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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT OPINION**  
**ON THREE DRAFT CONSTITUTIONAL LAWS AMENDING**  
**TWO CONSTITUTIONAL LAWS AMENDING**  
**THE CONSTITUTION**

**OF GEORGIA**

**on the basis of comments by**

**M. Jean-Claude SCHOLSEM (Substitute Member, Belgium)**  
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## **I. Introduction**

1. By a letter of 31 July 2013, the Georgian authorities requested the Venice Commission to provide an opinion on three draft constitutional Laws amending respectively two constitutional Laws amending the Constitution which have not yet entered into force or the text of the current Constitution (CDL-REF(2013)024).
2. Mr Jean-Claude Scholsem and Mr Evgueni Tanchev acted as rapporteurs.
3. Since the amendments will be discussed in the Georgian Parliament as from the second week of September, with the authorisation of the Bureau the draft opinion was forwarded to the Georgian authorities on 10 September 2013.

## **II. Preliminary remarks**

4. The Constitution of Georgia was adopted on 24 August 1995. Since then, it has been amended several times.
5. The Venice Commission has assisted the authorities of Georgia in respect of several sets of constitutional amendments: in 2004 (Opinion on draft amendments to the constitution of Georgia, CDL-AD(2004)008); in 2006 (Opinion on the draft constitutional law on amendments to the Constitution of Georgia, CDL-AD(2006)040); in 2009 (Opinion on four constitutional laws amending the Constitution of Georgia (CDL-AD(2009)017rev and Opinion on a draft constitutional law on the amendments to the Constitution of Georgia (CDL-AD(2009)030); in 2010 (Final opinion on the draft constitutional law on amendments and changes to the Constitution CDL-AD(2010)028).
6. After the last parliamentary elections, the majority in parliament changed. The proposed reform is the proposal of the new majority. The 2010 constitutional reform made the Georgian system evolve from a semi-presidential system towards a more parliamentary one. The current reform does not fundamentally call into question this trend.
7. The draft amendments under examination in this draft opinion mostly intend to repeal amendments which have been adopted in 2010 and 2011 but have not yet entered into force and should enter into force “upon the oath taken by the newly elected President in October 2013”. One of the amendments, however, concerns an Article of the Constitution which is already in force (Art. 29).
8. The draft amendments are analysed below in the order of appearance of the Articles in the Constitution. A table is appended to this document which sets out the reference of the draft Laws under examination and the reference of the Laws they are amending, the current version of the Article of the Constitution, the wording of the 2010 or 2011 version and the amendments proposed by the amendments under examination (see appendix p 10). It should be pointed out that the form in which this reform is presented does not make it easily understandable to the members of the public who are primarily concerned and should be the main beneficiaries of the modifications of the fundamental Law.
9. This opinion is based on an English translation of the draft Laws. The translation may not accurately reflect the original version on all points and, certain comments may result from problems in the translation.

### III. Analysis of the draft amendments

#### 1. Amendment to Article 29, § 1<sup>1</sup> of the Constitution (double citizenship and public functions)

10. Article 29, § 1<sup>1</sup> of the Constitution had been introduced by the constitutional revision of 2010. This Article provides that the office of the President of Georgia, the Prime-Minister and the Chairman of the Parliament may not be occupied by a person who is simultaneously a citizen of Georgia and a foreign country.

11. This provision was analysed by the Venice Commission in its last opinion on the draft constitutional law on amendments and changes to the Constitution<sup>1</sup> CDL-AD(2010)028. Double citizenship is generally excluded in Georgia, with narrow exceptions. Citizens of foreign countries may be granted the citizenship of Georgia by the President of Georgia only in two cases: either if they have a special merit before Georgia or if granting them the citizenship is due to State interests.

12. In its previous opinion, the Venice Commission stated: “in each country’s public-service sector certain posts involve responsibilities in the general interest or participation in the exercise of powers conferred by public law which justify that the State should have a legitimate interest in requiring of these servants a special bond of trust and loyalty, The posts of President of the Republic, Prime Minister and Speaker of parliament belong to this category. In the Venice Commission’s view, they may therefore legitimately be reserved to persons who only hold the Georgian citizenship”.

13. In other words, this limitation was considered as part of the margin of appreciation of states.

14. The suppression of this limit linked to the double nationality does not raise any legal objection.

#### 2. Amendment to Article 68.4 of the Constitution and 102 § 3 (Revision of the Constitution)

15. Article 68.4 deals with the procedure for adopting Laws and the majority to be reached by Parliament to adopt Laws, in particular laws amending the Constitution. The amendments proposed concern the required majority for the adoption of an organic Law.

#### Procedure of revision of the Constitution today

16. Today, a revision of the constitution is adopted by one vote at a majority of two thirds of the total number of the members of Parliament.

17. The President, more than half of the total number of the members of the Parliament or not less than 200,000 electors are entitled to submit a draft law on general or partial revision of the Constitution:

18. A draft law on the revision of the Constitution shall be submitted to the Parliament, which shall promulgate the former for public discussion. The Parliament shall begin the discussion of the draft law after a month from its promulgation (promulgation) (art. 102, § 2).

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<sup>1</sup> CDL-AD(2010)028 Final opinion on the draft constitutional law on amendments and changes to the Constitution, §§ 21 and 22.

19. It shall be deemed adopted if it is supported by at least two thirds of the total number of the members of Parliament of Georgia (art. 102 § 3).

20. The law on the revision of the Constitution shall be signed and promulgated by the President of Georgia in accordance with a procedure provided for by Article 68 of the Constitution (art. 102 § 4).

21. Like for ordinary Laws, the President may return the draft to the Parliament with reasoned remarks. The Parliament shall put to the vote the remarks of the President. Remarks of the President shall be rejected by no less than two third of the total number of the members of the Parliament.

22. The constitutional amendments of 2010 and 2011 have been adopted under this procedure: one single vote with a majority of two third of the total number of the members of the Parliament. The same procedure will apply to the amendments of July 2013 under examination.

Procedure of revision of the Constitution after the entry into force “upon the oath taken by the newly elected President in October 2013” of the amendments of 2010 and 2011

23. A revision of the constitution is adopted by two votes held at least 3 months interval at a majority of three-fourths of the total number of the members of Parliament.

24. The right of initiative belongs to more than half the members or no less than 200,000 voters (Article 102, § 1) The right of initiative of the President shall, in accordance with the Constitutional Law of 15 October 2010, disappear after elections presidential elections of October 2013.

25. The proposed revision is submitted to parliament that can begin to discuss it a month after its receipt, to promote public discussion (art. 102, § 2).

26. The draft is approved after two votes, cast in two subsequent sessions, by the three-fourths majority of the total number of members (art. 102, §3).

27. The law on the revision of the Constitution shall be signed and promulgated by the President of Georgia in accordance with a procedure provided for by Article 68 of the Constitution. Like for ordinary Laws, the President may return the draft to the Parliament with reasoned remarks. The Parliament shall put to the vote the remarks of the President. Remarks of the President shall be rejected by no less than three fourths of the total number of the members of the Parliament.

Proposed Procedure of revision of the Constitution according to the amendments under examination

28. The constitutional bill of July 2013 proposes to repeal, on the one hand, the reflection period of at least three months between the two votes (2010 reform) and, on the other hand, the need to achieve a three-fourths majority for the adoption of a constitutional reform and to reject the president's remarks (2011 reform)

29. The amendments of 2010 and 2011 would be repealed before having entered into force. Article 102, § 3 of the current constitution would remain in force: « The draft law on the revision of the Constitution shall be deemed to be adopted if it is supported by at least two thirds of the total number of the members of the Parliament of Georgia. »

30. The procedure for amending the constitution is one of the most sensitive issues of any constitution. It is also a highly political issue that can only be determined in light of the history of the country and its political and legal culture.

31. The Venice Commission has devoted an extensive study to the process of revising the Constitution (CDL-AD(2010)001). It stressed that there is no "magic formula". The challenge is to balance the requirements of rigidity and flexibility. The report states, however, that "if there is not a "best model", then there is at least a fairly wide-spread model – which typically requires a certain qualified majority in parliament (most often 2/3), and then one or more additional obstacles – either multiple decisions in parliament (with a time delay), or additional decision by other actors (multiple players), most often in the form of ratification through referendum"<sup>2</sup>.

32. The question arose as to whether the "new democracies" would tend towards a very rigid regime (to preserve the new democratic gains) or a more flexible regime (in order to adapt to rapid social changes). This question was also highly controversial. The Venice Commission noted, however, that " a majority of the new democracies chose a middle-of-the-road solution, usually with the requirement of a 2/3 parliamentary majority and a certain time delay, but without other very strict obstacles"<sup>3</sup>.

33. The report further states "When faced with the question of constitutional amendment procedures, the Venice Commission has several times expressed its concern over excessively rigid procedures and warned against the difficulty of constitutional reform. In other cases, the Commission has been confronted with the opposite challenge, that too frequent amendments of (or attempts to amend) the constitution negatively affect constitutional and political stability. (The Commission) has thus stressed that the constitution cannot "be amended in conjunction with every change in the political situation in the country or after a formation of a new parliamentary majority"<sup>4</sup>.

34. The report finally concludes<sup>5</sup>: "It is neither possible nor desirable to try to formulate in the abstract a constitutional amendment optimal model. The point of balance between rigidity and flexibility may be different from one state to another, depending on the social and political context, constitutional culture, age, level of detail and the characteristics of the constitution, and number of other factors, especially as this balance is not static and can move over time according to social, economic and political transformations."

35. The fact that the Georgian constitution is revised on important issues - even including the revision procedure - modified recently (2010 and 2011) and that these recent amendments are repealed even before they came into force, suggests that the current amendment process, which would re-enter into force because of the repeal, may not be rigid enough for the harmonious development the state and the Georgian society, in the medium and long term.

36. This was already expressed by the Commission in its opinion CDL-AD(2010)028. This opinion concerned the 2010 reform which introduced the period of reflection of three months between the two votes on the constitutional amendment. The Commission considered the system of a single vote by 2/3 majority of the total number of MPs as insufficiently protective

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<sup>2</sup> CDL-AD(2010)001 Report on constitutional amendments, § 62.

<sup>3</sup> CDL-AD(2010)001 Report on constitutional amendments, § 67.

<sup>4</sup> CDL-AD(2010)001 Report on constitutional amendments, § 106.

<sup>5</sup> CDL-AD(2010)001 Report on constitutional amendments, § 107.

and considered the introduction of a double vote separated by a period of three months as "nevertheless a step forward, (...) probably the best option at this stage"<sup>6</sup>.

37. The proposed amendment would be equivalent to a return to the pre-2010 system and calls for the same reservations.

38. Indeed there is, in this system, a period of one month before the text of the amendment is considered by the Parliament, but the second vote and the time that must separate these two votes are removed. Since there is only one vote, the revision may be adopted in a hurry and there is no counterweight by another chamber/house, representing other interests. It is true that, the President may make comments and send the text back to parliament, which introduces in itself a period of reflection, but it is only a possibility and moreover the majority to reject the president's remarks is the same as that required to pass the constitutional amendment.

39. This system seems to be leaning toward an excess of flexibility and is not sufficiently protective of the constitution.

40. The fact that the draft amendments of July 2013 modify amendments that have not yet even entered into force only illustrates and confirms this deficiency.

### **3. Amendment to Article 81 of the Constitution (question of confidence)**

41. This amendment seeks to delete Article 81<sup>1</sup> as it was introduced by the revision of 2010, a text that would come into force "upon the oath taken by the newly elected President in October 2013".

42. The text proposed for deletion introduced into the law of the Georgian Constitution a mechanism similar to that of Article 49, paragraph 3 of the French Constitution. The Prime Minister may engage the responsibility of government on a text. In this case, the text is adopted without a formal vote, unless a motion of censure is passed by parliament<sup>7</sup>.

43. In its opinion CDL-AD(2010)028, the Venice Commission had considered the new mechanism (the repeal of which is now proposed) as "coherent with the mixed system of government". But it also noted that "[t]he parliament's refusal to declare its confidence in the government opens the procedure of constructive confidence provided in Article 81. In this context, the real margin of manoeuvre of the parliament, faced with the threat of dissolution, can therefore be questioned"

44. The repeal of the new Article 81<sup>1</sup> will give back greater freedom to Parliament in the adoption of legislation and is therefore welcome.

45. It is to be noted, however, that former Article 81<sup>1</sup> would be reinstated. According to this provision changing the composition of the government in the proportion of one-third, but not less than five members, equates the formation of a new government and requests the

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<sup>6</sup> CDL-AD (2010) 028 Final opinion on the draft constitutional law on amendments and changes to the Constitution, §108 and 109

<sup>7</sup> It was, as in French law, a kind of fiction (art. 81-1 § 4 "A draft law shall be deemed adopted"-compare with art. 49, paragraph 3 of the French Constitution "In this case, the draft is considered adopted "). This mechanism could be considered the "masterpiece of rationalization of [parliamentarism]."J. Gicquel, *Droit constitutionnel et institutions politiques*, Montchrestien, Paris, 11<sup>ème</sup> éd., 1991, p. 788. Note also that art. 49, paragraph 3 of the French Constitution was amended in 2008 and this mechanism is now limited to finance laws, laws on the funding of social security and one Bill by session.

confidence of parliament. The President of Georgia shall submit the new composition of the Government to the Parliament for confidence. This might be problematic in case of successive changes of government, each remaining below the afore-mentioned limits, but which would exceed these limits if combined.

#### **4. Amendment to Article 93 of the Constitution (approval of the state budget)**

46. Point 2 of the Constitutional Law on introduction of changes to the Constitutional Law of Georgia "on introduction of changes and amendments to the Constitution of Georgia"

47. This amendment introduces a new § 4<sup>1</sup> in Article 93 as it results from the constitutional revision of 2010. This text provides that if the parliament is not able to adopt the budget within the two months of the fiscal year, this should be considered as a motion of non-confidence, motion subject to the procedure of § § 2-5 of Article 81. Article 81 is one of the articles amended in 2010 (see appendix 2). The reform introduced the constructive vote of no confidence. The proceeding will be the following: Parliament will have to agree on the name of a candidate Prime Minister to submit to the President (with a majority of more than half of the members of parliament). The President will have 5 days to nominate or refuse to nominate the candidate; if the President nominates the candidate, confidence shall be voted to the new composition of the Government; if Parliament does not vote confidence, the President shall within three days dissolve parliament and call early elections.

48. This new paragraph might be intended to counterweight the suppression of the possibility for the prime Minister to raise the question of confidence in relation to a draft law (see above § 42). However, it should be noted that the new mechanism is automatic and not left to the discretion of the Prime Minister.

49. In its former opinion in 2010, the Venice Commission had noted: « the role of the parliament in budget matters is too limited. Indeed, only the government has legislative initiative in budget matters (Article 93 § 1), the parliament cannot change the draft budget (§ 3) and increased public spending, reduced revenues or additional financial obligations vis-à-vis the current budget need to be approved by the government (§ 6). It would seem appropriate that the parliament be more significantly involved in budget matters.»<sup>8</sup>

50. This new amendment put a greater pressure on the parliament and further reduces its leeway in budgetary matter. Indeed, unless the parliament agrees on the name of a new Prime Minister, the Parliament has to vote the budget if it does not want to cause dissolution and new elections.

51. Moreover, the starting point of the period may raise some questions. Budgets are intended to be voted before the start of the fiscal year. This is reflected in Article 93, § 2, which requires the government to table the proposed budget at least three months before the end of the fiscal year. Article 93 § 4 draws the logical consequence: "If the Parliament fails to approve the proposed budget within three months, the last year budget shall cover the expenses".

52. The new period of two months from the beginning of the fiscal year is therefore added to the three months, making a total of five months. From the beginning of the fiscal year, the regime of Article 93 § 4 applies: it is a system of provisional credits ("last year budget shall cover the expenses"). If the new period of two months is exceeded the same regime of provisional credit will continue to apply throughout the proceedings of the constructive vote of mistrust, and, if the motion fails, at least until the elections.

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<sup>8</sup> CDL-AD(2010)028 Final opinion on the draft constitutional law on amendments and changes to the Constitution, §98.

53. To sum up, the new provision appears to significantly weaken the budgetary powers of parliament. Care should be taken to harmonise the new text with the other provisions of Article 93.

**5. Amendment to Article 102 §3 of the Constitution of Georgia (Revision of the Constitution)**

54. This Article of the Constitution had been amended twice (in 2010 and 2011). According to the new amendments, the new wording of Article 102 § 3 would be the current drafting. See analysis of Articles 68 §4 and 102 §3 supra § 15 to 40.

**6. Amendment to the Constitutional Law on changes and amendments to the Constitution of Georgia (entry into force of certain provisions)**

55. According to this amendment, "Paragraphs 11, 14, 16-21, 24-35, 39 and 44 of the Article 1 of this law shall be *enacted after the President elected as a result of the 2013 October Presidential Elections take oath*". The former draft referred to amendments "shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections"

56. The aim of the amendment is not completely clear. It seems to be a mere technical correction to correctly identify the entry into force of the constitutional law of 2010 « On Introduction of Changes and Amendments to the Constitution of Georgia ».

**IV. Conclusion**

57. In its last opinion the Venice Commission concluded that "it would be desirable to further strengthen the power of the Parliament". The reform underway is ambiguous in this respect. On the one hand, it will give back greater freedom to Parliament in the adoption of legislation (with the repeal of Article 81<sup>1</sup> in its 2011 version) and, on the other hand, further weaken the budgetary powers of parliament (new wording of Article 93).

58. As concerns the procedure for revising the constitution, the reinstatement of the current procedure - one vote at 2/3 majority of the total number of MPs - cannot be considered satisfactory. When analysing the 2010 revision of this procedure, which introduced two votes at three months of interval at the same majority, the Venice Commission welcomed the reform and noted that it provided a limited protection of constitutional stability. The removal of the two subsequent votes without any measure to compensate but combined with a return to the 2/3 majority requirement can only be considered as a step back. An appropriate balance must be found between flexibility and constitutional stability.

59. The Venice Commission remains at the disposal of the Georgian authorities for further assistance.



**Appendix I Table (reference of draft Laws and wording of amendments)**

Amendment	Current wording of the Constitution	Wording of provisions after the amendments of 2010 and/or 2011 which should enter into force after the Presidential election of October 2013	Proposed wording of the amendments under examination in this opinion
<p><b>1<sup>st</sup> draft</b></p> <p><b>Constitutional Law on introduction of changes to the Constitutional Law of Georgia “on introduction of changes and amendments to the Constitution of Georgia”</b></p> <p>“To withdraw Article 81.1 defined by § 33 of article 1 ...”</p>	<p><b>Article 81<sup>1</sup></b></p> <p>1. After the declaration of confidence to the Government and its governmental program, in case of renewal of the first composition of the Government by one third, but not less than 5 members of the Government, the President of Georgia shall submit a composition of the Government to the Parliament for confidence within a week.</p> <p>2. Declaration of confidence to the composition of the Government by the Parliament shall be exercised in accordance with a procedure established by Article 80 of the Constitution.</p>	<p><b>Article 81<sup>1</sup></b></p> <p>1. The Prime-Minister shall be entitled to raise before the Parliament the question of confidence of the Government in relation to the initiated draft law.</p> <p>2. The Parliament shall vote to the draft law within 14 days after raising the question provided by the Paragraph 1 hereunder. The draft law shall be adopted by one hearing according to the procedure prescribed by article 66 in accordance with the procedure of adoption of a category of law in question.</p> <p>3. If the draft law is not adopted, this shall be deemed as the decision provided by the Paragraph 1of the Article 81 and the procedures prescribed by Paragraphs 3 and 4 of the Article 81 shall be continued.</p> <p>4. A draft law shall be deemed adopted, if the Parliament does not declare non-confidence within the terms and conditions provided by Paragraphs 3 and 4 of the Article 81.”</p>	<p><b>Article 81<sup>1</sup></b></p> <p>1. After the declaration of confidence to the Government and its governmental program, in case of renewal of the first composition of the Government by one third, but not less than 5 members of the Government, the President of Georgia shall submit a composition of the Government to the Parliament for confidence within a week.</p> <p>2. Declaration of confidence to the composition of the Government by the Parliament shall be exercised in accordance with a procedure established by Article 80 of the Constitution.</p>
<p>“To add after §4 of Article 93, defined by § 39 of Article 1 the §4.1”</p>	<p><b>Article 93</b></p> <p>1.Only the Government of Georgia after the agreement with the committees of the Parliament on the basic data and directions shall be authorised to submit the Draft Budget to the Parliament by the consent of the President of Georgia.</p> <p>2. The Government shall submit the Draft Budget of next year to the Parliament not later than three months before the end of the budget year. Together with the Draft Budget, the Government shall submit a report on the progress of the fulfilment of the State Budget of the current year. The Government shall submit a report on the</p>	<p>1. Only the Government of Georgia is authorized to submit the Draft State Budget to the Parliament after examination of the main data and directions with the Parliamentary Committees</p> <p>2. The Government shall present the draft budget for the coming year no later than three months before the end of the current budget year. Along with the draft budget the Government shall present the report on implementation of the current budget. The Government shall present the report on implementation of the state budget to the Parliament</p>	<p>1. Only the Government of Georgia is authorized to submit the Draft State Budget to the Parliament after examination of the main data and directions with the Parliamentary Committees</p> <p>2. The Government shall present the draft budget for the coming year no later than three months before the end of the current budget year. Along with the draft budget the Government shall present the report on implementation of the current budget. The Government shall present the report on</p>

	<p>fulfilment of the State Budget to the Parliament for approval not later than three months from the end of the budget year. In case of non-fulfilment of the State Budget the Parliament does not approve a report on the fulfilment of the State Budget; the President of Georgia shall consider the issue of liability of the Government and inform the Parliament on his/her founded decision within a month.</p> <p>3. The President shall approve the State Budget by a decree if it is not approved by the Parliament within a term established by the Constitution in cases defined by subparagraphs "a"-“d” of Article 51.1 of the Constitution.</p> <p>4. The introduction of changes in the Draft Budget without the consent of the Government shall be impermissible. The Government shall be authorised to request the Parliament for the additional state expenditure, only if it indicates the sources of covering the latter.</p> <p>5. The Parliament shall be authorised to control the legality of expenditure of the State Budget and in case of revealing the violation make a request on suspension of expenditure of the budget means before the President of Georgia. In case of confirming of illegal expenditure the President shall adopt a relevant decision.</p> <p>6. If the Parliament fails to adopt the Budget submitted in accordance with a procedure established by paragraph 2 of this Article within three months, the President of Georgia shall be authorised to dismiss the Government or dissolve the Parliament and schedule extraordinary elections.</p> <p>7. In case of dissolution of the Parliament due to unapproved State Budget the President shall approve the State Budget by a decree and submit to the Parliament within a month from the recognition of the authority of the newly elected Parliament.</p> <p>8. A draft law which results in increase of expenditure of the State Budget of the current</p>	<p>for approval no later than 5 months before the end of the current budget year.</p> <p>3. The draft budget shall not be amended without the consent of the Government. The Government may claim Parliamentary approval of additional expenditure only if it can indicate the source for such expenditure.</p> <p>4. If the Parliament fails to approve the proposed budget within 3 months, the last year budget shall cover the expenses.</p> <p>5. The draft law that may entail increase of expenditure of the State Budget, decrease of revenues or new financial undertakings may be adopted by the Parliament only with the consent of the Government. The draft law of the coming financial year shall be approved within the frames of document on parameters and directions submitted by the Government.</p> <p>6. The Parliament shall control the legality of utilization of the state financial resources through the Chamber of Control of Georgia.</p> <p>7. In order to ensure extensive and stable economic growth, the principles of economic policy shall be determined by the Organic Law.</p>	<p>implementation of the state budget to the Parliament for approval no later than 5 months before the end of the current budget year.</p> <p>3. The draft budget shall not be amended without the consent of the Government. The Government may claim Parliamentary approval of additional expenditure only if it can indicate the source for such expenditure.</p> <p><b>§4.1</b>  <b>If during the two months after the beginning of the new budgetary year the parliament is not able to adopt the State budget, this will be considered as a motion of non-confidence and procedures defined by Paragraphs 2 – 5 of Article 81 will continue. If the parliament fails to vote non-confidence to the government in the terms defined by paragraphs 2-4 of the same Article, within three days after expiry of those terms, the President of Georgia will dissolve the parliament and will call for extraordinary elections.</b></p> <p>5. The draft law that may entail increase of expenditure of the State Budget, decrease of revenues or new financial undertakings may be adopted by the Parliament only with the consent of the Government. The draft law of the coming financial year shall be approved within the frames of document on parameters and directions submitted by the Government.</p> <p>6. The Parliament shall control the legality of utilization of the state financial resources through the Chamber of Control of Georgia.</p> <p>7. In order to ensure extensive and stable economic growth, the principles of economic policy shall be determined by the Organic Law.</p>
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	year, reduction of an income or taking of the new financial obligations by the State, may be adopted by the Parliament only after the consent of the Government, whereas the above mentioned laws with regard to the next financial year- by the Government within the scope of the basic parameters of the State Budget agreed with the Parliament		
"To withdraw sub-paragraph "b", § 44 of Article 1"	<b>Art 102 §3.</b> The draft law on the revision of the Constitution shall be deemed to <b>be adopted if it is supported by at least two thirds of the total number of the members of the Parliament of Georgia.</b>	<b>Art 102 §3.</b> The draft law on the revision of the Constitution shall be deemed as <b>adopted, if supported by no less than three fourth of the total composition of the Parliament of Georgia on two subsequent sessions of the Parliament of Georgia held within the interval of at least 3 months.</b> "	<b>Art 102 §3</b> The draft law on the revision of the Constitution shall be deemed to be <b>adopted if it is supported by at least two thirds of the total number of the members of the Parliament of Georgia.</b>
"To formulate § 3 of Article 3 in the following wording ..."		Paragraphs 11, 14, 16-21, 24-35, 39 and 44 of the Article 1 of this law shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections	Paragraphs 11, 14, 16-21, 24-35, 39 and 44 of the Article 1 of this law shall be enacted after the President elected as a result of the 2013 October Presidential Elections take oath
<b>2<sup>nd</sup> draft</b> <b>Constitutional Law on changes to the Constitution of Georgia</b>  "To withdraw §1 of Article 29 of the Constitution of Georgia..."	<b>Article 29</b>  1. Every citizen of Georgia shall have the right to hold any state position if he/she meets the requirements established by legislation.  1 <sup>1</sup> The office of the President of Georgia, the Prime-Minister and the Chairman of the Parliament may not be occupied by a person who is simultaneously a citizen of Georgia and a foreign country. (15.10.2010 N3710 shall enter into force on January 1, 2011)  2. The conditions of public office shall be determined by law.	NA	<b>Article 29</b>  1. Every citizen of Georgia shall have the right to hold any state position if he/she meets the requirements established by legislation.  2. The conditions of public office shall be determined by law.
<b>3<sup>rd</sup> draft</b>  <b>The constitutional Law on change to the Constitutional Law "on change to the Constitution of Georgia"</b>  "the §4 and 5 of Article 1 (of the constitutional Law "on change to the Constitutional Law of Georgia) shall be withdrawn"	<b>Article 68 §4</b>  If the Parliament rejects the remarks of the President, the initial redaction of the draft law shall be put to the vote. A law or an Organic Law shall be deemed to be adopted if it is supported by not less than three fifths of the number of the members of the Parliament on the current nominal list. <b>The constitutional amendment shall be deemed to be passed if it is supported by not less than two thirds of the total number of the members of the Parliament.</b>	<b>Article 68 §4</b>  If the Parliament rejects the remarks of the President, the initial draft shall be put to vote. Draft law shall be deemed adopted if it is supported by more than half of the listed number of MPs. Draft organic law shall be deemed adopted if it is supported by more than half of the total composition of the parliament. <b>Draft constitutional law shall be deemed adopted if it is supported by no less than three fourths of the total number of the members of the Parliament.</b> "	<b>Article 68 §4</b>  If the Parliament rejects the remarks of the President, the initial redaction of the draft law shall be put to the vote. A law or an Organic Law shall be deemed to be adopted if it is supported by not less than three fifths of the number of the members of the Parliament on the current nominal list. <b>The constitutional amendment shall be deemed to be passed if it is supported by not less than two thirds of the total number of the members of the Parliament.</b>

	<p><b>Article 102 §3</b></p> <p>The draft law on the revision of the Constitution shall be deemed to be <b>adopted if it is supported by at least two thirds of the total number of the members of the Parliament of Georgia.</b></p>	<p><b>Article 102 §3</b></p> <p>The draft law on the revision of Constitution is to be deemed as adopted, if it is supported by <b>no less than three fourth of the total composition of the Parliament of Georgia on two subsequent sessions held at least with 3 months interval.</b>”.</p>	<p><b>Article 102 §3</b></p> <p>The draft law on the revision of the Constitution shall be deemed to be <b>adopted if it is supported by at least two thirds of the total number of the members of the Parliament of Georgia.</b></p>
<p>“the §3 of Article 2 (of the constitutional Law “on change to the Constitutional Law of Georgia) shall be withdrawn”</p>	<p>NA</p>	<p>NA</p>	<p><del>3. Paragraphs 4 and 5 of the Article 1 of this law shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections.</del>  <b>withdrawn</b></p>

**Appendix II : Articles 80, 80<sup>1</sup>, 81 and 81<sup>1</sup>****Article 80**

1. After taking the oath by the President of Georgia, the Government shall withdraw the authority before the President of Georgia. The President shall uphold the withdrawal of the authority of the Government and be entitled to charge the Government with the exercise of the responsibilities until the appointment of a new composition.

2. The President of Georgia within 7 days from the resignation, dismissal and withdrawal of the authority of the Government after the consultations with the Parliamentary Factions shall choose a candidate of the Prime Minister, whereas the candidate of the Prime Minister - the candidates of the members of the Government by the consent of the President within a term of 10 days. Within 3 days from the end of the procedure envisaged by the first sentence of this paragraph the President of Georgia shall submit the composition of the Government to the Parliament for confidence.

3. Within a week from the submission of the composition of the Government by the President of Georgia the Parliament shall consider and vote the issue of declaration of confidence to the composition of the Government and the Governmental program. The confidence of the Parliament shall be gained by the majority of the total number of the members of the Parliament. The members of the Government shall be appointed within a term of three days from the declaration of confidence.

The Parliament shall be entitled to declare non-confidence to the composition of the Government and raise a question of recusal of a particular member of the Government in the same decision. In case of approval of the decision of the Parliament on the refusal by the President the refused person shall not be appointed in the same composition of the Government instead of a dismissed or resigned member.

4. In case a composition of the Government and its governmental program do not gain the confidence of the Parliament, the President of Georgia shall submit the same or a new composition of the Government to the Parliament within a term of a week. The Parliament shall exercise the procedure provided for by paragraph 3 of this Article.

5. In case a composition of the Government and the program of the Governmental thereof do not gain the confidence of the Parliament for three times, the President of Georgia shall nominate a new candidate of the Prime Minister within a term of 5 days or appoint the Prime Minister without consent of the Parliament, whereas the Prime Minister shall appoint the Ministers by the consent of the President of Georgia within a term of 5 days as well. In such a case the President of Georgia shall dissolve the Parliament and schedule extraordinary elections.

6. It shall be impermissible to put the issue of dismissal of the President of Georgia in accordance with impeachment procedure during the procedures envisaged by this Article. (6.02.2004.N3272)

**(Article 80 (15.10.2010. N3710 shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections)**

1. After the approval of the newly-elected Parliament, the Government shall be deemed as dismissed and the President of Georgia shall authorize the same Government to perform its duties until formation of a new Government.

2. Within seven days after the dismissal of the Government, the President of Georgia shall nominate a candidate of Prime-Minister proposed by the political party with the best results in the Parliamentary elections.

3. The candidate for the Prime-Minister shall, within seven days, nominate the candidates of ministers and present the composition of the Government to the Parliament of Georgia for the vote of confidence. The Government program shall be submitted together with composition of the Government.

4. The Parliament of Georgia shall, within seven days after submission of composition of the Government, discuss and vote the question of confidence for the composition of the Government. Support of majority of the enlisted members of the Parliament shall be required to receive the vote of confidence of the Parliament.

5. In case the Government does not receive the vote of confidence, a re-voting shall be held within 30 days after submission of composition of the Government to the Parliament in relation with the vote of confidence towards the initially submitted or revised composition of the Government.

6. If a candidate of the Prime-Minister is not presented or the Parliament does not grant the vote of confidence to the Government in compliance with the procedure prescribed by paragraph 5 and envisaged period, the President shall, within seven days, nominate a Prime-Minister from the candidates proposed by no less than two fifth of the enlisted members of the Parliament. If two candidates have been proposed by different compositions of the members of the Parliament, the President shall nominate the candidate proposed by the majority members of the Parliament, and in case the candidates are nominated by equal number of the members of the Parliament, the President shall nominate either candidate.

7. In the case prescribed by the Paragraph 6 hereunder, selection of the members of the Government and granting of vote of confidence to the composition of the Government shall be carried out according to the procedure provided by the Paragraphs 3-4 hereunder. If the Parliament fails to grant the vote of confidence to the composition of the Government, the President of Georgia shall, within 3 days, dissolve the Parliament and appoint extraordinary elections.

8. The President of Georgia shall, within two days after granting the vote of confidence to the composition of the Government, appoint a Prime-Minister, and the Prime-Minister shall, within two days, appoint other members of Government. If the President fails to issue the legal act on appointment of the Prime-Minister in the mentioned period, he/she shall be deemed as appointed.)

**(Article 80<sup>1</sup> (15.10.2010. N3710 shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections)**

1. In case of dissolution of authority of the Government, the President of Georgia shall, within seven days, nominate a candidate of Prime-Minister submitted by the Parliamentary majority, or if such majority is not formed yet, the Parliamentary faction in which the most members of the Government are included.

2. Selection and granting the vote of confidence to the members of the Government shall be carried out according to the procedure provided by the Paragraphs 3-8 of Article 80.

3. In case of the circumstances provided by Paragraph 1 hereunder, the President of Georgia shall impose the obligations to the same composition of Government till formation of new Government.

## **Article 81**

1. The Parliament shall be entitled to declare non-confidence to the Government by the majority of the total number. Not less than one third of the total number of the members of the Parliament shall be entitled to raise a question of declaration of non- confidence. After the declaration of non-confidence to the Government the President of Georgia shall dismiss the Government or not approve the decision of the Parliament. In case the Parliament declares non- confidence to the Government again not earlier than 90 days ant not later than 100 days, the President of Georgia shall dismiss the Government or dissolve the Parliament and schedule extraordinary elections. In case of circumstances provided for by subparagraphs "a"-“d” of Article 51.1 re-voting of non-confidence shall be held within 15 days from the end of these circumstances.

2. The Parliament shall be entitled to raise the question of declaration of unconditional non-confidence to the Government by a resolution. In case the Parliament declares non-confidence to the Government by the majority of three-fifth of the total number of the members of the Parliament not earlier than 15 days and not later than 20 days from the adoption of the resolution, the President shall dismiss the Government. In case the Parliament does not declare non-confidence to the Government, it shall be impermissible to put the question of non-confidence to the Government within next 6 months.

3. In case of dismissal of the Government in accordance with a procedure provided for by paragraph 2 of this Article the President of Georgia shall not be entitled to appoint the same person as a Prime Minister in the next composition of the Government or nominate the same candidate of the Prime Minister.

4. The Prime Minister shall be entitled to put the question of confidence of the Government on the draft laws on the State Budget, Tax Code and a procedure of the structure, authority and activity of the Government considering at the Parliament. The Parliament shall declare the confidence to the Government by the majority of the total number. In case the Parliament does not declare the confidence to the Government, the President of Georgia shall dismiss the Government or dissolve the Parliament within a week and schedule extraordinary elections.

5. Voting the declaration of confidence shall be held within 15 days from the putting of the question. Failure of voting during this term shall mean the declaration of confidence.

6. A relevant draft law shall be deemed adopted upon the declaration of confidence to the Government by the Parliament.

7. It shall be impermissible to put the question of dismissal of the President of Georgia in accordance with impeachment procedure during the procedures provided for by this Article. (6.02.2004.N3272)

### **(Article 81 (15.10.2010. N3710 shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections)**

1. The Parliament shall be entitled to declare non-confidence to the Government. No less than two fifths of the total members of the Parliament shall be entitled to raise a question of non-confidence.

The voting in relation to non-confidence shall be held not earlier than 20 and no later than 25 days.

The question of non-confidence shall be deemed as started if more than half of members of the Parliament support this decision. If the Parliament does not make the decision on rising

of question of non-confidence, appealing to the Parliament on rising of the question of non-confidence by the same members of the Parliament, within 6 month after voting, shall not be admitted.

2. The Parliament shall, not earlier than 20 days and no later than 25 days after commencement of discussion of non-confidence, vote to submission of the candidate of the Prime-Minister, nominated by at least two-fifths of the members of the enlisted composition of the Parliament, to the President. If two candidates are nominated according to the procedure of this paragraph, both of them shall be put on the vote. A candidate of Prime-Minister shall be submitted to the President if voted more than half of enlisted members of the Parliament. A non-submission of candidature of Prime-Minister under the procedure of this paragraph means termination of the non-confidence procedure.

3. The President shall be entitled to, within 5 days after submission of the candidate of Prime-Minister, nominate the candidate of Prime-Minister or to refuse the nomination of the submitted candidate. If the President nominated the candidate submitted by the Parliament, confidence shall be declared to new composition of the Government according to the procedure provided by Paragraphs 3-4 of the article 80.

4. If the President refuses nomination of the candidate of Prime-Minister presented to him by the Parliament in the case provided by Paragraph 3, the parliament shall be authorized to vote for submission of the same candidate of Prime-Minister to the President not earlier than 15 days and no later than 20 days after submission of the candidate. If submission is supported by the three fifths of the enlisted members of the Parliament, the President shall be obliged to nominate the candidate of Prime-Minister submitted to him within 3 days. Declaration of confidence to new composition of the Government shall be carried out according to the Paragraph 3-4 of article 80.

5. Declaration of confidence by the Parliament to the new composition of the Government according to the procedure prescribed by Paragraphs 3 or 4 hereunder shall be deemed as declaration of non-confidence to the Government, causing dissolution of its authorities. Appointment of new Prime-Minister and Government shall be carried out according to paragraph 8 of article 80.

6. In case of declaration of non-confidence by the Parliament to new composition of Government according to the procedure prescribed by paragraphs 3 or 4 hereunder, the President shall be authorized to dismiss the Parliament and appoint extraordinary elections within 3 days.)

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

1. After the declaration of confidence to the Government and its governmental program, in case of renewal of the first composition of the Government by one third, but not less than 5 members of the Government, the President of Georgia shall submit a composition of the Government to the Parliament for confidence within a week.

2. Declaration of confidence to the composition of the Government by the Parliament shall be exercised in accordance with a procedure established by Article 80 of the Constitution.

**(Article 81<sup>1</sup>(15.10.2010. N3710 shall enter into force upon taking of the oath by the President elected through next 2013 October Presidential Elections)**

1. The Prime-Minister shall be entitled to raise before the Parliament the question of confidence of the Government in relation to the initiated draft law.

2. The Parliament shall vote to the draft law within 14 days after raising the question provided by paragraph 1 hereunder. The draft law shall be adopted by one hearing according to the procedure prescribed by article 66 in accordance with the procedure of adoption of a category of law in question.

3. If the draft law is not adopted, this shall be deemed as the decision on raising the question of non-confidence provided by the paragraph 1 of the article 81 and the procedures prescribed by paragraphs 2 - 4 of articles 81 shall be continued.

4. A draft law shall be deemed adopted, if the Parliament does not declare non-confidence within the terms and conditions provided by paragraphs 2-4 of the article 81.)