

Organic Law on the Constitutional Court (1996 as amended 2004)

Posted

August 5, 2002

Country

Georgia

Document Type

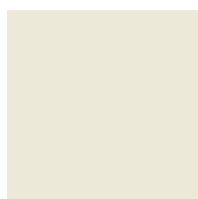
Primary Legislation

Topic name

Elections

Also under this topic

Organic Law on the Constitutional Court



Print

Organic Law of Georgia on the Constitutional Court of Georgia

Chapter I

General provisions

Article 1

1. The Constitutional Court of Georgia (hereinafter the Constitutional Court) shall be the judicial body of constitutional review, which shall guarantee the supremacy of the Constitution of Georgia, constitutional legality and the protection of the constitutional rights and freedoms of individuals.

2. The jurisdiction of the Constitutional Court shall extend to the whole territory of Georgia.

Article 2

The Constitutional Court shall perform its activity based on the principles of legality, collegiality, openness, equality of arms and adversarial nature of the proceedings, independence, immunity and irremovability of the members of the Constitutional Court for the whole term of their office.

Article 3

1. Organisation, competence and functioning procedure of the Constitutional Court shall be determined by the Constitution and the present law. Other rules of the organisation of the Constitutional Court and the constitutional legal proceedings shall be determined by law and the Rules of the Constitutional Court.

2. It shall be obligatory to finance the Constitutional Court in such an amount that secures discharge of its functions and independence of a judge. Financing of the Constitutional Court shall be envisaged by a separate article of the State Budget of Georgia. The expenditure related to the organisation and functioning of the Constitutional Court may not be less than that of the previous year. The scopes and structure of the financing shall be determined on the ground of the draft submitted by the President of the Constitutional Court to the Ministry of Finances in accordance with the procedure prescribed by law. Reduction of the statutory budgetary expenditure of the Constitutional Court shall be impermissible. (added on 12.02.02)
3. The Constitutional Court shall be conveyed the premises and other assets necessary for its functioning. (added on 12.02.02)
4. With the view of ensuring the functioning of the Constitutional Court, the Staff of the Constitutional Court shall be set up. Structure, competence, formation and functioning procedure of the Staff of the Constitutional Court shall be determined by the By-law of the Staff approved by the Plenum of the Constitutional Court. (added on 12.02.02)

Article 4

1. A member of the Constitutional Court shall be independent in carrying out his/her duties. He/she shall evaluate the factual circumstances and reach decisions only in accordance with the Constitution of Georgia. Interference in his/her activity shall be impermissible and punishable by law.
2. (Deleted on 12.02.02.)
3. With the view of securing independence of a member of the Constitutional Court, the state shall be obliged to provide him/her with the appropriate working and living conditions.
4. The state shall ensure the security of a member of the Constitutional Court and his/her family.

Chapter II

Composition and structure of the Constitutional Court

Article 5

The Constitutional Court shall consist of nine judges – the members of the Constitutional Court among which the President of the Constitutional Court, two Vice-Presidents of the Constitutional Court and the Secretary to the Constitutional Court shall be elected.

Article 6

1. Three members of the Constitutional Court shall be appointed by the President of Georgia, three members shall be elected by the Parliament of Georgia by not less than three fifths of the number of the members of the Parliament on the current nominal list, three members shall be appointed by the Supreme Court of Georgia.
2. While designating a member of the Constitutional Court, the prior written consent of the candidate shall be necessary.

Article 7

1. A member of the Constitutional Court may be a citizen of Georgia who has attained the age of 35 and has a higher legal education.

2. When deciding on the members of the Constitutional Court of Georgia, the President of Georgia, the Parliament of Georgia and the Supreme Court of Georgia shall take into account the professional experience of a candidate, which shall be appropriate for the high status of a member of the Constitutional Court.

(Article acquired a new wording on 21.03.96. elaborated into paragraphs on 12.02.02.)

Article 7¹

The President of Georgia shall appoint three members of the Constitutional Court with due regard to the requirements of Article 7 of the present Law. The President of Georgia shall issue an ordinance on appointment of the members of the Constitutional Court.

(the Article is added on 21.03.96.)

Article 7²

1. The Parliament of Georgia shall elect three members of the Constitutional Court with due regard to the requirements of Article 7 of the present Law.

2. The following shall have the right to nominate candidates eligible to the office of a member of the Constitutional Court: the President of the Parliament, a parliamentary faction and a group of not less than ten members of the Parliament that is not affiliated with any faction.

3. At the session of the Parliament before the vote, the President of the Parliament shall acquaint all those present with the list of candidates and their written consents as to be elected a member of the Constitutional Court. A separate ballot shall be held in respect of each candidate. The ballot shall be secret.

4. A candidate to the office of a member of the Constitutional Court may be nominated only twice.

5. As a result of the ballot, that candidate shall be deemed elected, who obtained the most votes but not less than three fifths of the number of the members of the Parliament on the current nominal list.

6. If three candidates are participating in the election and all of them failed to obtain a sufficient number of votes, the President of the Parliament, a parliamentary faction and a group of not less than ten members of the Parliament shall be authorised to nominate the same candidate for approval by the Parliament after ten days from the first vote.

7. If the first vote is held on the last day of the parliamentary session or the election of a candidate is impossible within the remaining period of the session, a new vote shall be held at the first sitting of the next session of the Parliament.

8. If more than three candidates are participating in the election and the necessary number of judges is not chosen, a new vote shall be held. In this case, only the issue of three candidates that received the most votes in the first round, shall be put to the vote.

(Article is added on 21.03.96, elaborated into paragraphs on 12.02.02.)

Article 7³

1. Three members of the Constitutional Court of Georgia shall be appointed by the Supreme Court of Georgia with due regard to the requirements of Article 7 of the present Law.
2. The President of the Supreme Court of Georgia shall nominate candidates to the office of a member of the Constitutional Court at a sitting of the Plenum of the Supreme Court. Three candidates who obtain two thirds of the votes of the members present at the sitting of the Plenum shall be deemed to be appointed as a result of the vote.

(Article is added on 21.03.96, elaborated into paragraphs on 12.02.02)

Article 8

The term of office of a member of the Constitutional Court shall be 10 years. A person who has previously held this position cannot be a member of the Constitutional Court.

Article 9

1. Before taking up office a member of the Constitutional Court shall take the following oath in the presence of the President of Georgia, the President of the Parliament of Georgia and the President of the Supreme Court of Georgia: "I swear before the God and the Nation to carry out faithfully the duties of a member of the Constitutional Court of Georgia and while carrying out it to be subject only to the Constitution of Georgia, to nobody and nothing, save the Constitution of Georgia".
2. The term of office of a member of the Constitutional Court shall commence from the day of his/her taking the oath.

Article 10

1. After taking the oath by every member of the Constitutional Court, or not later than 10 days after the pre-term termination of the office of the President of the Constitutional Court, a sitting of the Constitutional Court shall be held to elect the President of the Constitutional Court for a five-year term. Two Vice-Presidents of the Constitutional Court shall be elected by the same procedure and for the same term.
2. A new President or a Vice-President of the Constitutional Court shall be elected not earlier than within a month and not later than within a week before the expiry of the term of office of the previous President or a Vice-President of the Constitutional Court.
3. The nomination of a candidate to the office of the President of the Constitutional Court shall be effected by an agreed proposal of the President of Georgia, the President of the Parliament of Georgia and the President of the Supreme Court of Georgia.
4. A candidate to the office of a Vice-President of the Constitutional Court shall be nominated by the President of the Constitutional Court.
5. The President and the Vice-Presidents of the Constitutional Court shall be deemed to be elected, if supported by not less than five members of the Constitutional Court in a secret ballot.

6. A person who has previously held this position, cannot be the President or a Vice-President of the Constitutional Court.

7. The office of the President or the Vice-President of the Constitutional Court shall be pre-term terminated due to the grounds enumerated in Article 16 of the present Law. (changed on 12.02.02)

Article 11

1. The Constitutional Court shall consist of the Plenum and two Boards.

2. The composition of the Plenum shall include all nine members of the Constitutional Court. Its sittings shall be presided over by the President of the Constitutional Court.

3. The composition of each Board shall include four members of the Constitutional Court. Sittings of the Boards shall be presided over by the Vice-Presidents of the Constitutional Court.

4. The composition of the Boards shall be approved by the Plenum upon the submission of the President of the Constitutional Court. The members of the Constitutional Court designated by the President of Georgia, by the Parliament of Georgia and the Supreme Court of Georgia shall be represented on the Boards as equally as possible.

5. The composition of the Boards shall be renewed within 10 days after the election of the new President of the Constitutional Court.

Article 12

1. The President of the Constitutional Court shall:

a. submit the Rules of the Constitutional Court and the By-law of the Staff to the Plenum for approval. A member of the Constitutional Court shall have the right to request for moving changes and addenda to the Rules of the Constitutional Court and to the By-law of the Staff; (changed on 12.02.02)

b. allocate cases in accordance with the procedure prescribed by the Rules of the Constitutional Court;

c. submit to the Plenum the candidates to the offices of a Vice-President of the Constitutional Court and the Secretary to the Constitutional Court;

d. convene the Plenum in accordance with the procedure prescribed by the Rules of the Constitutional Court, preside over its sittings, sign a judgment, a ruling, a conclusion, a recording notice and the minutes of the sitting adopted by the Plenum; (changed on 12.02.02)

e. maintain the general guidance over the functioning of the Staff of the Constitutional Court; appoint and dismiss the Staff members in accordance with the legislation; (changed on 12.02.02)

f. dispose of the budgetary assignments of the Constitutional Court;

g. discharge other authorities provided for by the legislation and the Rules of the Constitutional Court.

2. The President of the Constitutional Court shall submit annually to the President of Georgia, the Parliament of Georgia and the Supreme Court of Georgia the information on the constitutional legality in Georgia.

Article 13

1. A Vice-President of the Constitutional Court shall preside over the sittings of a Board, perform particular functions of the President under the instructions of the President of the Constitutional Court. In case of absence of the President of the Constitutional Court or his/her inability to perform functions, one of the Vice-Presidents shall act on the President's behalf under the instructions of the latter and where there is no such instruction, the duties shall be performed by the eldest Vice-President.

2. If the Vice-President of the Constitutional Court, temporarily performing the duties of the President, is unable to discharge his/her functions then this shall be left to the eldest member of the relevant Board.

Article 14

1. The Secretary to the Constitutional Court shall be elected by the Plenum among the members of the Constitutional Court for a term of five years.

2. Apart from the authority of a member of the Constitutional Court the Secretary to the Constitutional Court shall:

- a. be in charge of the preparatory measures of the sittings of the Plenum and Boards;
- b. organise the maintenance and lay out of the minutes of the sittings of the Plenum and Boards;
- c. sign the acts of the Constitutional Court in accordance with the procedure prescribed by the Rules of the Constitutional Court;
- d. take measures with the view of enforcing judgments of the Constitutional Court and shall monthly report to the Plenum on their enforcement. (changed on 12.02.02)
- e. further the development of a system for the computer processing the necessary information;
- f. organise dispatch of the formal documentation of the Constitutional Court.

Article 15

1. A member of the Constitutional Court shall enjoy the personal immunity. A member of the Constitutional Court shall not be proceeded, arrested or detained, nor shall his/her apartment, car, workplace or his/her person be subject to search without the consent of the Constitutional Court, except when he/she is caught flagrante delicto, which shall immediately be notified to the Constitutional Court. Unless the Constitutional Court gives its consent, an arrested or detained member of the Constitutional Court shall immediately be released.

2. In case the Constitutional Court gives its consent to the criminal proceeding of the member of the Constitutional Court or to his/her arrest or detention, the authority of the member of the Constitutional Court shall be suspended until a final judgment is adopted by the court; if the judgment of “not guilty” is reached or the case against the member is stopped on the basis of rehabilitation, the authority of the member of the Constitutional Court shall be restored from the day, on which the final judgment is reached.

3. The decision provided for by the first paragraph of the present Article, shall be deemed adopted, if it is supported by more than half of the participants to the sitting of the Plenum. (changed on 12.02.02)

Article 16

1. The office of a member of the Constitutional Court shall be pre-term terminated if:

- a) he/she is unable to discharge his/her official duties for six consecutive months, or he/she fails to discharge his/her official duties for three months in a year without a good reason;
- b) he/she has occupied a post incompatible with the status of a member of the Constitutional Court or engages in the activity prohibited by Article 17 of the present Law;
- c) he/she has violated the requirement laid down in Article 48 of the present Law;
- d) he/she has committed an act incompatible with a status of a judge;
- e) he/she lost the citizenship of Georgia;
- f) a court has recognised him/her as legally incapable;
- g) a final judgment of conviction is rendered by a court against him/her;
- h) he/she has died, or a court recognised him/her to be missing or declared to be dead;
- i) he/she resigned from the post.

2. In the cases, provided for by subparagraphs “a-d” of the first paragraph of the present Article, the office of a member of the Constitutional Court shall be pre-term terminated by a resolution of the Plenum of the Constitutional Court, which shall be deemed adopted, if it is supported by more than half of the composition of the Constitutional Court. In the cases, provided for by subparagraphs “e-i”, the Plenum of the Constitutional Court, in accordance with the procedure laid down in the Rules of the Constitutional Court, shall examine the documents submitted to it and if the facts contained therein are confirmed to be true, the pre-term termination of the office of a member of the Constitutional Court shall be set out in a decree of the President of the Constitutional Court.

3. A resolution of the Plenum as well as the decree of the President of the Constitutional Court on the pre-term termination of the office of a member of the Constitutional Court shall be immediately communicated to the President of Georgia, the Parliament of Georgia and the Supreme Court of Georgia.

4. Not later than 20 days from the pre-term termination of the office of a member of the Constitutional Court, a new member of the Constitutional Court shall be designated. If the office of a member of the Constitutional Court elected by the Parliament is pre-term terminated in the non-session period of the Parliament of Georgia, a new member of the Constitutional Court shall be designated within two weeks from starting a new parliamentary session.

5. A new member of the Constitutional Court shall be designated not earlier than one month and not later than 10 days before the expiry of the term of office of a member of the Constitutional Court.

(Article acquired a new wording on 12.02.02)

Article 17

The office of a member of the Constitutional Court shall be incompatible with any other post and remunerable activity, with the exception of scientific and pedagogical activity. A member of the Constitutional Court shall not be a member of a political party or engage in political activity. A member of the Constitutional Court shall resign from other post and/or cease the activity prohibited by the present Article from the day, on which he/she took the oath. (changed on 12.02.02)

Article 18

If the term of office of a member of the Constitutional Court expires at the time when he/she participates in the consideration of a case, his/her term of office shall be prolonged until the final adjudication upon the case. (changed on 12.02.02)

Chapter III

Authority of the Constitutional Court

Article 19

1. On the basis of a constitutional claim or a constitutional submission, the Constitutional Court shall be authorised to consider and adjudicate upon:

a. conformity with the Constitution of Georgia of a constitutional agreement, laws of Georgia, normative resolutions of the Parliament of Georgia, normative acts of the President of Georgia, the Government of Georgia and those of the higher state bodies of the Autonomous Republics of Abkhazia and Ajara as well as conformity of adoption/enactment, signing, promulgation and entry into force of legislative acts of Georgia and resolutions of the Parliament of Georgia with the Constitution of Georgia. (acquired a new wording on 25.11.04)

b. dispute on competence between state bodies.

c. constitutionality of formation and activity of political associations of citizens;

d. dispute on constitutionality of referendum or election;

e. constitutionality of the normative acts adopted in terms of Chapter Two of the Constitution of Georgia;

- f. constitutionality of international treaties and agreements;
- g. recognition or pre-term termination of the authority of a member of the Parliament of Georgia;
- h. violation of the Constitution of Georgia by the President of Georgia, the President of the Supreme Court of Georgia, a member of the Government of Georgia, the Prosecutor General of Georgia, the President of the Chamber of Control of Georgia and the members of the Council of the National Bank of Georgia.
- i. dispute on violation of the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”; (added on 25.11.04)
- j. conformity of normative acts of the Supreme Council of the Autonomous Republic of Ajara with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; and laws of Georgia. (added on 25.11.04).

2. if, while considering a particular case, a court of general jurisdiction concludes, that there is a sufficient ground to deem the law or other normative act, applicable by the court while adjudicating upon the case, fully or partially incompatible with the Constitution, the court shall suspend the consideration of the case and apply to the Constitutional Court. The consideration of the case shall be resumed after a judgment on the issue is adopted by the Constitutional Court. (added on 12.02.02)

Article 20

1. Recognition of a law or other normative act as unconstitutional shall not imply annulment of the sentences and decisions as adopted earlier by the court on the basis of the act in question, it shall cause only the suspension of their enforcement in accordance with the procedure established by procedural legislation. (changed on 12.02.02)

Article 21

1. The issues, provided for by subparagraphs “a”, “f” and “h”, “i” and “j” of the first paragraph and by the second paragraph of Article 19 of the present Law, shall be considered by the Plenum of the Constitutional Court.
2. The issues, provided for by subparagraphs “b”, “c”, “e” and “g” of the first paragraph of Article 19 of the present Law, shall be considered by a Board of the Constitutional Court.
3. The issue of constitutionality of the elections of the Parliament of Georgia and the President of Georgia, as well as the issue of constitutionality of a referendum shall be considered by the Plenum of the Constitutional Court, whereas the issue of constitutionality of the elections of a local representative body – Sakrebulo, Gamgebeli, and Mayor shall be considered by a Board of the Constitutional Court.
4. The case, comprising the issues falling under the jurisdiction of both the Plenum and a Board, shall be considered by the former.
5. A member of the Constitutional Court, participating in the consideration of a case shall not be authorised to decline from voting and abstain during the voting.

6. If, while adjudicating upon a constitutional claim the votes of the members present at the sitting of the Plenum/Board are equally divided, the constitutional claim shall not be upheld.

7. If, while adjudicating upon a constitutional submission the votes of the members present at the sitting of the Plenum are equally divided, the unconstitutionality of the normative act or a part thereof, constitutionality of which is questioned by a court of general jurisdiction, as well as the violation of the Constitution by the President of Georgia or any person referred to in Article 64 of the Constitution of Georgia shall not be deemed established.

7¹ If while adjudicating upon a constitutional submission provided for by Article 422 of the present Law, the votes of the members present at the sitting of the Plenum are equally divided, the unconformity of the normative act or a part thereof, with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; or laws of Georgia. shall not be deemed established; (added on 25.11.04).

8. While considering and adjudicating upon a case, a Board shall act as the Constitutional Court.

(Article acquired a new wording on 12.02.02)

Article 22

1. The consideration of a constitutional claim or a constitutional submission shall not exceed six months from the admission of the case by the Constitutional Court for the consideration of the merits. Under the exceptional circumstances, the President of the Constitutional Court shall prolong the time-limit for the consideration of application.

2. The time-limit for the consideration of a constitutional claim concerning constitutionality of scheduling elections of the President of Georgia, the Parliament of Georgia, and a local representative body - Sakrebulo, Gangebeli and Mayor, and that concerning constitutionality of scheduling a referendum shall not exceed fifteen days from lodging the claim with the Constitutional Court.

3. The time-limit for the consideration of a claim concerning constitutionality of election of the President of Georgia shall not exceed seventeen days from lodging the claim with the Constitutional Court.

4. The time-limit for the consideration of a constitutional claim concerning constitutionality of referendum and election of the Parliament of Georgia and a local representative body – Sakrebulo, Gangebeli and Mayor shall not exceed 30 days from admission of the case by the Constitutional Court for the consideration of the merits. Under the exceptional circumstances the President of the Constitutional Court shall prolong the time-limit for the consideration (by no longer than 30 days).

5. The running of the time-limit, provided for by the first paragraph of the present Article, shall be suspended from the date, on which the constitutional claims provided for by paragraphs 2-4 of the present Article had been admitted to examination, until the Constitutional Court adopts a judgment with regard to the claims. The running of the above time-limit shall also be suspended from the date, on which a constitutional submission is admitted for the consideration until the Constitutional Court reaches a conclusion or a judgment with regard to the submission. (acquired a new wording on 25.11.04)

6. If, at the time of the consideration by the Constitutional Court of a constitutional claim, provided for by paragraphs 2-4 of the present Article, another claim specified in the same paragraphs entered the Constitutional Court, the term for the consideration of the latter shall be calculated from the day, when a judgment with regard to the claim being under the consideration of the merits is rendered.

(Article acquired a new wording on 12.02.02)

Article 23

1. Upholding a constitutional claim concerning the issues provided for by subparagraphs “a” and “e” of the first paragraph of Article 19 of the present Law, as well as ascertainment of unconstitutionality of a normative act or a part thereof in the case, provided for by the second paragraph of the same Article, shall result in recognition of invalidation of the normative act or the part thereof from the moment of the promulgation of the respective judgment of the Constitutional Court. (acquired a new wording on 12.02.02)

2. Upholding a constitutional claim concerning the issue, for by subparagraph “b” of the first paragraph of Article 19 of the present Law, shall result in invalidation of the normative act violating the competence from the moment of its enforcement. (changed on 12.02.02)

3. Upholding a constitutional claim concerning the issue, for by subparagraph “c” of the first paragraph of Article 19 of the present Law, shall result in annulment of the act of registration of the citizens' political association. (changed on 12.02.02)

4. Upholding a constitutional claim concerning the issue, provided for by subparagraph “d” of the first paragraph of Article 19 of the present Law, shall result in prohibition to hold the referendum on the issue submitted for referendum, cancellation of the scheduled referendum, or obliging to hold a referendum, cancellation of the scheduled election, or obliging for holding the election; recognition of annulment of the results of the election wholly or partially (in particular electoral districts or precincts). (the paragraph acquired a new wording on 12.02.02)

5. Upholding a constitutional claim concerning the issue, provided for by subparagraph “f” of the first paragraph of Article 19 of the present Law, as well as on the basis of a constitutional submission of a court of general jurisdiction, recognition as unconstitutional of an international treaty or agreement or certain parts thereof shall result in recognition of annulment of the international treaty or agreement or certain parts thereof in respect of Georgia, whereas on the basis of a constitutional submission, recognition of an international treaty or agreement or certain parts thereof as unconstitutional shall result in the inadmissibility of ratification of the international treaty or agreement. (the paragraph acquired a new wording on 12.02.02)

6. Upholding a constitutional claim concerning the issue, provided for by subparagraph “g” of the first paragraph of Article 19, shall result in:

a) recognition of invalidity from the moment of the entry into force of the respective resolution and restoration of the term of office of the member of the Parliament, provided the Parliament pre-term terminated the office;

b) recognition of invalidity from the moment of the entry into force of the respective resolution recognition of a mandate of a citizen as that of a member of the Parliament, where the Parliament did not recognise his/her mandate;

c) recognition of invalidity of the respective resolution from the moment of the promulgation of the judgment of the Constitutional Court and pre-term termination of the office of a member of the Parliament, where the Parliament did not pre-term terminate his/her office.

d) recognition of invalidity of the resolution (or a part thereof), by which the Parliament recognised the mandate of a member of the Parliament, from the moment of the promulgation of the judgment of the Constitutional Court. (paragraph acquired a new wording on 12.02.02)

7. On the issue, provided for by subparagraph “h” of the first paragraph of Article 19 of the present Law, the Constitutional Court shall adjudicate upon constitutionality of a person’s act referred to in Articles 63 and 64 of the Constitution. (changed on 12.02.02)

8. Upholding a constitutional claim concerning the issue, provided for by subparagraph “i” of the first paragraph of Article 19, shall result in recognition of invalidation of the impugned act or the part thereof from the moment of the promulgation of the respective judgment of the Constitutional Court. (added on 25.11.04).

9. On the issues, provided for by subparagraph “j” of the first paragraph of Article 19 of the present Law, finding of unconformity of normative acts of the Supreme Council of the Autonomous Republic of Ajara with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; and laws of Georgia shall result in recognition of invalidation of the impugned act or the part thereof from the moment of the promulgation of the respective judgment of the Constitutional Court. (added on 25.11.04).

10. On the issues provided for by paragraph 41 of Article 25 of the present Law the impugned act shall be invalidated from the moment of the promulgation of the respective ruling of the Constitutional Court. (added on 25.11.04).

Article 24

1. All state bodies, legal entities and individuals, political and public associations of citizens and the local self-government bodies shall be obliged to observe the requirements of and emanating from the authority of the Constitutional Court and its members in terms of the adjudication upon a case.

2. In terms of the adjudication upon a case the Constitutional Court and its members shall be authorised to receive information from every state body, legal entity and individual, scientific institution and information centre and to invite specialists in accordance with the Rules of the Court with the view of carrying out expert and consultative work.

3. Failure to observe or prevention from observing the requirements of and emanating from the authority of the Constitutional Court and its members shall be punishable by law.

Article 25

1. A judgment of the Constitutional Court shall be final and the failure to observe it shall be punishable by law.

2. A normative act or a part thereof recognised as unconstitutional shall cease to have the legal effect from the moment of the promulgation of the relevant judgment of the Constitutional Court, unless other term is provided for by the present Law.

3. A Constitutional Court act shall immediately be enforced after its promulgation, unless other term is provided for by the act.

4. After the Constitutional Court recognises a normative act or a part thereof as unconstitutional it shall be impermissible to adopt/enact such a legal act, which contains the norms analogous to those declared unconstitutional.

4¹ If at the administering sitting the Constitutional Court holds that the impugned normative act or the part thereof contains the norms analogous to those declared unconstitutional, whereas on the issues provided for by subparagraph “i” of the first paragraph of Article 19 of the Organic Law of Georgia “On the Constitutional Court of Georgia” is incompatible with the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, as well as on the issues, provided for by subparagraph “j” of the first paragraph of Article 19 of the present Law, is incompatible with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; and laws of Georgia, it shall deliver a ruling on inadmissibility of the case and recognition of invalidation of the impugned act or the part thereof. (added on 25.11.04)

5. If the Constitutional Court is satisfied that operation of an impugned normative act may have irremediable effects in respect to one of the parties to the proceedings, the Court may temporarily suspend the application of the impugned act or a relevant part thereof.

(Article acquired a new wording on 12.02.02)

Article 26

1. The Constitutional Court shall not be authorised to discuss conformity of the whole law or other normative act with the Constitution, if the claimant or author of the submission demands only recognition of a particular provision of the law or other normative act as unconstitutional.

1¹ In the cases provided for by Article 411 of the present Law the Constitutional Court of shall not be authorised to discuss conformity of whole normative act with the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, whereas in the cases provided for by Article 412 of the present Law- conformity with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; or the laws of Georgia, if the claimant or author of the submission demands only recognition of a particular provision of the impugned act as invalid. (added on 25.11.04).

2. In the cases, provided for by subparagraphs “a”, “b”, “e”, and “f” of the first paragraph and by the second paragraph of Article 19 of the present Law, the Constitutional Court, while assessing constitutionality of a normative act, shall:

a) examine conformity of the contents of the act with the Constitution;

b) ascertain whether the procedure established by the Constitution concerning adoption/enactment of, signing, promulgating and enforcing a legislative act is complied with. (the paragraph is added on 12.02.02)

3. During the examination of a normative act the Constitutional Court shall take into consideration not only the verbatim implication of the impugned provision, but also the genuine idea implied therein and the practice of its application, as well as the gist of the relevant constitutional provision. (the paragraph is added on 12.02.02)

Chapter IV

General procedure of consideration of and adjudication upon the cases before the Constitutional Court

Article 27

1. A case shall be considered at an open sitting of the Constitutional Court.
2. On the initiative of the Constitutional Court or upon the petition of the parties a sitting of the Constitutional Court or a part thereof may be closed to the public for the protection of personal, professional, commercial or state secret. The witnesses, experts and interpreters may be present at a closed sitting, if need be. Upon the petition of the parties, the Constitutional Court may entitle other persons to attend the closed sitting as well.
3. The Constitutional Court shall adopt a ruling on the consideration of the case at a closed sitting in the judges' deliberation room.
4. An individual under the age of sixteen shall not be admitted to a court sitting, unless he/she is a witness; nor shall an armed person other than those ensuring the security of the Constitutional Court, and the latter shall be admitted only by the permission of the President of the Constitutional Court.
5. The judgment of the Constitutional Court shall be delivered publicly.

Article 28

The legal proceedings before the Constitutional Court shall be conducted in Georgian. The Court shall be obliged to attach an interpreter to the participant to the case having no command of the language of the legal proceedings.

Article 29

The participants shall be entitled to get acquainted with the case-file, make extracts and photocopies thereof, adduce evidences, participate in the examination of evidences, put questions to witnesses, experts and specialists, petition the Constitutional Court, give the Court oral or written explanations, file submissions and give observations regarding all the issues raised during the consideration of the case, object to the petitions, conclusions and observations of the other party.

Article 30

1. At any stage of the proceedings the parties shall have the right to entrust the protection of their interests to a lawyer or other person having a higher legal education.
2. At any stage of the proceedings the parties shall have the right to entrust the discharge of their authorisation to their proxy - a representative.

Article 31

1. Lodging with the Constitutional Court a constitutional claim or a constitutional submission set out in writing shall be the basis for initiating a case before the Constitutional Court.
2. A constitutional claim or a constitutional submission shall be reasoned. The evidence which in the opinion of the claimant or the author of the submission corroborates the grounds of the claim or submission shall necessarily be adduced in the constitutional claim or a constitutional submission.

(The Article is elaborated into paragraphs on 12.02.02)

Article 32

Warning the witnesses before the Constitutional Court, application of measures against those violating the order at the court sitting and the examination of evidences shall be effected in accordance with the procedure prescribed by law.

Article 33

1. The President of Georgia, the Government of Georgia and not less than one fifth of the members of the Parliament of Georgia shall have the right to lodge a constitutional claim with the Constitutional Court concerning conformity with the Constitution of Georgia of the constitutional agreement, the laws of Georgia, the normative resolutions of the Parliament of Georgia, normative acts of the President of Georgia, the Government of Georgia, higher state bodies of Abkhazia and the Autonomous Republic of Ajara and the normative acts adopted/enacted by the relevant bodies before the enforcement of the Constitution of Georgia, as well as on conformity with the Constitution of adoption/enactment of, signing, promulgating and enforcing legislative acts and resolutions of the Parliament of Georgia .
2. The body against whose normative act the constitutional claim is lodged shall be the respondent to the cases, provided for by the first paragraph of the present Article; whereas the constitutional claim concerning a normative act adopted/enacted before the enforcement of the Constitution, the relevant body successor to that having adopted the act shall be the respondent and to the cases where no such body exists the Parliament of Georgia, the President of Georgia, the Government of Georgia, the higher representative or executive bodies of Abkhazia and the Autonomous Republic of Ajara respectively shall be the respondents in pursuance of the decision of the Constitutional Court.

(Article acquired a new wording on 25.11.04)

Article 34

1. The President of Georgia shall have the right to lodge a constitutional claim with the Constitutional Court concerning the scope of the competencies between the state bodies, if he/she considers that his/her competence have been infringed upon or the scope of the constitutional powers of state bodies are violated; not less than one fifth of the members of the Parliament of Georgia shall have the right to lodge a constitutional claim with the Constitutional Court, if they believe that the scopes of the constitutional powers of the Parliament of Georgia or another state body are infringed upon; the state bodies listed in Article 89 of the Constitution of Georgia shall also have such a right, if they believe that the scopes of their constitutional powers have been infringed upon.

2. The state body the normative act thereof in the claimant's opinion led to the infringement upon the claimant's constitutional competencies shall be the respondent to the cases listed in the first paragraph of the present Article. (changed on 12.02.02)

3. Upon the reception of a constitutional claim or a constitutional submission on competencies the Constitutional Court shall send a copy of the constitutional claim or a submission to the President of Georgia, the Government of Georgia, the Parliament of Georgia and the higher representative bodies of Abkhazia and Ajara. If within fifteen days of delivery of the copy, any of these bodies declares that upholding the constitutional claim or submission would cause infringement upon the scope of its power the Constitutional Court shall be obliged to invite the body as a party to the case. (acquired a new wording on 25.11.04).

Article 35

1. The President of Georgia, not less than one fifth of the members of the Parliament of Georgia and the higher state bodies of Abkhazia and the Autonomous Republic of Ajara shall have the right to lodge a claim with the Constitutional Court concerning constitutionality of the formation of political associations of citizens and their activity. (changed on 12.02.02)

2. The political associations of citizens and the body having registered it shall be the respondents to the cases, provided for by the first paragraph of the present Article. (changed on 12.02.02)

Article 36

1. The following shall have the right to lodge a constitutional claim to the Constitutional Court concerning constitutionality of holding a referendum:

a. not less than one fifth of the members of the Parliament of Georgia, if the President of Georgia on his/her own initiative or at the request of constituents has called or notwithstanding the request of Parliament of Georgia has not called a referendum;

b. the Public Defender of Georgia, if notwithstanding the electors' request a referendum is not called;

c. not less than one fifth of the members of the Parliament of Georgia, the Public Defender of Georgia, if they believe that the holding a referendum contradicts the requirements of Article 74.2 of the Constitution of Georgia.

d. at least one fifth of the members of the Parliament of Georgia, the President of Georgia, the Public Defender of Georgia, if they believe that the referendum is held in violation of the requirements laid down in the third paragraph of Article 74 of the Constitution of Georgia. (paragraph is added on 12.02.02)

2. To the cases, provided for by subparagraphs "a-c" of the first paragraph of the present Article the President of Georgia shall be the respondent, whereas in the cases, provided for by subparagraph "d" the Central Electoral Commission of Georgia shall be the respondent. (the paragraph acquired a new wording on 12.02.02)

3. In the cases, provided for by subparagraphs "a"- "c" of the same paragraph, the time-limit allowed for lodging a constitutional claim, defined in the first paragraph of the present Article, shall not exceed fifteen days from the expiry of the term established by the first paragraph of Article 74 of the Constitution of Georgia, or from the date, on which the referendum is

scheduled, whereas in the cases, provided for by the subparagraph “d” of the same paragraph, the time-limit shall not exceed seven days from the promulgation of the referendum results by the Central Electoral Commission. (the paragraph is added on 12.02.02)

Article 37

1. The following shall have the right to lodge a constitutional claim with the Constitutional Court on constitutionality of election:

a) at least one fifth of the members of the Parliament of Georgia and the Public Defender of Georgia, if they believe that election of the President of Georgia is scheduled in violation of the requirements laid down in the seventh and tenth paragraphs of Article 70 and/or the third paragraph of Article 76 of the Constitution of Georgia or they are not scheduled thus violating the same requirements;

b) at least one fifth of the members of the Parliament of Georgia, if they believe that election of the President of Georgia is held in violation of the requirements laid down in Article 28 and/or 70 of the Constitution of Georgia

c) at least one fifth of the members of the Parliament of Georgia and the Public Defender of Georgia, if they believe that general election or re-elections of the Parliament of Georgia, or occasional election of a new member of the Parliament due to the pre-term termination of a mandate of a member of the Parliament is scheduled in violation of the requirements laid down in the third and fifth paragraphs of Article 50 and/or the second paragraph of Article 73 of the Constitution of Georgia, or are not scheduled notwithstanding the requirements, as well as the President of Georgia, if he/she believes that the re-elections of the Parliament of Georgia or election of a new member of the Parliament due to the pre-term termination of a mandate of a member of the Parliament, is scheduled in violation of the requirements laid down in the fifth paragraph of Article 50 of the Constitution of Georgia, or are not scheduled notwithstanding the requirements;

d) the President of Georgia, not less than one fifth of the members of the Parliament of Georgia, if they believe that elections of the Parliament of Georgia are held in violation of the requirements laid down in Article 28, in the first and second paragraphs of Article 49 and/or Article 50 of the Constitution of Georgia;

e) not less than one fifth of the members of the Parliament of Georgia and the Public Defender of Georgia, if they believe that elections of the local self-government bodies are scheduled in violation of the requirements laid down in the fourth paragraph of Article 2 and/or the second paragraph of Article 73 of the Constitution of Georgia, or are not scheduled notwithstanding the requirements;

f) the President of Georgia, not less than one fifth of the members of the Parliament of Georgia, if they believe that elections of the local self-government bodies are held in violation of the requirements laid down in the fourth paragraph of Article 2 and/or Article 28 of the Constitution of Georgia.

2. Insofar as the first paragraph of the present Article is concerned:

a) to the case provided for by subparagraph “a” the Parliament of Georgia (concerning scheduling pre-term elections) or the Central Electoral Commission of Georgia shall be the respondent;

b) to the cases, provided for by subparagraphs “b” and “d” the Central Electoral Commission of Georgia shall be the respondent;

c) to the case provided for by subparagraph “c” the President of Georgia (concerning scheduling general elections) or Central Electoral Commission of Georgia (scheduling re-elections or occasional elections due to the pre-term termination of a mandate of a member of the Parliament) shall be the respondent;

d) to the case provided for by subparagraph “e” the President of Georgia (concerning scheduling general election) or the Central Electoral Commission of Georgia (scheduling re-elections, or occasional election of a Gangebeli/Mayor due to the pre-term termination of a mandate of a member of the Sakrebulo) shall be the respondent;

e) to the case provided for by subparagraph “f” the respective district electoral commission and/or the Central Electoral Commission of Georgia shall be the respondent.

3. Lodging with the Constitutional Court a constitutional claim concerning constitutionality of scheduling the election referred to in the present Article shall be permissible not later than 7 days from promulgation of a legal act on scheduling the election or expiry of the time-limit for scheduling, as provided for by the Constitution of Georgia and respective law.

4. Lodging with the Constitutional Court a constitutional claim concerning constitutionality of holding the election referred to in the present Article shall be permissible within three days from the promulgation of the election results by the Central Electoral Commission of Georgia.

(the Article acquired a new wording on 12.02.02)

Article 38

1. The President of Georgia, the Government of Georgia and not less than one fifth of the members of the Parliament of Georgia shall have the right to lodge a constitutional claim on constitutionality of international treaties and agreements or particular provisions thereof, whereas a constitutional submission shall be lodged by not less than one fifth of the members of the Parliament of Georgia. (acquired a new wording on 25.11.04)

2. A constitutional submission shall be lodged regarding constitutionality of those international treaties or agreements or particular provisions thereof, which are subject to ratification. A constitutional submission may be lodged before their ratification. (acquired a new wording on 12.02.02)

2¹. A constitutional claim shall be lodged regarding constitutionality of an international treaty or an agreement being in force or particular provisions thereof. A constitutional claim may be lodged:

a) within 30 days from the refusal of the Parliament of Georgia to denounce or annul a ratified international treaty or agreement, or particular provisions thereof;

b) not earlier than 31 and not later than 60 days from the raising before the Parliament of Georgia the issue of denunciation or termination of a ratified international treaty or agreement or particular provisions thereof, if the Parliament failed to take a decision on the issue within 30 days;

c) if an international treaty or agreement is not subject to ratification. (the paragraph is added on 12.02.02)

3. Lodging a constitutional claim concerning conformity with the Constitution of an international treaty, agreement or particular provisions thereof, which is ratified before recognition of the authority of the first composition of the Constitutional Court, shall be permissible after their ratification as well.

4. In the case provided for by the third paragraph of the present Article lodging a constitutional claim shall be possible within the term of three months after recognition of the authority of the first composition of the Constitutional Court. The consideration by the Parliament of Georgia of the issue of the denunciation of a treaty provided for by the third paragraph of the present Article shall suspend the running of the aforementioned term. (changed on 12.02.02)

5. (Deleted on 12.02.02)

6. In the case provided for by subparagraphs “a” and “b” of paragraph 21 of the present Article, the Parliament of Georgia shall be the respondent, whereas in the case provided for by subparagraph “c” the body/official having concluded the international treaty or agreement or their respective successors shall be the respondent. (changed on 12.02.02)

Article 39

1. The following shall have the right to lodge a constitutional claim on constitutionality of a normative act or a particular provisions thereof:

a) Citizens of Georgia, other individuals residing in Georgia and legal entities of Georgia, if they believe that their rights and freedoms recognised by Chapter Two of the Constitution of Georgia are infringed or may be directly infringed upon;

b) The Public Defender of Georgia, if he/she believes that human rights and freedoms, recognised by Chapter Two of the Constitution of Georgia, are infringed upon.

2. A body/official whose act in the opinion of the claimant led to the infringement upon the rights and freedoms recognised by Chapter Two of the Constitution of Georgia shall be the respondent to the cases under the present Article.

(the Article acquired a new wording on 12.02.02)

Article 40

1. The President of Georgia, not less than one fifth of the members of the Parliament of Georgia, as well as a citizen whose office as of a member of the Parliament is not recognised or is pre-term terminated by the Parliament of Georgia shall have the right to lodge a constitutional claim on constitutionality of the decision of the Parliament on recognition of the office or pre-term termination of the office of a member of the Parliament.

2. The Parliament of Georgia shall be the respondent to the cases under the present Article. (changed on 12.02.02)

3. The time-limit for submission of a constitutional claim under the present Article shall not exceed two weeks from the enforcement of the relevant decision of the Parliament of Georgia. (changed on 12.02.02)

Article 41

1. Not less than one third of the total number of the members of the Parliament of Georgia shall have the right to lodge a constitutional submission with the Constitutional Court in accordance with the procedure prescribed by the present Law, the organic Law of Georgia “On Impeachment” in order to obtain conclusions on the violation of the Constitution of Georgia by the President of Georgia, the President of the Supreme Court of Georgia, a member of the Government, the Prosecutor General, the President of the Chamber of Control or the members of the Council of the National Bank. (changed on 12.02.02)

2. While drafting its conclusion on the issue the Constitutional Court shall have the right to invite to the hearing the relevant officials.

3. (deleted on 12.02.02).

Article 41¹

1. In the cases, provided for by subparagraph “i” of the first paragraph of Article 19 of the present Law the President of Georgia, the Government of Georgia and not less than one fifth of the members of the Parliament of Georgia, Supreme Council of the Autonomous Republic of Ajara shall have the right to lodge a constitutional claim with the Constitutional Court.

2. In the case provided for by the first paragraph of the present Article, that body/official shall be the respondent, that violated the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”

(Article added on 25.11.04).

Article 41²

1. In the cases, provided for by subparagraph “j” of the first paragraph of Article 19 of the present Law the Parliament of Georgia shall have the right to lodge a constitutional submission by the resolution with the Constitutional Court on conformity of normative acts of the Supreme Council of the Autonomous Republic of Ajara with the Constitution of Georgia, the constitutional law of Georgia “On the Status of the Autonomous Republic of Ajara”, the constitutional agreement, international treaties and agreements of Georgia; and laws of Georgia.

2. Adoption for the consideration of the merits of the constitutional submission of the Parliament of Georgia shall result in suspension of the relevant normative act of the Supreme Council of the Autonomous Republic of Ajara until a final judgment is adopted by the court.

(Article is added on 25.11.04).

Article 42

1. In the cases, provided for by the second paragraph of Article 19 of the present Law a Court, considering a case shall be entitled to lodge a constitutional submission with the Constitutional Court. In such a case, the Constitutional Court shall consider the case in absentia of the author of

the constitutional submission and the body the act of which has become the subject of the dispute. (changed on 12.02.02)

2. A constitutional submission of the court hearing the case as referred to in the present Article shall imply the submission lodged in accordance with the decision reached by an individual judge or a collegial composition of the Court considering the case. (the paragraph is added on 12.02.02)

Article 43

1. The acts of the Constitutional Court shall be a judgment, a ruling, a recording notice and a conclusion. (changed on 12.02.02)

2. An act of the Constitutional Court shall be signed by all members of the Constitutional Court participating in the consideration of the case.

3. The act of the Constitutional Court not related to the consideration of a case shall be signed by the President and the Secretary to the Constitutional Court;

4. The Constitutional Court shall decide about the merits of the case in writing;

5. The Constitutional Court shall adopt recording notice on admission of a constitutional claim or a constitutional submission for the consideration of the merits, whereas a ruling shall be adopted on non-admission. (the paragraph acquired a new wording on 12.02.02).

5¹ In the cases provided for by paragraph 41 of Article 25 of the present Law the Constitutional Court shall adopt a ruling. (added on 25.11.04).

6. While considering the merits of the constitutional submission in the cases provided for by Articles 41 and 42 of the present Law the Constitutional Court shall adopt a judgment, whereas in the case provided for by the second paragraph of Article 38 and the first paragraph of Article 41 the Constitutional Court shall adopt a conclusion. (the paragraph acquired a new wording on 25.11.04)

7. A judgment, a ruling and a conclusion of the Constitutional Court shall be reasoned.

8. A judgment, a ruling, a recording notice and a conclusion of the Constitutional Court shall be final and shall not be subject to appeal or revision. (changed on 12.02.02)

9. Non-admission of a constitutional claim or a constitutional submission by the Constitutional Court shall exclude the admission of a repeated application or another constitutional claim or a constitutional submission on the same subject and the same grounds.

Article 44

1. The Plenum of the Constitutional Court shall be authorised to adopt a judgment, if the sitting is attended by not less than six members.

2. A constitutional claim shall be deemed upheld and a conclusion on the constitutional submission accepted, if it is supported by more than half of the members present at the sitting of the Plenum. (the paragraph acquired a new wording on 12.02.02)

Article 45

1. A Board of the Constitutional Court shall be authorised to consider a constitutional claim or a constitutional submission and adopt a judgment, if the sitting is attended by not less than three members.
2. A constitutional claim shall be deemed upheld, if it is supported by more than half of the members participating in the sitting of the Board. (the paragraph acquired a new wording on 12.02.02)

Article 46

1. A party shall have the right to claim before the Constitutional Court considering the case for the recusation of a member of the Constitutional Court participating in the consideration of the case if:

- a. the member of the Constitutional Court is a close relative either of a party or of its representative;
- b. the member of the Constitutional Court is directly or indirectly interested in the outcomes of the case, or if there are other circumstances which raise doubts as to the impartiality of the member of the Constitutional Court.

2. A member of the Constitutional Court shall have the right to withdraw from the participation in the consideration of a case where the grounds provided for by the present Article exist.
3. The application on the recusation or withdrawal of a member of the Constitutional Court shall be deemed upheld, if it is supported by more than half of the members participating in the sitting of the Constitutional Court.

Article 47

1. A member of the Constitutional Court participating in the consideration of a case shall be authorised to form a dissenting opinion, which shall be set out in writing.
2. The dissenting opinion of a member of the Constitutional Court shall be attached to the minutes of the sitting of the Constitutional Court and at the author's request shall be promulgated in the press together with the constitutional court judgment.
3. A constitutional court judgment, together with the dissenting opinion, shall be promulgated in full in the official gazette of the Constitutional Court.

Article 48

A member of the Constitutional Court shall not be authorised to reveal the gist of the deliberations held while adopting judgment by the Constitutional Court, nor the position held by a member of the Constitutional Court while voting.

Article 49

The costs of the proceedings before the Constitutional Court shall be borne by the state budget.

Article 50

1. State taxes shall be imposed on:
 - a. constitutional claims and constitutional submissions;
 - b. A ruling and a judgment of the Constitutional Court upon its repeated delivery.
2. The amount and the payment procedure of state taxes shall be defined by law.
3. The Constitutional Court shall not be authorised to exempt anybody from paying the state taxes, increase or decrease its amount.

Article 51 (Deleted on 12.02.02)

Article 52

A member of the Constitutional Court while considering a case in the Constitutional Court shall wear special attire, the style thereof shall be defined by the Rules of the Constitutional Court.

Article 53

1. The Constitutional Court shall possess the State Seal with State Emblem and the name of the Court on it.
2. The seat of the Constitutional Court shall be at the city of Tbilisi. (changed on 12.02.02)
3. The State Flag of Georgia shall be hoisted on the administrative building of the Constitutional Court. (added on 12.02.02)
4. The State Flag of Georgia shall be present in the courtroom and the offices of the judges of the Constitutional Court. (added on 12.02.02)

President of Georgia

Eduard Shevardnadze

Tbilisi,

31 January 1996