

Law of Georgia on Constitutional Legal Proceedings

Chapter one.

Principles of Constitutional legal proceedings.

Article 1.

1. Constitutional legal proceedings are exercised before the Court on the basis of equality and compatibility of the parties.
2. Individuals and bodies listed in the first part of articles 33, 34, 35, 36, 37, 38, 39, 40, 41 and Article 42 of Georgia's Law "on the Constitutional Court of Georgia" are equally authorised to directly address the Constitutional Court.
3. The parties enjoy equal rights and opportunities to prove their demands, deny or reject demands, convictions and proofs of the other party.

Article 2.

1. The Constitutional Court considers a case at the open sitting.
2. The sitting of the Constitutional Court or a part of it may be closed on the initiative of the Constitutional Court or by appeal of the parties for protection of the state, personal, professional and commercial secrecy. Witnesses, experts and interpreters may be present at a closed sitting in case of necessity. The Constitutional Court may also allow other persons to be present at the closed sitting by appeal of the parties.
3. The Constitutional Court takes the decision on consideration of the case at the closed sitting in the conference room.
4. Persons under age 16 are not admitted to the Court's sitting, unless he/she is a witness. Armed persons are also not admitted to the Court's sitting, except persons defending the Constitutional Court. The latter would be admitted only by permission of the Chairman of the Constitutional Court.
5. Radio, tele, audio or video recording at the Court's sitting is possible only by the permission of the Court considering a specific case.

Article 3.

Legal proceedings are exercised in Georgian at the Constitutional Court. The Court is obliged to provide a participant in a case who does not possess the language of the legal proceedings with an interpreter.

Article 4.

1. Only the judges directly participating in consideration of the case are authorised to take the decision. If any of the judges is changed consideration of the case starts anew.
2. Removal of any judge participating in consideration of a case does not prevent further discussion of the case, if number of the left judges forms a quorum.

Article 5.

Court's sitting is directed orally. The Court is obliged to hear explanations and speeches of participants of legal proceedings, also depositions of witnesses, experts and specialists; publish affidavits of record in the case and presented by participants of the process.

Article 6.

1. The Court's sitting, and meetings of the judges on working days passes without a break.

2. The Court is authorised to postpone or stop consideration of the case, if the summoning of additional witnesses and specialists, holding of examination, consideration of the case is necessary. Consideration of the case is continued from the point at which it was stopped.
3. In consideration of any case the term should end as determined by article 22 of Georgia's law "on the Constitutional Court of Georgia". This term does not envisage a term determined by this law for preparation of the case for consideration.
4. A judge of the Constitutional Court participating in consideration of a case is not authorised to take part in consideration of other cases before termination of a postponed or stopped case.

Article 7.

1. The Court takes its decision in the conference room by openballoting. During the conference and taking decision only those judges may be present at the conference room who participate in consideration of this case.
2. A judge participating in the case has no right to refrain from voting.
3. A member of the Constitutional Court participating in consideration of a case is authorised to retain his/her particular opinion while taking a decision, which is set forth in writing.
4. The particular opinion of a member of the Constitutional Court is added to the minute of sitting of the Constitutional Court and on the author's request is published in press together with the decision of the Constitutional Court.
5. The decision of the Constitutional Court together with individual opinions is published in full form at the official printing body of the Constitutional Court.

Article 8.

1. No one has the right to require an account or explanation of a specific case from a member of the Constitutional Court.
2. A member of the Constitutional Court is not authorised:
a) to express opinions or give consultation to anyone on the correspondence of laws for consideration or other acts to the Constitution, before consideration of a case begins or outside the Court's sitting.
b) to reveal the essence of a conference held while taking a decision by the Constitutional Court or the position held by a member of the Constitutional Court during balloting.

Article 9.

The right to jointly consider and decide the case by the Constitutional Court is determined by articles 44 and 45 of Georgia's law "on the Constitutional Court of Georgia".

Chapter two.

Judgement and Participants of Constitutional legal proceedings.

Article 10.

1. Issues listed in the first part of articles 19 and 20 of Georgia's law "on the Constitutional Court of Georgia" are judged by the Constitutional Court of Georgia.
2. Issues judged by Plenum and boards of the Constitutional Court are differentiated by the first and second parts of article 21 of Georgia's law "on the Constitutional Court of Georgia".

Article 11.

1. The Constitutional Court is not authorised to judge the correspondence of the whole law or other normative act to the Constitution if the applicant or submission's author

request recognition only of certain norm (provision) of law or other normative act as unconstitutional.

2. If applicant or submission's author requires a decision on several issues, part of which should be judged in the Constitutional Court and the other part is within the competence of another body of authority, the Constitutional Court considers only those issues which are within its competence according to the law "on the Constitutional Court of Georgia".

Article 12.

1. The participants in a Constitutional legal proceedings are:
 - a) parties, individuals and bodies, which are considered either as applicants or as defendants according to articles 33, 34, 35, 36, 37, 38, 39 and 40 of law "on the Constitutional Court of Georgia";
 - b) representatives of the parties, who are authorised to act on behalf of the parties by the procedure determined by the law on civil procedure;
 - c) defenders of the parties' interests - attorneys or other persons having high legal education, who participate in legal proceedings, together with the parties or their representatives;
 - d) the Constitutional Court considers issues envisaged by clause "h" of article 19 and article 20 of Georgia's law "on the Constitutional Court of Georgia" without participation of the parties and their representatives. The Constitutional Court is authorised to summon appropriate officials and hear their explanations, but does not recognise them as parties, while preparing conclusion on issues envisaged by clause "h" of article 19.

Article 13.

1. Participants in Constitutional legal proceedings have equal rights to get acquainted with the materials of the case, make transcripts, copies, participate in investigation of proofs, deliver proofs, put questions to one another, witnesses, experts and specialists, appeal to the Constitutional Court, give oral or written explanations to it, submit their conclusions and express opinions on all the issues raised during Court consideration, reject mediations, conclusions and convictions of the other party, come out with concluding remarks.
 2. The applicant is authorised to change subject and basis of the initial request and withdraw the demand of his claim. Withdrawal of demands of a claim, also abrogation of the disputed act or its recognition as invalid during the considering of the case, causes suspension of the case at the Constitutional Court.
 3. The author of the submission is authorised to withdraw consideration of the Constitutional submission and requires suspension of the case at the Constitutional Court at any stage of Constitutional legal proceedings on issue envisaged by clause "h" of article 19 of Georgia's law "on the Constitutional Court of Georgia". For this purpose he/she should address the Constitutional Court, which is obliged to satisfy the demand.
 4. A court submitting a case to the Constitutional Court is not authorised to withdraw consideration of the Constitutional submission and require suspension of the case at the Constitutional Court.
 5. A defendant is authorised to recognise a claim fully or partially at any stage of Constitutional legal proceedings. Recognition of the claim by a defendant does not cause suspension of the case at the Constitutional Court. Article 14.
- The participants in Constitutional legal proceedings are obliged to conscientiously use their rights. Deliberate supplying of the Constitutional Court with forged documents causes liability envisaged by law.

Chapter three.
Beginning of Constitutional legal proceedings and acceptance of cases for consideration.

Article 15.

1. Introduction of a Constitutional Submission to the Constitutional Court is beginning a case at the Constitutional Court.
2. A Constitutional Submission should be introduced only on the issues envisaged in clause "h" of Article 19 and Article 20 of law "on the Constitutional Court of Georgia" and the a Constitutional Claim should be introduced on all other issues.

Article 16.

1. In a Constitutional Claim or a Constitutional Submission should be indicated:
 - a) the name of the Constitutional Court;
 - b) the name and address of an applicant or submission's author as that of the defendant;
 - c) the name of a disputed act and its publishing body, also other requisites of a disputed act;
 - d) the proofs, which to an applicant's or the Constitutional Submission's author's opinion, prove the importance of the Constitutional claim or the Constitutional submission;
 - e) the provisions of the Constitution of Georgia which in the applicant's or the Constitutional submission's author's opinion is violated by, or does not correspond with the disputed act;
 - f) the essence of the demand;
 - g) the norms of the Constitution of Georgia, law "on the Constitutional Court of Georgia" and this law, which give the right to an applicant or to the author of the Constitutional submission to introduce the Constitutional claim or the Constitutional submission to the Constitutional Court;
 - h) a list of documents added to the Constitutional claim or the Constitutional Submission and a list of the persons and their addresses, who should be summoned to the Constitutional Court in the applicant's or the Constitutional submission's author's opinion.
2. The Constitutional claim or the Constitutional Submission should necessarily contain:
 - a) a text of a disputed normative act;
 - b) a document proving the authority of representatives of an applicant or Constitutional submission's author;
 - c) a certificate of a banking institution for payment of the state tax;
 3. The Constitutional claim or the Constitutional submission as well as the added documents should be drafted in the language of legal proceedings.

Article 17.

1. The Constitutional claim or the Constitutional Submission introduced in the Constitutional Court is passed to one of the boards for a decision on the issue of acceptance of the case for consideration by the procedure determined by the regulations of the Constitutional Court.
2. The board is obliged to consider and decide the issue on acceptance of the Constitutional claim or the Constitutional submission for consideration at the procedural sitting within the term of 7 days after receiving the Constitutional claim or the Constitutional Submission.
3. One of the members of the board reports the case to the board.

Article 18.

The Constitutional claim or the Constitutional Submission is not accepted for consideration, if:

- a) either by form or by contents it does not correspond to the demands established by article 16 of this law; b) is not submitted by the authorised individual or body (subject); f) the disputed issue indicated in it is not within the competence of the

Constitutional Court:

- d) the disputed issue indicated in it has already been decided by the Constitutional Court;
- e) the disputed issue indicated in it is not governed by the Constitution of Georgia.

Article 19.

Non-acceptance of a Constitutional claim or a Constitutional Submission for consideration because of the reasons indicated in clauses "c", "d" and "e" of article 18 of this law excludes acceptance of the Constitutional claim or the Constitutional submission on the same subject and the same basis again.

Article 20.

The Constitutional Court is obliged to summon the applicant, his/her representative and attorney to the procedural sitting and hear their explanations of issues envisaged by article 18 of this law, if they address the Constitutional Court in written.

Article 21.

In the decision on acceptance of a Constitutional Claim or a Constitutional Submission for consideration it should be indicated: a) the time and place of taking the decision; b) the name of the Constitutional Court, composition and the Secretary of the sitting; ñ) the participants considering the case and subject of dispute; d) the issue on which the decision should be taken; e) the motives and provisions (norms) of the Constitution of Georgia, law "on the Constitutional Court of Georgia" and this law on the basis of which the Court accepted or did not accept the Constitutional claim or the Constitutional submission for consideration. f) the decision of the Constitutional Court on acceptance or in acceptance of the Constitutional claim or the Constitutional submission for consideration; g) the date of substantive consideration of the case. The substantive consideration of the case should start not later than the 15th day from the day of taking the decision; h) the name of the Constitutional Court considering the case substantively.

Article 22.

The Constitutional Court takes the decision at the conference room by open balloting. The Chairman of the sitting announces the decision at the Court room.

Article 23.

The proceedings are formed about the procedural sitting of the Constitutional Court by the right determined by article 34 of this law.

Chapter four.

Substantive consideration and decision of the case.

Article 24.

1. Plenum of the Constitutional Court substantively considers the case at the Plenum's sitting, which is presided over by the Chairman of the Constitutional Court or the acting Chairman.
2. Plenum is authorised to substantively consider the case and take decision if its sitting is attended by 6 members at least.
3. The board of the Constitutional Court substantively considers the case at the board's sitting, which is presided over by the chairman of the board or the acting chairman.
4. The board is authorised to substantively consider the case and take decision if its sitting is attended by 3 members at least.

Article 25.

1. Before starting substantive consideration of the case the chairman of the sitting:

- a) opens sitting of the Constitutional Court of Georgia and announces the case which should be considered substantively;
 - b) verifies judges' quorum and announces the Secretary of the sitting responsible for holding the sitting;
 - c) verifies authorities of the parties;
 - d) determines reasons of presence and absence of participants, witnesses, experts and specialists of legal proceedings; e) announces composition of the Constitutional Court considering the case and the Secretary of the sitting;
 - f) explains to the participants of the legal proceedings their rights and duties determined by Georgia's law "on the Constitutional Court of Georgia" and this law;
 - g) determines whether participants of the legal proceedings desire summoning of additional witnesses, experts and specialists or requirement of additional proofs. The Court decides upon the appeals received on these issues at the Court room by the majority of votes;
 - h) announces starting of substantive consideration of the case.
2. The party is authorised to raise question on challenge of the member expert, specialist or interpreter of the Court participating in consideration of the case before the Constitutional Court considering the case, if:
- a) a member, expert, specialist or interpreter is a close relative either of a party or its representative;
 - b) a member, expert, specialist or interpreter is directly or indirectly interested in the results of the case, or if there exist other circumstances, which doubt impartiality of member of the Constitutional Court. A member, expert, specialist or interpreter of the Constitutional Court is authorised to avoid participating in consideration of a case if there exist a basis envisaged by this clause.
- The Constitutional Court decides the issue of a challenge by the procedure determined by procedural legislation.

Article 26.

1. Substantive consideration of a case starts with the reporting of the case by a speaker - the member of the Constitutional Court; the speaker is obliged to report the basis for starting consideration of the case at the Constitutional Court as well as the basis for starting substantive consideration of the case in the Constitutional Court, and the contents of the materials existing within the case; answer questions of the members of the Constitutional Court participating in consideration of the case.
2. After reporting the case, the Constitutional Court hears the applicant's explanations first and then - the defendant's. A member of the Constitutional Court participating in the consideration of the case is authorised to put questions to the parties and their representatives.
3. After hearing the parties the Constitutional Court hears the depositions of the witnesses, experts and specialists, publishes affidavits existing within the case or presented by the participants in the case consideration. The chairman of the sitting determines the qualification and suitability of experts and specialists before their examination, also warns them in writing on the responsibility envisaged by law for refusal to testify or deliberate false depositions or forged conclusions. The chairman also warns an interpreter of the responsibility for deliberate wrong translation.
4. A member of the Constitutional Court participating in the consideration of the case is authorised to put questions to witnesses, experts and specialists.
5. The chairman of the sitting is authorised to withdraw question to the parties, witnesses, experts and specialists on mediation of parties and by consent of the majority of members of the Court participating in consideration of the case.

Article 27.

Measures are taken against order violators of the Court's sitting; responsibilities are

also charged for deliberate supplying with forged documents and refusal to testify or deliberate false deposition by the right established by criminal code of Georgia and process legislation.

Article 28.

The Constitutional Court hears concluding remarks of the participants of the case consideration after considering every prove existed within the case. Applicant or his/her representative and attorney come out first. After hearing concluding remarks the Court leaves for the consulting room, about what the chairman of the sitting reports to the participants of the case consideration and other persons present at the Court room.

Article 29.

1. The chairman of the sitting announces judgement or conclusion at the Court room after signing the judgement or conclusion of the Constitutional Court by the members of the Court participating in consideration of the case.
2. The judgement or conclusion of the Constitutional Court is announced on behalf of Georgia.

Article 30.

The judgement or conclusion of the Constitutional Court should be well explained. The Constitutional Court uses only those proofs for the basis of judgement or conclusion which were considered at the sitting of the Constitutional Court.

Article 31.

Judgement and conclusion of the Constitutional Court are composed of the following parts: introduction, description, motivation and resolution.

Article 32.

1. The introductory part of judgement or conclusion of the Constitutional Court should indicate a) the name of the Constitutional Court; b) the date and place of taking judgement or conclusion; f) the composition of the Court and the Secretary of the sitting;
- d) the participants of the case consideration and subject of dispute.
2. In description part should be indicated:
 - a) the demand of the author of the Constitutional Claim or the Constitutional submission; the position of a defendant.
 - 3. The explanation part should indicate:
 - a) the circumstances determined by the Constitutional Court;
 - b) the proofs on which conclusions of the Constitutional Court are based;
 - c) the motives on the basis of which the Constitutional Court rejects opposite convictions and proofs;
 - d) the norms (provisions) of the Constitution of Georgia to which the disputed act corresponds or does not correspond; e) the norms of the Constitution of Georgia, the law "on the Constitutional Court of Georgia" and this law, by which the Constitutional Court was guided while taking judgement or conclusion.
 - 4. The resolution part should include:
 - a) the decision of the Constitutional Court on satisfying or rejecting fully or partially the Constitutional claim or the Constitutional submission; legal results of judgement or conclusion.

Article 33.

1. The judgement of the Constitutional Court of Georgia is enforced from the moment of its public announcement at the sitting. Judgement of the Constitutional Court is published at the official printing body within the term of 7 days.

2. Originals of judgement are sent to the parties and copies of conclusion-to the authors of the Constitutional Submission and the appropriate officials indicated in clause "h" of article 19 of law "on the Constitutional Court of Georgia".
3. Originals of judgement and conclusion are necessarily sent to the President, the Parliament and the Supreme Court of Georgia.

Article 34.

1. The proceedings on the sitting of the Constitutional Court are reformed by the Secretary of the sitting considering the case.
2. In the proceedings of the Court's sitting should be indicated: date and place of the Court's sitting; date of beginning and terminating the Court's sitting; name of the Constitutional Court, judges participating in consideration of the case as well as the judges not participating in consideration of the case for some reason; Secretary of the sitting; name of the case; information on participants, witnesses, experts, specialists and interpreters of the case and also on explanation of their rights and duties to them; orders of the chairman and decrees adopted by the Constitutional Court at the Court room; statements and explanations of the participants of the case; consideration; depositions of witnesses, experts and specialists; affidavits published by the Constitutional Court.
3. The proceedings of the Constitutional Court are signed by the Chairman and Secretary of the sitting.

Article 35.

1. Other rights for preparation of the cases for consideration and organisation of the Constitutional Court are determined by the regulations of the Constitutional Court.
2. The chairman of the Constitutional Court is obliged to submit the regulations of the Constitutional Court to the Plenum of the Constitutional Court for confirmation within 15 days after his/her election.
3. The regulations are considered confirmed, if at least 6 members of the Constitutional Court supported it during open balloting.

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