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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT CONSTITUTIONAL LAW OF GEORGIA
ON THE AMENDMENTS TO THE CONSTITUTION***

* The draft contains both common provisions and two options.

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A. AMENDMENTS RETAINED INDEPENDENTLY OF THE DECISION FOR EITHER OPTION

Article 1

The following amendments shall be made to the Constitution of Georgia (*Sakartvelos Parliamentis Uckebebi*, 1995, No. 31-33, Article 668)

1. Article 49

- a) Para. 1 shall be formulated as follows:
"1. The Parliament of Georgia shall consist of 100 members of the Parliament elected by proportional system and 50 members elected by majority system on the basis of universal, equal and direct suffrage by secret ballot."
- b) Para. 1¹ shall be added as follows:
"1¹. Term of office of the Parliament in general is 4 years. An exception to this rule is the term of office of the Parliament elected through extraordinary elections that shall be determined by Paragraph 5 of this Article."
- c) After Para. 4, Para. 5-7 shall be added as follows:
"5. Regular Parliamentary elections shall be held in September-November. Parliamentary elections following extraordinary Parliamentary elections shall be held in September-November of the year of the expiration of term of office of the Parliament elected through extraordinary elections. The date of the elections shall be scheduled by the President.

6. In case the date of elections coincides with a state of emergency or martial law, elections shall be held within not more than 60 dates after the exhaustion of the above mentioned circumstances. Date of elections shall be scheduled by the President not later than 60 days before elections.

7. In case the President dissolves the Parliament prior to the expiration of term of office, the President will schedule extraordinary elections that shall be held within not less than 45 and not more than 60 days from the enforcement of the decree on the dissolution of the Parliament."

2. Article 50

- a) Para. 2¹ shall be added as follows:
"2¹. In case the election threshold determined by Paragraph 2 of this Article is crossed only by one political union or electoral block mandates shall be distributed to the political union or electoral block that showed second best result in the elections in accordance with the rule determined by the Organic Law."
- b) Para. 3 shall be deleted.

3. Article 70

- a) Para. 1 shall be formulated as follows:
"1. The President of Georgia shall be elected on the basis of universal, equal and direct suffrage by secret ballot. The same person may be elected as the President only for two consecutive terms."
- b) Para. 1¹ shall be added as follows:

“1¹. The term of office of the President in general is 5 years. An exception to this rule is the term of office of the President elected through extraordinary elections that shall be determined by Paragraph 9 of this Article.”

- c) Para. 5 shall be formulated as follows:
“5. In case none of the candidates obtained necessary number of votes in the first round of elections, second round of elections shall be held in two weeks.”
- d) Para. 7 shall be deleted.
- e) Para. 9 shall be formulated as follows:
“9. Regular Presidential elections shall be held in September-November. Presidential elections following extraordinary Presidential elections shall be held in September-November of the year of the expiration of term of office of the President elected through extraordinary elections. The date of the elections shall be scheduled by the President”

4. Para. 1 of Article 73

- a) Subparagraph “a” shall be formulated as follows:
“a) conclude international agreements and treaties, negotiate with foreign states; appoint (~~“and dismiss” is deleted. tch~~) ambassadors and other diplomatic representatives of Georgia upon the consent of the Parliament; accredit ambassadors and other diplomatic representatives of foreign states and international organizations;”
- b) Subparagraph “o” shall be deleted.

5. Para. 3 to be added to Article 104¹ as follows:

“3. Elections of the President of Georgia and the Parliament of Georgia elected in 2004 shall be held during the period from 1 September 2008 to 1 December 2008. The date of the elections shall be scheduled by the President.”

Article 2

This law shall enter legal force from promulgation.

B. OPTION 1¹**Article 51¹ shall be formulated as follows:**

“Article 51¹

1. The Parliament shall be dissolved by the President only in cases determined by the Constitution.
2. **The Parliament may not be dismissed:**
 - a) within six months from holding of the elections of the Parliament;
 - b) discharging of an authority determined by Article 63 of the Constitution by the Parliament;
 - c) in time of a state of emergency or martial law;
 - d) within the last 6 months of the term of office of the President of Georgia.
3. **If the President dismisses the Parliament two times in 5 years, extraordinary presidential and parliamentary elections shall be held simultaneously. In this case, the election date shall be scheduled by the President. Elections shall be held within the period of not less than 45 and not more than 60 days.”**
4. **In the case determined by Paragraph 3 of this Article, the authority of the President shall be terminated from the day of inauguration of the newly elected President.”**

Article 70, Para. 1 shall be formulated as follows:

“1. The President of Georgia shall be elected on the basis of right to universal, equal and direct suffrage by secret ballot for a term of five years. **The same person may exercise presidential authority only for a period of ten years.”**

Article 81, Para. 4 shall be formulated as follows:

“4. The Prime-Minister shall be entitled to put the question of confidence **on draft laws submitted for Parliamentary discussions by the Government not more than two times during a session.** The Parliament shall declare confidence to the Government by the majority of total number. In the event the Parliament does not declare confidence to the Government, the President of Georgia within one week shall dismiss the Government or dissolve the Parliament and schedule extraordinary elections.”

¹ In case the President dissolves the Parliament two times during one term of office, Parliamentary and Presidential elections shall be held simultaneously.

C. OPTION 2²

Article 51¹ shall be formulated as follows:

“Article 51¹

1. The Parliament shall be dissolved by the President only in cases determined by the Constitution.
2. **Parliament may not be dismissed:**
 - a) within six months from holding of the elections of the Parliament;
 - b) discharging of an authority determined by Article 63 of the Constitution by the Parliament;
 - c) in time of a state of emergency or martial law;
 - d) within the last 6 months of the term of office of the President of Georgia.
3. **The President is authorized to dissolve the Parliament not more than two times during one term of office of the President.”**

Article 73, Para. 1

- e) subparagraph “b” shall be formulated as follows:
“b) appoint Prime-Minister, give the Prime-Minister consent to appoint a member of the Government – a Minister **in the case and by the rule envisaged by the Constitution,”**
- f) subparagraph “c” shall be formulated as follows:
“c) **be entitled to dismiss the Government in cases envisaged by the Constitution and by his or her initiative, unless otherwise determined by the Constitution.”**
- g) subparagraph “d” shall be formulated as follows:
“d) accept the resignation of the Government, a member of Government and other officials as determined by law, shall be entitled to require the Government or a member of the Government to perform their official duties until the appointment of a new composition of the Government or a member of Government **except for cases determined by the Constitution,”**
- h) subparagraph “d-a” shall be added as follows:
“d-a) **accept the resignation of other officials as determined by law;”**
- i) subparagraph “e” shall be formulated as follows:
“e) give the Government consent to submit the draft State Budget of Georgia to the Parliament, **except for cases determined by the Constitution;”**
- j) subparagraph “r” shall be formulated as follows:
“r) be entitled to appoint Prime-Minister and give his or her consent for the appointment of the ministers under the circumstances determined by subparagraphs “a” and “d” of the Article 51¹, **except for the case determined by the Constitution.** Within a month from the end of the above mentioned circumstances, the President shall re-submit the composition of the Government to the Parliament for confidence.

² The President may dissolve the Parliament only two times. In the event he or she exercises this right both times, the right to recruit Government shall be transferred to the Parliament.

Article 78:

a) Para. 2 shall be formulated as follows:

“2. The Government shall be composed by the Prime Minister and the Ministers. The State Minister (the State Ministers) may be in the composition of the Government. The Prime-Minister shall charge one of the members of the Government with the exercise of the responsibilities of the Vice Prime Minister. The Government and members of Government shall withdraw the authority before the President of Georgia **except for the case determined by the Constitution.**”

b) Para. 4 shall be formulated as follows:

“4. President of Georgia, **except for the case determined by the Constitution**, shall be authorized to convene and preside over the sittings of the Government in regard with the issues of exclusive state importance. Decision adopted at the sitting shall be formed by the act of the President.”

c) Para. 5 shall be formulated as follows:

“5. Structure, authority and a procedure of the activity of the Government shall be determined by the Constitution and law, the draft of which shall be submitted to the Parliament by the Government upon the consent of President, **except for the case determined by the Constitution.**”

Article 79:

a) Para. 5 shall be formulated as follows :

“5. The Prime Minister shall appoint and dismiss the other members of the Government upon the consent of the President **or in case directly determined by the Constitution upon the consent of the Bureau of the Parliament.**”

b) Para. 7 shall be formulated as follows:

“7. Resignation of the Prime Minister or termination of his or her authority shall result in termination of authority of the other members of the Government. In case of resignation or dismissal of the other member of the Government the Prime Minister shall appoint a new member of the Government within two weeks upon the consent of the President **or in case directly determined by the Constitution upon the consent of the Bureau of the Parliament.**”

Article 80:

a) Para. 5 shall be formulated as follows:

“5. **In case composition of the Government and its governmental program does not receive the confidence of the Parliament within a month from their submission, the President of Georgia, within 5 days will nominate new candidates for the post of Prime Minister or appoints the Prime Minister without the consent of the Parliament. The Prime Minister, within 5 days will appoint the Ministers upon the consent of the President. In such case, the President of Georgia shall dissolve the Parliament and schedule extraordinary elections.**”

b) Para. 7-9 shall be added as follows:

“7. **In case the Parliament of Georgia does not declare confidence in the composition of the Government and its governmental program in accordance with the rule determined by this Article and at the same time, the President of Georgia has exercised the right to dissolve parliament two times during his or her term of office, the Parliament shall be entitled to compose the Government in accordance with the rule determined by this Paragraph. Not less then one third of the total number of Members of the Parliament shall nominate the new candidate for the post of the Prime Minister. The Prime Minister, within time-limits determined by this Article, will submit to the Parliament a composition of the Government and its governmental program for the**

vote of confidence. In case the Parliament fails to approve the new composition of the Government and governmental program within one month, the Parliament shall be deemed dissolved and extraordinary elections shall be held.

8. The Government appointed in accordance with the rule determined by Paragraph 7 of this Article shall be accountable only before the Parliament of Georgia.

9. The Government appointed in accordance with the rule determined by Paragraph 7 of this Article can be dismissed only by the Parliament. The issue can be initiated by not less than one third of the number of the Members of the Parliament. The Government shall be deemed dismissed in case the Parliament approves the new composition of the Government and its governmental program within one month. If the Parliament fails to approve the new composition of Government and its governmental program within one month, initiation of the dismissal of the Government may not be permitted.”

Article 81, Para. 4 shall be formulated as follows:

“4. The Prime-Minister shall be entitled to put the question of confidence on draft laws submitted for Parliamentary discussions by the Government not more than two times during a session. The Parliament shall declare confidence to the Government by the majority of total number. In the event the Parliament does not declare confidence to the Government, the President of Georgia within one week shall dismiss the Government or dissolve the Parliament and schedule extraordinary elections.

Article 81¹, Para. 1 shall be formulated as follows:

After the declaration of confidence to the Government and its governmental program, in case of renewal of the first composition of the Government by one third, but not less than 5 members of the Government, the President of Georgia, or in case determined by the Constitution the Prime Minister shall submit a composition of the Government to the Parliament for confidence within a week.