

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

The present constitutional law proposes amendments to the Constitution of Georgia (the Parliamentary Gazette of Georgia, No. 31-33, 1995. Art. 668, p. 6) as follows:

### **Article 1**

Paragraph 4 of Article 2 shall read as follows: “4. Citizens of Georgia resolve local matters through self-government, without violating the state sovereignty. The heads of representative and executive agencies of local self-government shall be elected. Procedures for the formation and authority of local self-government agencies and their relationship with state agencies shall be governed by the organic law.”

### **Article 2**

Paragraph 2 of Article 12 shall read as follows: “2. A citizen of Georgia may not at the same time be a citizen of another country, except for the cases prescribed by this paragraph. The President may grant citizenship of Georgia to a citizen of another country, provided that the latter made a special contribution to Georgia or when granting of the Georgian citizenship to such person is a matter of state interest.”

### **Article 3**

Paragraph 2 of Article 46 shall read as follows: “2. In the event of a state of emergency or martial law throughout the territory of Georgia, presidential, parliamentary and other representative body elections shall be held only after termination of the above-referenced circumstances. If a state of emergency is announced within a specific area of the country, the decision to hold elections in the rest of the territory of the country shall be made by the Parliament.”

### **Article 4**

The new Paragraph 4 shall be added to Article 49 as follows: “4. The current expenditure of the Parliament under the state budget may be reduced compared to the budget funds of the previous year only with the prior consent of the Parliament. The decision concerning distribution of the funds allocated from the state budget for the Parliament shall be made by the Parliament itself.”

### **Article 5**

1. Paragraph 3 of Article 50 shall read as follows: “Regular parliamentary elections shall be held no later than 15 days before expiration of authority of the existing parliament. If the election date coincides with a state of emergency or martial law, the elections shall be held no later than 60 days after termination of such circumstances. The election date shall be appointed by the President no later than 60 days before the elections. In the event of premature dismissal of the Parliament, the President shall appoint ad-hoc parliamentary elections, which shall be held no earlier than 45 days and no later than 60 days after entry into force of the order concerning the premature dismissal of the Parliament.”

2. In Article 50, the new Paragraph 3<sup>1</sup> shall be added as follows: “3<sup>1</sup>. The Parliament shall cease operation upon entry into force of a presidential order concerning dismissal of the Parliament. During the period from the entry into force of the presidential order to the first session of the newly elected Parliament, the dismissed Parliament may convene only in the event of the proclamation of a state of emergency or martial law by the President, to solve the matters concerning approval or prolongation of the state of emergency or martial law. If the Parliament fails to convene within 5 days or to approve (prolong) the presidential order concerning proclamation (prolongation) of the state of emergency, the state of emergency shall be terminated. Martial law shall be terminated if the Parliament, within 48 hours from its convention, does not approve the presidential order concerning proclamation (prolongation) of martial law. The convening of the Parliament shall not result in the restoration of parliamentary positions and salaries of the members of the Parliament. The Parliament shall cease operation immediately after making decision on the above-referenced matters.”

### **Article 6**

The new Article 51<sup>1</sup> shall be added as follows:

“Article 51<sup>1</sup>

The Parliament may be dismissed by the President only in the events defined by the Constitution, except:

- (a) Within 6 months following parliamentary elections;
- (b) During execution by the Parliament of the authority prescribed by Article 63 of the Constitution;
- (c) During a state of emergency or martial law;
- (d) During the last 6 six months of tenure of the President.”

### **Article 7**

Article 59 shall read as follows:

“Article 59

1. A member of the Parliament shall be authorized to submit an inquiry to and receive the respective response from any agency accountable to the Parliament, the Government, member of the Government, mayor of city, head of executive agency of the territorial unit of any level, and state agencies.
2. A Minimum of 10 members of the Parliament or a parliamentary faction shall be authorized to submit an inquiry to any agency accountable to the Parliament, the Government, and member of the Government. The latter shall respond to such inquiry at parliamentary session. The response may become a subject of discussion at the Parliament.
3. The Parliament may, with the majority of its full composition, raise before the Prime Minister the matter of official liability of a member of the Government. If the Prime Minister does not dismiss the member of the Government, he/she shall within 2 weeks present a reasoned decision on this matter to the Parliament.”

## **Article 8**

Paragraph 2 of Article 60 shall read as follows: “2. A member of the Government and any official elected, appointed or approved by the Parliament may, and if required, shall attend sessions of the Parliament and parliamentary committees and commissions, answer the questions raised during such sessions and present a report concerning his/her activities. The Parliament and parliamentary committees and commissions shall listen to such officials whenever the latter request it.”

## **Article 9**

Article 67 shall read as follows:

“Article 67

1. The power to initiate legislation shall be vested in the President – only in special events, the Government, member of the Parliament, parliamentary faction, parliamentary committee, supreme representative bodies of the autonomous republics of Abkhazia and Adjara, and no less than 30,000 electors.
2. The Parliament shall consider the draft laws introduced by the President or the Government, at the request of the latter, on an ad-hoc basis.
3. If the Government fails to provide within statutory term its remarks concerning a draft law to be considered by the Parliament, the draft law shall be deemed as endorsed by the Government.”

## **Article 10**

Paragraph 1 of Article 68 shall read as follows: “1. The draft laws adopted by the Parliament shall be provided to the President within 7 days.”

## **Article 11**

Paragraph 1 of Article 69 shall read as follows: “1. The President of Georgia shall be the head of the State of Georgia.”

## **Article 12**

1. Paragraph 4 of Article 70 shall read as follows: “4. A candidate who receives the votes of more than half of the participants of elections shall be deemed elected.”
2. Paragraph 6 of Article 70 shall read as follows: “6. In the second round of elections, votes shall be made for the two candidates who scored best in the first round. The candidate who receives more votes than another candidate shall be deemed elected.”

## **Article 13**

Article 72 shall read as follows:

“Article 72

The President of Georgia may not hold any other position, except party-related, or pursue business activities, or accept salary or any other regular compensation for any other activity.”

## **Article 14**

1. Subparagraphs (b), (c), (d) and (e) of Paragraph 1 of Article 73 shall read as follows:

- “(b) Appoints the Prime Minister and authorizes the latter to appoint a member of the Government – minister;
- (c) Is authorized to dismiss the Government and the ministers of interior, defense, and state security at his/her discretion or in the events prescribed by the Constitution;
- (d) Sanctions resignation of the Government, its members and other officials defined by law, and may mandate the Government or its member to execute their duties before the appointment of new composition or new member of the Government.
- (e) Provides his/her consent to the Government for the submission of the draft state budget to the Parliament.”
2. In Paragraph 1 of Article 73, the new Subparagraphs (o), (p), (q) and (r) shall be added as follows:
- “(o) Dismisses the Parliament in the events and according to the procedures prescribed by the Constitution;
- (p) Chairs the Supreme Council of Justice, and appoints and dismisses judges according to the procedures prescribed by the Constitution and organic law;
- (q) During the period from the dismissal of the Parliament to the first assembly of the newly-elected Parliament, in special events, may enact a decree concerning tax and budget matters. Such decree shall have the power of law and shall become invalid unless approved by the newly-elected Parliament within 1 month after its first assembly;
- (r) In the events prescribed by Paragraphs (a)-(d) of 51<sup>1</sup> and in the event of failure of the Parliament to vote confidence in the composition of the Government within the term established by the Constitution, is authorized to appoint the Prime Minister and provide his/her consent to the latter for the appointment of ministers. The President shall, within 1 month after termination of the above-referenced circumstances, repeatedly present composition of the Government to obtain the Parliament’s confidence vote.”
3. Paragraphs 3 and 4 of Article 73 shall read as follows:
- “3. The President may suspend or repeal the acts of the Government or agencies of the Executive, if such acts contravene the Constitution of Georgia, international agreements, laws and normative acts of the President.
4. The President shall be the supreme commander-in-chief of the armed forces of Georgia. The President shall appoint members of the National Security Council, and appoint or dismiss the Chief of the General HQ of the armed forces and other commanders.”

## **Article 15**

Paragraphs 1 and 2 of Article 76 shall read as follows:

“1. In case of failure of the President to execute his/her powers or premature termination of his/her authority, the powers of the President shall be undertaken by the Chair of the Parliament. In the event of failure of the latter to do so or if the Parliament is dismissed, the powers of the President shall be undertaken by the Prime Minister. During the period of execution of presidential powers by the Chair of the Parliament, the duties of the latter shall be fulfilled by one of the deputies of the Chair of the Parliament, as directed by the latter. During the period of execution of presidential powers by the Prime Minister, the

duties of the latter shall be fulfilled by a member of the Government possessing the power of Vice Prime Minister.

2. The acting president shall not be authorized to exercise the rights prescribed by Subparagraphs (c) and (i) of Paragraph 1 of Article 73 and Paragraph 1 of Article 74, or dismiss the Parliament.”

#### **Article 16**

The new Article 76<sup>1</sup> shall be added as follows:

” Article 76<sup>1</sup>

The President shall present a candidate for the position of General Prosecutor to the Parliament for appointment. The authority and rules of operation of the General Prosecutor’s Office shall be prescribed by organic law.”

#### **Article 17**

Article 77 shall read as follows:

“Article 77

The Administration of the President shall be formed to facilitate execution of presidential powers. The head of the Administration shall be appointed and dismissed by the President. The provisions of the Administration shall be approved by the President.”

#### **Article 18**

The following Chapter 4<sup>1</sup> shall be added after Article 77. Accordingly, Articles 78, 79, 80 and 81 shall be modified and new articles 81<sup>1</sup> and 81<sup>2</sup> shall be added as follows:

### “Chapter 4<sup>1</sup> The Government of Georgia

Article 78

1. The Government shall ensure implementation of executive power and domestic and foreign policy of the country pursuant to the legislation of Georgia. The Government shall be accountable to the President and the Parliament.
2. The Government shall consist of the Prime Minister and ministers. Composition of the Government may also include the State Minister (state ministers). One of the members of the Government shall act as the Vice Prime Minister, as instructed by the Prime Minister. The Government and its members shall relinquish their powers before the President.
3. The Government shall adopt decrees and orders pursuant to and for the purpose of implementation of the Constitution, law and normative acts of the President. Such decrees and orders shall be signed by the Prime Minister.
4. The President may convene and chair government sessions on special matters of national importance. The decisions made at such sessions shall be enacted in the form of presidential act.
5. The structure, authority and rules of operation of the Government shall be defined by the Constitution and the law that, in agreement with the President, shall be submitted by the Government to the Parliament for its approval.

6. The Government may resign at its own discretion.
7. The authority of the Government shall commence upon appointment of its members pursuant to the rules and in the events prescribed by the Constitution.

#### Article 79

1. The Chair of the Government shall be the Prime Minister.
2. The Prime Minister shall define the directions of government operations, ensure proper organization of government operations, coordinate and control the activities of ministers, report to the President concerning government operations, and be accountable for government operations before the President and the Parliament.
3. The Prime Minister shall, as required by the Parliament, submit to the latter a report concerning implementation of government program.
4. The Prime Minister shall enact individual legal acts – orders – within the scope of his/her authority and exercise full administrative functions in the building of the Government.
5. The Prime Minister shall appoint other members of the Government with the consent of the President, and is authorized to dismiss members of the Government.
6. The Prime Minister shall appoint and dismiss other officials in the events and according to the rules prescribed by law.
7. Resignation or termination of authority of the Prime Minister shall result in the termination of authority of other members of the Government. In the event of resignation or dismissal of another member of Government, the Prime Minister shall, with the consent of the President, appoint a new member of the Government within 2 weeks.

#### Article 80

1. After administration of the oath by the President, the Government shall relinquish its authority before the President. The latter accepts the relinquishment and may mandate the Government to execute its duties before the new composition of the Government is appointed.
2. The President shall, within 7 days after resignation, dismissal or relinquishment of powers by the Government, select the candidate for the position of the Prime Minister based on consultations with parliamentary factions. The candidate for the position of the Prime Minister shall, with the consent of the President, select candidates for the positions of member of the Government within 10 days. Within 3 days after completion of the procedure described in the first sentence of this Paragraph, the President shall present the composition of the Government to the Parliament in order to obtain its confidence vote.
3. The Parliament shall, within 1 week after presentation of the composition of the Government by the President, review and vote for the matter of confidence in the composition and program of the Government. Support of the majority of the full composition of the Parliament is required to obtain its confidence vote. Members of the Government shall be appointed within 3 days after the confidence vote is obtained. The Parliament may not vote confidence in the composition of the Government, and in the same decision raise the matter of removal of a specific member of the Government. If the President agrees with such decision, the member

of the Government, whose removal was requested, may not be appointed in the same composition of the Government in lieu of dismissed or resigned member of the Government.

4. If the composition and program of the Government fail to obtain the Parliament's confidence vote, the President shall within 1 week present the same or new composition to the Parliament. The Parliament shall perform the procedure prescribed by Paragraph 3 of this article.
5. If the composition and program of the Government fail to obtain the Parliament's confidence vote three times consecutively, the President shall within 5 days present a new candidate for the position of Prime Minister or appoint the Prime Minister without the Parliament's consent. The Prime Minister shall appoint ministers with the consent of the President within 5 days. In this event, the President shall dismiss the Parliament and appoint ad-hoc elections.
6. No matter concerning impeachment of the President shall be raised during implementation of the procedures prescribed by this article.

#### Article 81

1. The Parliament may vote no confidence in the Government with the majority of its full composition. The matter to vote no confidence may be raised by no less than 1/3 of the full composition of the Parliament. After the Parliament votes no confidence in the Government, the President may dismiss the Government or disregard the decision of the Parliament. If the Parliament repeatedly votes no confidence in the Government no earlier than 90 days and no later than 100 days, the President shall dismiss the Government, or dismiss the Parliament and appoint ad-hoc elections. In the events prescribed by Paragraphs (a)-(d) of 51<sup>1</sup>, repeated voting concerning the matter of no confidence in the Government shall be held within 15 days after termination of such circumstances.
2. The Parliament may, through its decision, raise the matter of voting unconditional no confidence in the Government. If no earlier than 15 days and no later than 20 days from the adoption of such decision the Parliament votes no confidence in the Government with 3/5 majority of its full composition, the President shall dismiss the Government. If the Parliament fails to vote no confidence in the Government, no matter concerning voting no confidence in the Government shall be raised within the subsequent 6 months.
3. In the event of dismissal of the Government pursuant to Paragraph 2 of this Article, the President may not appoint or nominate the same person for the position of Prime Minister in the subsequent composition of the Government.
4. The Prime Minister may raise the matter of confidence in the Government with regard to the draft law to be considered by the Parliament concerning the state budget, the Tax Code, and the structure, authority and rules of operation of the Government. The Parliament shall vote confidence in the Government with the majority of its full composition. If the Parliament does not vote confidence in the Government, the President shall within 1 week dismiss the Government, or dismiss the Parliament and appoint ad-hoc elections.

5. Voting concerning the matter of confidence shall be held within 15 days after the matter is raised. In the event of failure to hold voting during this period, the Parliament shall be deemed as having voted confidence in the Government.
6. If the Parliament votes confidence in the Government, the respective draft law(s) shall be deemed adopted.
7. No matter concerning impeachment of the President shall be raised during implementation of the procedures prescribed by this article.

#### Article 81<sup>1</sup>

1. In the event of renewal of 1/3 of the initial composition of the Government (but no less than 5 members) following the Parliament's vote of confidence in the Government and its program, the President shall, within 1 week, present the composition of the Government to the Parliament in order to obtain its confidence vote.
2. The Parliament votes confidence in the composition of the Government pursuant to Article 80 of the Constitution.

#### Article 81<sup>2</sup>

1. Ministries are formed to ensure enforcement of state governance and state policy in specific areas of state and public life.
2. A Ministry is directed by a minister who independently makes decisions on the matters falling within his/her competence. A Minister shall adopt individual legal acts – orders – pursuant to and for the purpose of implementation of law, normative acts of the President and decrees of the Government.
3. The State Minister shall be appointed pursuant to the procedures prescribed by the Constitution, for the purpose of execution of the tasks of special national importance.
4. No member of the Government shall hold any other position, except party-related, or found an enterprise, pursue business activities, and accept salary for any activity, except scientific, pedagogic, and creative activities.
5. Member of the Government may resign from his/her position.”

#### **Article 19**

In Article 82, the new Paragraph 5 shall be added as follows: “5. Jurists shall consider cases in common courts in the events and according to the procedures prescribed by law.”

#### **Article 20**

In Article 89, the first sentence and Subparagraph (a) of Paragraph 1 shall read as follows:

”1. The Constitutional Court of Georgia shall, based on a lawsuit or submission of the President, the Government, no less than 1/5 of members of the Parliament, court, supreme representative bodies of autonomous republics of Abkhazia and Adjara, the Public Defender or a citizen, and according to the procedures prescribed by organic law: (a) pass judgment concerning conformity of constitutional agreements, laws, and normative acts of the President, the Government, and supreme bodies of autonomous republics of Abkhazia and Adjara with the Constitution of Georgia.”

## **Article 21**

Article 91 shall be removed.

## **Article 22**

Article 93 shall read as follows:

”Article 93

1. Only the Government shall be authorized to submit a draft state budget to the Parliament with the consent of the President, after having agreed on its fundamental data and directions with parliamentary committees.
2. The Government shall submit draft state budget for the next year to the Parliament no later than 3 months before expiration of the fiscal year. In addition to the draft state budget, the Government shall present a report concerning implementation of the state budget of the current year. The Government shall submit the report concerning implementation of the state budget to the Parliament no later than 3 months after expiration of the fiscal year. If the Parliament, in the event of failure of implementation of the state budget, does not approve the budget implementation report, the President shall consider the matter of liability of the Government and inform his/her decision to the Parliament within 1 month.”
3. In the events prescribed by Paragraphs (a)-(d) of 51<sup>1</sup>, if the Parliament does not approve the state budget within the term prescribed by the Constitution, the state budget shall be approved by presidential decree.
4. No draft state budget shall be amended with the consent of the Government. The Government may send a request to Parliament for additional state expenditure, only if it indicates the source of reimbursement of such expenditure.
5. The Parliament shall be authorized to control legitimacy of expenditure from the state budget by the Government, and in the event of discovery of violations, request the President to suspend such expenditure. If expenditure from the state budget is proved, the President shall take respective measures.
6. If the Parliament fails, within 3 months, to adopt the state budget submitted pursuant to Paragraph 2 of this article, the President may dismiss the Government, or dismiss the Parliament and appoint ad-hoc elections.
7. In the event of dismissal of the Parliament due to its failure to approve the state budget, the President shall approve the state budget by decree and submit it to the newly-elected Parliament for approval within 1 month after recognition of its authority.
8. Any draft law, which proposes increase of expenditure, decrease of revenue, or undertaking of new financial responsibilities by the state with regard to the state budget of the current year, shall be adopted by the Parliament only with the consent of the Government. The draft law proposing the same changes with regard to the state budget of next year shall be adopted by the Parliament within the scope of the main parameters of the state budget, as agreed with the Government.

## **Article 23**

Paragraph 2 of Article 97 shall read as follows: “2. The Chamber of Control shall be independent in its operations and accountable to the Parliament. The Chair of the Chamber of Control shall be elected for a term of 5 years by the majority of full roll-call

composition of the Parliament, at the nomination of the Chair of the Parliament. The basis and rules for the dismissal of the Chair of the Chamber of Control shall be established by the Constitution and law.”

#### **Article 24**

Article 100 shall read as follows:

“Article 100

1. The decision to resort to armed forces shall be made by the President, and within 48 hours submitted to the Parliament for its approval. Armed force shall not be used for international commitments without the consent of the Parliament.
2. For the purpose of national defense and in special events and in the events prescribed by law, the decision to bring, use and reassign in the country the armed forces of another country shall be made by the President. The decision shall be immediately submitted to the Parliament for its approval and enter into force after approved by the Parliament.”

#### **Article 25. Transitional and closing provisions**

1. The procedures prescribed by Paragraphs 1 and 2 of Article 80 of the Constitution shall be implemented within 15 days after the entry into force of this law.
2. The authority of the old composition of the Government shall cease immediately after appointment of the new composition of the Government pursuant to the rule prescribed by the Constitution.
3. The Parliament, the President and the Government shall, within 2 years after the entry into force of this law, ensure constitutional conformity of the legal acts adopted before entry into force of this law and adoption of the normative acts prescribed by this law.
4. After the entry into force of this law, the President shall raise the matter of confidence in the Government before the newly elected Parliament.
5. Article 1 of this law shall enter into force only upon entry into force of the respective organic law. Division of powers between local self-government and local government bodies shall be regulated by organic law.
6. The Law of Georgia on the Structure and Rules of Operation of the Executive shall become invalid upon entry into force of the Law of Georgia on the Structure, Authority and Rules of Operation of the Government. The President shall submit the draft Law on the Structure, Authority and Rules of Operation of the Government to the Parliament within 5 days after entry into force of the present law.
7. This law shall enter into force upon its promulgation.

Mikheil Saakashvili  
President of Georgia

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