

**Tbilisi, Georgia
December 22, 2004**

**The Constitutional Law of Georgia on
Amendments to the Constitution of Georgia**

Article 1.

The following amendments shall be introduced in the Constitution of Georgia (Parliamentary Gazette, 1995, No. 31-33, Art. 668, pg. 6):

1. Paragraph 1 of Article 25 shall read as follows:

“ 1. Everyone except members of the armed forces, the Ministry of Police and Public Security has the right to public assembly without arms, either indoors or outdoors without prior permission.”

2. Paragraph 5 of Article 26 shall read as follows:

“ 5. A person who is a member of the armed forces, the Ministry of Police or the Public Security bodies or a person serving as a judge or a prosecutor shall cease his/her membership in any political associations.”

3. Sub-paragraph “c” of Paragraph 1, Article 73 shall read as follows:

“ c) be entitled to dissolve the Government, dismiss the Minister of Defense, the Minister of Police and Public Security on his/her own initiative or in other cases envisaged by the Constitution.”

Article 2.

This law shall take effect upon its promulgation.

Mikheil Saakashvili
President of Georgia

The Constitutional Law of Georgia on Amendments to the Constitution of Georgia

Article 1

The Constitution of Georgia shall be amended as follows:

1. Paragraph 1, Article 49 shall read as follows:

“1. The Parliament shall consist of 150 MPs elected by secret ballot based on universal, equal and direct suffrage. The grounds of the electoral system shall be defined by organic law.”

2. Article 64 shall read as follows:

“1. The matter of impeachment of the Chair and judges of the Supreme Court, members of the Constitutional Court, members of the Government, General Prosecutor, Chair of the Chamber of Control, Public Defender and board members of the National Bank for breach of the Constitution or for commission of an offense may be raised by no less than one third of the MPs on the current nominal list.

2. After adoption of the conclusion based on Paragraph 2, Article 63, the Parliament may dismiss the officials listed in Paragraph 1 of this Article by a majority of the MPs on the current nominal list. Paragraph 4, Article 63 shall also apply in such an event.

3. The matter of dismissal of the Chair of the Chamber of Control or a board member of the National Bank due to his/her unsuitability for the position may be raised by no less than one quarter of the MPs on the current nominal list.

4. In the event specified in Paragraph 4 of this article, the Parliament may dismiss the Chair of the Chamber of Control or a board member of the National Bank by three fifths of the MPs on the current nominal list.”

3. Paragraph 1, Article 82 shall read as follows:

“1. The Judiciary shall exercise its functions through administration of justice and other forms defined by law.”

4. Article 83 shall read as follows:

“1. Justice shall be administered by the common courts. Their system and structure, as well as rules for their formation and operation, shall be defined by organic law. The rules of proceeding shall be defined by law.

2. Military courts may be established in military circumstances and only within the system of common courts.

3. Formation of a special court shall be prohibited.”

5. In Article 86:

a) Paragraph 1 shall read as follows:

“1. A judge shall be a citizen of Georgia over the age of 30 and with a higher legal education. A magistrate shall be a citizen of Georgia over the age of 27 and with a higher legal education.”

b) Paragraph 2 shall read as follows:

“2. Judges shall be appointed for no less than a ten year term. Magistrates shall be appointed for no less than a five year term. The rules for the selection, appointment and dismissal of judges and magistrates shall be defined by organic law.”

c) In Paragraph 3, the phrase “except for pedagogical activity” shall be replaced with “except for pedagogical and scientific activities.”

6. The new Article 87¹ shall be added as follows:

- “1. The Supreme Court shall be the highest cassation court.
2. The Chair of the Supreme Court shall be nominated by the President and elected by no less than three fifths of the MPs on the current nominal list.
3. Judges of the Supreme Court shall be nominated by the President and elected by a majority of the MPs on the current nominal list.
4. The Chair and judges of the Supreme Court shall be elected for a term of ten years.
5. The authority, organization and operation of the Supreme Court and the number of its judges shall be defined by organic law, as prescribed by Paragraph 1, Article 83.
6. The Chair and members of the Supreme Court shall be inviolable. The Chair and members of the Supreme Court may be subject to criminal prosecution, detention, arrest, search of their residences, cars and workplaces and personal search only with the consent of Parliament. The exception is when a person is caught in the act, which shall be immediately reported to Parliament. If the latter does not provide its consent, the detained or arrested person shall be immediately released.”

7. The new Chapter 5¹: Constitutional Control, containing Articles 88, 89, 90 and 91, shall be added after Article 87¹ as follows:

8. In Article 88:

a) Paragraph 1 shall read as follows:

“1. Constitutional control shall be exercised by the Constitutional Court in accordance with the rules of constitutional proceeding. The authority and rules for the formation and operation of the Constitutional Court shall be prescribed by the Constitution and organic law.”

b) Paragraph 2 shall read as follows:

“2. The Constitutional Court shall consist of nine members. Candidates to be elected as members of the Constitutional Court shall be nominated by the President before

Parliament, which shall elect the members by no less than three fifths of the MPs on the current nominal list. A person may be nominated as a candidate no more than twice.”

c) The new Paragraph 2¹ shall be added as follows:

“2¹.The Constitutional Court shall elect the Chair of the Constitutional Court from its members for a term of five years.”

d) Paragraph 3 shall read as follows:

“3. A member of the Constitutional Court shall serve for a term of ten years. A person may be elected as a member of the Constitutional Court no more than twice.”

e) In paragraph 4, the number “35” shall be replaced with “30.”

9. In Article 89:

a) Subparagraph (d), Paragraph 1 shall read as follows:

“(d) Consider disputes on the constitutionality of the appointment of a specific referendum or election or failure to do so.”

b) In Subparagraph (f), Paragraph 1 the phrase “normative acts” shall be replaced with “normative acts of the Parliament of Georgia, high-level representative bodies of the autonomous republics of Abkhazia and Adjara, the President of Georgia, the Government of Georgia and members of the Government.”

c) The new Subparagraph (f)¹ shall be added to Paragraph 1 as follows:

“(f)¹. Based on a lawsuit filed by the Public Defender or any citizen, consider the compliance of enforced court decisions, judgments, rulings and decrees with Chapter 2 of the Constitution.”

10. Article 90 shall read as follows:

“Article 90

Members of the Constitutional Court shall be inviolable. Members of the Constitutional Court may be subject to criminal prosecution, detention, arrest, search of their residences, cars and workplaces and personal search only with the consent of Parliament. The exception is when a person is caught in the act, which shall be immediately reported to Parliament. If the latter does not provide its consent, the detained or arrested person shall be immediately released.”

Article 2

1. Within two weeks after promulgation of this law, the President shall present to Parliament the candidates to be elected as members of the Constitutional Court. The election of the new members of the Constitutional Court shall immediately

result in termination of the authority of current judges of the Constitutional Court in connection with its reorganization. The judges whose authority is terminated shall receive the social guarantees prescribed by law.

2. Within two weeks after promulgation of this law, the President shall present to Parliament the candidates to be elected as judges (except the chair) of the Supreme Court. The election of the new judges of the Supreme Court shall immediately result in termination of the authority of current judges (except the chair) of the Supreme Court in connection with its reorganization. The judges whose authority is terminated shall receive the social guarantees prescribed by law.

Article 3

1. This law, except Paragraph 1, shall take effect immediately.
2. Paragraph 1 of this law shall take effect after the Organic Law of Georgia on the Election Code of Georgia is amended respectively.

Mikheil Saakashvili
President of Georgia