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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

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

**adopted by the State Constitutional Commission
on 11 May 2010**

New translation by the Council of Europe

Article 1

The following changes and amendments shall be made to the Constitution of Georgia (The Official Journal of the Georgian Parliament, 1995, ##31-33):

1. Paragraph 4 of Article 2 shall be deleted.

2. The word “organic” shall be deleted from paragraph 4 of Article 4, Article 11, paragraph 3 of Article 12, paragraph 3 of Article 21, paragraphs 2 and 6 of Article 26, paragraph 3 of Article 43, paragraphs 1 and 5 of Article 50, paragraphs 3 and 10 of Article 70, paragraph 2 of Article 75, paragraphs 1 and 2 of Article 83, paragraph 3 of Article 86¹, paragraph 1 of Article 89, paragraph 4 of Article 95 and paragraph 2 of Article 99.

3. The following shall be added as paragraph 1¹ of Article 29:

“1¹. A citizen of Georgia who is also a citizen of a foreign country shall not be eligible to hold public (political) office.”

4. The following article shall be added to the Constitution as Article 34¹:

“Article 34¹

The State shall, in cooperation with educational institutions and sports organisations, promote physical education of children and youth and increase their engagement in sports.”

5. Article 42 paragraph 9 shall read as follows:

“9. Everyone shall be entitled to receive, by a claim pursued through a court action, full compensation for any damage unlawfully caused by the state and local authorities and the authorities of the Autonomous Republics to be paid from their respective finances.”

6. Subparagraph (a) of Article 51¹ shall be amended as follows:

“a. Within six months from the date of the Parliamentary elections, unless the Parliament’s dissolution takes place on the grounds as provided for by paragraph 6 of Article 80 and paragraph 3 of Article 81.”

7. Article 56 paragraph 2 shall be amended as follows:

“2. In cases defined by the Constitution and the Rules of Procedure [of the Parliament], also at the request of one-fifth of the Members of Parliament, enquiry and other temporary (ad hoc) commissions shall be set up by the Parliament. The parliamentary majority representation in such a commission shall not exceed half of the total membership.”

8. Paragraph 2 of Article 61 shall read as follows:

“2. The President of Georgia at the request of the Chairman of the Parliament, no less than one-fourth of the Members of Parliament, the Government or on his/her own initiative shall be authorised to call the Parliament in a special session between its regular sessions, or to convene a special sitting in the course of a regular session. If an act of convocation is not issued within 48 hours following the submission of a written request, the Parliament shall have the obligation to convene within the next 48 hours in accordance with its Rules of Procedure.”

9. Paragraph 2 of Article 66 shall be deleted.

10. Article 67 shall be amended as follows:

“Article 67

1. The right of legislative initiative shall be vested with with the President of Georgia, the Government, a Member of Parliament, a parliamentary faction, a parliamentary committee, the high representative bodies of the Autonomous Republic of Abkhazia and the Autonomous Republic of Ajara, at least 30,000 electors.

2. A draft submitted by the President or the Government shall, upon their request, be considered by the Parliament out of order of its legislative agenda.”

11. Article 68 paragraph 4 shall be worded as follows:

“4. If the President’s objections are rejected by the Parliament, the vote shall be taken on the draft without revision. A law shall be considered passed if it receives support of more than half of all Members of Parliament. The adoption of a constitutional amendment shall require approval by at least two-thirds of all Parliament members.”

12. Article 69 shall be amended as follows:

“Article 69

1. The President of Georgia shall be the Head of State of Georgia, the guarantor of Georgia’s unity and national independence and the constitutional functioning of state organs.

2. The President shall be the Commander-in-Chief of the Georgian armed forces.

3. The President shall be the highest representative of Georgia in foreign relations.”

13. Paragraph 2 of Article 70 shall be read as follows:

2. The President of Georgia shall be a national born citizen of Georgia, having the right to vote, who shall have attained the age of thirty-five years, shall have resided in Georgia for at least fifteen years and for the last two years before the date when the election is called.”

14. Article 73 shall be amended as follows:

a. Subparagraphs (a) and (b) of paragraph 1 shall be revised to read as:

a. [shall] by agreement with the Government, hold talks with foreign states, conclude international treaties and agreements; appoint and dismiss ambassadors and other diplomatic representatives of Georgia upon nomination by the Government; accept letters of credence from ambassadors and other diplomatic representatives of foreign states and international organisations;

b. Appoint the Prime Minister;”

b. Subparagraph (c) of paragraph 1 shall be deleted.

c. Subparagraph (d) of Paragraph 1 shall read as follows:

“d. Charge the Government, in accordance with Article 80 of the Constitution, to continue carrying out its functions until the approval of the new composition of the Government;”

d. Subparagraphs (e) and (q) of Paragraph 1 and Paragraph 3 shall be deleted.

15. The following article shall be added to the Constitution as Article 73¹:

“Article 73¹

1. Legal acts issued by the President shall be countersigned by the Prime Minister.

2. Countersigning shall not be required for Presidential Orders and those legal acts that deal with:

a) Calling of parliamentary elections, dissolution of Parliament, convening the first session of a newly elected Parliament, as well as calling a special session or sitting of the Parliament;

b) Legislative initiatives;

c) Signing and promulgation of laws, returning a draft law to the Parliament for revision along with proposed amendments;

d) Signing international treaties and agreements and submitting them to the Parliament for ratification;

e) Appointment and dismissal of members of the National Security Council, the Chief of Staff of the armed forces and other military commanders;

f) Bringing a motion before the Constitutional or other courts;

- g) Nomination of a candidate for the office of Prime Minister and appointment of the Prime Minister;
- h) Charging the Government to continue carrying out its functions pursuant to Article 80 of the Constitution;
- i) Appointment, dismissal, approval or nomination of officials as provided by the Constitution and by the law;
- j) Conferring state awards and special titles;
- k) Granting and withdrawing citizenship;
- l) Calling a meeting of the Government in cases as provided for by the Constitution;
- m) Appointment of the judges of the Constitutional Court, submission to the Parliament of candidates for judges of the Supreme Court, as well as appointment of members of the High Council of Justice.
- n) Activities and functions of the President's Administration, the National Security Council and the bodies under presidential subordination;
- o) Declaring and revoking a state of emergency or martial law;
- p) Pardoning;
- q) Giving or withholding of consent as provided for in Article 94 paragraph 4;

3. In the case of countersigning, responsibility for the legal act shall lie with the Government.”

16. Paragraph 2 of Article 75 shall be amended as follows:

“2. Pursuant to Article 63 of the Constitution and the procedure established by law, the President may be removed from office by the Parliament for any violation of the Constitution or the commission of a criminal offence if:

- a) the violation of the Constitution has been established by the Constitutional Court;
- b) the elements constituting a crime have been determined by the Supreme Court;“

17. Article 78 shall be amended as follows:

a. Paragraphs 1 and 2 shall be read as:

“1. The Government of Georgia shall be the highest body of the executive branch, in charge of the execution of domestic and foreign policy. The Government shall be accountable to the Parliament.

2. The Government shall be composed of the Prime Minister and Ministers. The Government may also include a State Minister (State Ministers). The Prime Minister shall be authorized to charge one of the members of the Government to serve as the first Vice Prime Minister, and also one or several members to serve as Vice Prime Minister”.

b. Paragraph 3 shall be read as:

“3. On the basis of the Constitution and the laws, and to ensure their proper implementation, the Government shall adopt decrees and resolutions which shall be signed by the Prime Minister.

4. The President of Georgia shall be authorised to summon and preside over a government meeting on matters of special national significance. Government decisions adopted at such meetings shall be enacted by the President's legal act.”

18. Article 79 shall be amended as follows:

a. Paragraph 1 shall be read as:

“1. The Prime Minister shall be the Head of Government.”

b. Paragraph 5 shall be read as:

“5. The Prime Minister shall appoint and remove from office the other members of the Government.”

c. Paragraph 7 shall be read as:

7. The resignation or termination of the Prime Minister’s powers shall be deemed to be the termination of powers of the other members of the Government. If another member of the Government resigns or is dismissed from office, the Prime Minister shall within two weeks appoint a succeeding member of the Government.”

19. Article 80 shall be worded as follows:

“Article 80

1. Upon the first assemble of the newly elected Parliament, the powers of the Government shall be deemed terminated and the President of Georgia shall charge it to continue to carry out its functions until the approval of a new Government.

2. The President of Georgia shall within seven days from the termination of powers of the Government nominate for the office of Prime Minister the candidate put forward by the election subject having gained the best results in the parliamentary elections. The candidate for the Prime Minister’s post shall within 7 days select ministerial candidates and submit to the Parliament a proposal for the new composition of Government along with the Government’s agenda for approval.

3. In the event of the Government’s resignation or the termination of the powers of the Prime Minister, the President of Georgia shall within seven days nominate for the office of Prime Minister the candidate proposed by the parliamentary faction with the largest membership.

4. The Parliament of Georgia shall, within seven days after the submission, consider and hold a vote of confidence in the composition and the proposed agenda of the new Government. If rejected, repeat voting shall take place within one month on the same or a revised composition and agenda of the Government. A majority vote of the Parliament shall be required to gain the approval. Within three days from the Parliament confirmation, the President shall appoint the Prime Minister, and the Prime minister shall appoint the other members of the Government. If no legal act providing for the appointment of the Prime Minister is issued by the President within the stipulated time, the Prime Minister shall be deemed to be appointed.

5. If the vote of confidence is not given by the Parliament through the procedure provided in paragraph 4 of this Article, the president shall within 7 days nominate for the post of the Prime Minister the candidate put forward by no less than two-fifths of the Members of Parliament in full. The Prime Ministerial candidate shall select all the other candidates and submit to the Parliament the new composition and agenda of the Government for approval. If two candidates are put forward following this procedure, the President shall nominate the candidate proposed by a greater number of the Parliament Members, or one of the candidates if the number is equal.

6. If a new Government fails to obtain vote of confidence from the Parliament through the procedure provided in paragraph 5, the President shall dissolve the Parliament and call early elections.

7. An impeachment motion against the President may not be filed in the course of the procedures stipulated in this Article, except when the grounds for impeachment involve any violation of the duties prescribed in this Article.”

20. Article 81 shall be worded as follows:

“Article 81

1. The Parliament shall have the right to declare no confidence in the Government. A motion of no confidence may be filed by not less than one-third of all Parliament Members. The Parliament shall debate the motion on the thirtieth day after its filing. The Parliament shall continue the consideration of a no confidence vote if more than half of all the Members of Parliament support this decision.

2. On the sixtieth day after the adoption of the decision to continue the considerations, the parliament shall debate vote of no confidence in the Government. The no confidence debate

shall only be held in conjunction with a vote on the new candidacy for Prime Minister who shall be proposed by not less than two-fifths of all the Parliament Members. Majority support in the Parliament shall be required for passing the vote of no confidence and the approval of the candidacy for the Prime Minister's successor.

3. Within 3 days after the declaration of no confidence and the approval of the new prime ministerial candidate, the President shall officially nominate the proposed candidate or dissolve the Parliament and call early elections.

4. If the Parliament fails to agree on any of the decisions envisaged in paragraphs 1 and 2 of this Article, the same Parliament Members shall not be authorised to file another motion of no confidence within the next six months.

5. The Prime Minister shall have the right to move a motion for a vote of confidence in the Government in relation to a draft law. The decision of the Parliament to reject the confidence vote shall be deemed to be the decision provided for in paragraph 1 of this Article and the following procedures shall be those as stipulated in paragraph 2.

6. If the Parliament declares confidence in the Government, the draft law shall be deemed to be passed.

7. An impeachment motion against the President may not be filed in the course of the procedures stipulated in this Article, except when the grounds for impeachment involve any violation of the duties prescribed in this Article.”

21. Article 81¹ shall be deleted.

22. Article 81³ shall be amended as follows:

a. Paragraph shall read as:

“1. Representation of the Government in administrative-territorial units shall be vested in the State Representative - Governor.”

b. Paragraph 3 shall read as:

“3. The State Representative – Governor shall be appointed and relieved from office by the Prime Minister with the approval of the President.”

23. Paragraphs 1 and 2 of Article 86 shall be worded as follows:

“1. A person who can serve as a judge shall be a citizen of Georgia who has attained the age of thirty, has a relevant degree in law and at least five years of experience in legal practice.

2. A judge shall be appointed for life until the age of retirement as stipulated by the law. The selection, appointment and removal from office of a judge shall be regulated by the law.”

24. Article 89 shall be amended as follows:

“a. The following shall be added after the words “representative bodies” in the preamble of paragraph 1: “the representative body of a local self-government body – Sakrebulo, the High Council of justice.”

b. The following shall be added as subparagraphs (f²) and (f³) to paragraph 1:

“f². [shall] consider, on the basis of a claim of the local representative body, constitutionality of normative acts in relation to the provisions of Chapter 7¹ of the Constitution;

f³. [shall] consider, based on the motion of the High Council of Justice, constitutionality of normative acts with respect to Articles 82, 83, 84, 86, 86¹, 87 and 90 of the Constitution;”

25. Article 90 paragraph 1 shall be read as follows:

“1. The Supreme Court of Georgia shall be the court of cassation.”

26. Article 93 shall be read as follows:

“Article 93

1. Only the Government of Georgia can submit a draft state budget to the Parliament for consideration, subject to a prior agreement of the basic parameters and directions for the budget with the relevant parliamentary committees.

2. The Government shall submit a draft budget for next year no later than three months before the end of the fiscal year. Together with the draft budget, the Government shall submit a report about the status of the implementation of the current budget. The Government's report on the execution of the state budget shall be presented to the Parliament for approval no later than three months after the end of the fiscal year.

3. No changes shall be made to the draft budget without the consent of the Government. The Government can only request the Parliament's approval of any additional expenditure if it indicates the sources of financing such spending.

4. A draft law on the state budget can only provide for any cuts in the presidential spending, compared to the expenditures envisaged in the previous year's budget, by the consent of the President.

5. If within the course of three months the Parliament fails to pass the budget, state expenditures shall be incurred in the same proportions as in the previous year's budget.

6. A draft providing for an increased public spending, reduced revenues or taking on of additional financial obligations by the state vis a vis the current budget, can only be adopted by the Parliament with the consent of the Government. Any drafts concerning the next fiscal year shall be adopted within the budgetary parameters that have been agreed with the Government.

7. The Parliament shall exercise control over the execution by the Government of all public spending in a lawful manner."

27. The following chapter shall be added to the Constitution as Chapter 7:

Chapter 7¹

Local Self-Government

Article 101¹

1. Local self-government is the right and the ability of the citizens of Georgia registered on the territory of a self-government unit to manage local affairs independently, under their own responsibility and in the interests of the local population, in accordance with the Georgian legislation and without prejudice to the state sovereignty.

2. The framework for the creation and functioning of local representative and executive bodies shall be determined by the law. The executive bodies of local self-governments shall be accountable to the local representative bodies.

3. The representative body of a local self-government unit – the Local Assembly (Sakrebulo) shall be elected by the citizens of Georgia registered on the territory of a self-government unit by secret ballot on the basis of direct, equal, universal suffrage.

4. The rules for the creation, abolishment of a local self-government unit and changing its administrative borders shall be prescribed by law. The abolishment of a local self-government unit or changes in local authority boundaries shall not be made without prior consultation with the self-governing unit concerned.

Article 101²

1. Powers of local authorities shall be separated from those of the state authorities. A self-government unit shall have own and delegated competences. The principles for determining local powers and competences shall be defined by the law.

2. A local self-government unit shall exercise own competences independently and under its own responsibility, according to the provisions prescribed by the law. Local authorities own competences shall be exclusive.

3. Local authorities shall have discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority by the law.

4. Delegation to local authorities of powers and responsibilities for specific purposes shall be based on relevant legal acts and agreements and must be accompanied by the allocation of appropriate material and financial resources. The amount of such resources shall be calculated as prescribed by the law.

5. The state authorities shall secure the provision of an adequate legal framework and material-financial conditions necessary for the development of local self-governance.

Article 101³

1. Local self-government shall have its own property and financial resources.

2. Implementation of decisions taken by the local authorities within the scope of their competences shall be mandatory on the territory of the self-government unit.

3. The administrative supervision of local authorities shall only be exercised according to the procedures and in cases as are prescribed by the law. The aim of administrative supervision shall be to ensure compliance of the legal acts issued by local authorities with the law and the proper implementation of delegated responsibilities. Any administrative supervision shall be proportional to the aims pursued.

Article 2

This Law shall enter into force on the date of the announcement of final results of the 2013 Presidential election.

Mikheil Saakashvili
President of Georgia