary 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

1. If while considering definite case at the general court 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 after decision of this issue by the Constitutional Court.
2. Recognition of the law or other normative act as non constitutional does not mean abrogation of judgments and decisions of the Court adopted earlier on the bases of this act, it only evokes suspension of their fulfilment by the right established by the process legislation.

Article 21

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 the collegium of the Constitutional Court.
3. If while deciding the case votes of the Members of the plenum or the collegium were equally divided constitutional compliance or submission is considered non satisfied.
4. Member of the Constitutional Court participating in discussion of the case has no right to avoid voting.
5. While discussion of the case and taking the decision the collegium acts as the

Constitutional Court.

Article 22

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. In the particular case the term of the discussion, not more than 30 days, is prolonged by the plenum of the Constitutional Court.

Article 23

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 normative act or part of it as non Constitutional from the moment of publishing of the corresponding decision of the Constitutional Court.
2. Satisfaction of the constitutional submission on the issue envisaged in Article 19 point b) of this law evokes abrogation of the normative act violating the competence from the moment of its enforcement.
3. Satisfaction of the constitutional compliance 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 elections or the referendum on the issue submitted to the referendum and recognition of results of elections or referendum as nullified.
5. Satisfaction of the constitutional submission on the issue envisaged in Article 19 point f) of this law evokes recognition of international treaty or agreement or their separate provisions for Georgia as nullified.
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/her authorities if his/her authorities were not suspended by the Parliament of Georgia.
7. On the issue envisaged in Article 19 point h) of this law the Constitutional Court determines constitutionality of persons' acting envisaged by Articles 63 and 64 of the Constitution.

Article 24

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 decision of the case by the Constitutional Court and its members outcoming from their

authorities.

2. The Constitutional Court and its members are authorised to accept information connected with the decision of the case from every state body, legal person and individual, scientific institutions and information centres, invite specialists according to the regulations for carrying out expert and consultative work.
3. Non-fulfilment of the demands or prevention from fulfilment is punishable by law outcoming from the authorities of the Constitutional Court and its members.

Article 25

1. The decision of the Constitutional Court is final and its non fulfilment is punishable by law.
2. The normative act or the part it of recognised as non constitutional loses legal power from the day of publishing of the appropriate decision of the Constitutional Court.
3. If the Constitutional Court considers that the action of the normative act evokes irreparable results for one party it ceases action of the disputable act before taking the final decision.

Article 26

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

Chapter IV

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

Article 27

1. The case is considered at the open sitting 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 for preservation of person's private, professional, commercial, state secret. Witnesses, experts and interpreters can be present at the closed sitting in the case of necessity. By mediation of parties the Constitutional Court can give the right of presence at the closed sitting to other persons as well.
3. Decision on consideration of the case at the closed sitting is adopted by the Constitutional Court at the consultative room.
4. Person who has not attained 16 years, if he/she is not a witness, also armed person is not

admitted at the Court sitting, except persons who defend the Constitutional Court and they are admitted only by permission of the chairman of the Constitutional Court.

5. The decision of the Constitutional Court is announced publicly.

Article 28

Jurisdiction is exercised in Georgian at the Constitutional Court. The Court is obliged to guarantee an interpreter to the participant of the case who has no possession of the legal language.

Article 29

The parties have the right to familiarise 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, give oral or written explanations, submit their own conclusions, express their opinions concerning every issue raised during discussion of the case, deny mediations, 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 parties have the right to trust execution of their authorities to their agent/representative on every stage of considering the case.

Article 31

The bases of starting constitutional jurisdiction at the Constitutional Court is bringing in at the Constitutional Court constitutional compliance or submission in written form. Constitutional compliance or submission should be motivated. The Constitutional compliance and submission should necessarily contain those proofs, which confirm bases of compliance or submission by applicants opinion evoked violation of his/her Constitutional authority.

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.

Article 35

1. The right to introduce the compliance at the Constitutional Court on creation of political amalgamation of citizens and on constitutionality of activities have the President of Georgia, not less than one fifth of members of the Georgian Parliament, supreme state bodies of Abkhazia and Adjara.

2. In the case envisaged in the first point answerable are political amalgamation of citizens and the body who has registered it.

Article 36

1. The right to submit the constitutional compliance at the Constitutional Court on constitutionality of holding the referendum have:
 - a) not less than one fifth of members of the Parliament of Georgia if the President of Georgia on his/her own initiative or by the demand of electors has fixed or in spite of the request of Georgian Parliament has not fixed referendum;
 - b) public defender of Georgia, if despite the electors opinion violated rights and freedoms recognized in the second chapter of Georgian Constitution.

Article 40

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/her duties have President of Georgia, not less than one fifth of members of Georgian Parliament, also citizen whose authorities as of the member of the Parliament is not recognized or is preliminarily terminated by the Parliament of Georgia.
2. In the case envisaged in the first point of this article answerable is the Parliament of Georgia.
3. The deadline of submission of the constitutional compliance should not exceed two weeks from enforcement of the appropriate decision of the Parliament of Georgia.

Article 41

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 not less than one third of total number of the Parliament of Georgia.
2. The Constitutional Court is authorised to convene appropriate officials while preparing conclusion on this issue.
3. The deadline of the constitutional submission on violation of the Constitution of Georgia should not exceed one month from the day when violation of the Constitution by above mentioned officials became known to the Parliament of Georgia.

Article 42

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 43

1. The acts of the Constitutional Court are: decision, judgment and conclusion.
2. Every member of the Constitutional Court participating in discussion of the case signs the act of the Constitutional Court.
3. The act of the Constitutional Court which is not connected with the discussion of the case is signed by the Chairman and the Secretary of the Constitutional Court.
4. In general decision of the case by the Constitutional Court occurs in written form.
5. The question on acceptance of the constitutional compliance or submission for discussion is decided by written judgment by the Constitutional Court.
6. The question of 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 written conclusion by the Constitutional Court.
7. The decision, judgment and conclusion of the Constitutional Court should be motivated.
8. The decision, judgment and conclusion of the Constitutional Court are final and are not liable to appellation or revision.
9. Non acceptance of the constitutional compliance or submission for discussion by the Constitutional Court excludes acceptance for discussion of constitutional compliance or submission with the same subject and the same motives repeatedly or acceptance for discussion of another constitutional compliance or submission connected with the same subject and motives.

Article 44

1. The plenum of the Constitutional Court is authorised to adopt the decision if its sitting is attended by not less than six members.
2. The constitutional compliance or submission is considered satisfied if supported by more than half of the participants of the plenum's sitting. The chairman of the plenum enjoys the right of one vote.

Article 45

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 constitutional compliance or submission is considered satisfied if supported by more than half of the participants of the collegium.