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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**

(VENICE COMMISSION)

**BASIC PROVISIONS  
FOR THE CONCEPT OF REFORMING  
THE CONSTITUTION  
OF THE REPUBLIC OF ARMENIA**

## BASIC PROVISIONS FOR THE CONCEPT OF REFORMING THE CONSTITUTION OF THE REPUBLIC OF ARMENIA<sup>1</sup>

The RA Constitution adopted in 1995 has played an essential role in the development of democracy and its irreversibility, in finding constitutional solutions in critical situations, in the gradual establishment of state power institutions, and in the provision of guarantees for human rights protection. Also, another evidence of that is the positive process of accession of the Republic of Armenia to the Council of Europe, which is now in its final stage.

At the same time, the current processes in the social domain, the constitutional practice, the new problems of social relations development and the enhancement of democracy demand certain constitutional reforms. The need for that has matured and become a subject of broad discussions amongst specialists, as well as in social and political discourse. General approaches and fundamentally different stances are also noteworthy.

Constitutional reforms have been necessitated first of all by the following problems:

1. RA Constitution lacks a clearly defined approach to human rights as an ultimate value; besides, human dignity is stipulated not as an object of constitutional law but as an object of criminal and civil law, the approach to this issue characteristic of the former Soviet legal system has not been overcome. The State, with its three branches of power and local self-government, performs the function of a mechanism implementing human rights and freedoms. Hence, the enrichment and reinforcement of the so-called human dimension in the Constitution is regarded as the main direction of Constitutional reform. Meanwhile, over the last five years, a number of contradictions have emerged which exist between the provisions of RA Constitution and the reality in various spheres of domestic political, economic, social and cultural life, which directly influence the solution of the problem of worthy human life. The prevalent role of natural human rights has not been specified, there is no clear distinction between the right and law, moreover, there is a danger of subordination of the right to the law. The main problem of the reform is: to achieve the ultimate goal of ensuring maximum implementation of human rights and freedoms in the Republic of Armenia through procedure and structure of state governance and political system.
2. There is inconsistency in the implementation of the principle of separation of powers; the existence of separated, mutually checking and balancing legislative, executive and judicial powers is deficiently ensured. In particular, the place of the RA President is not clear in the system of state power, as well as the President's responsibility in the sphere of executive power. Also, there is a need to specify the place and role of the institution of Prime Minister in the system of executive power ;

The efficiency of lawmaking and the actual supervisory role of the RA National Assembly are not high, and essential improvements are possible as a result of certain constitutional reforms, particularly, by granting greater independence, by overruling the exclusive right of the RA President to dissolve the National Assembly (Article 84), and by reinforcing the

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<sup>1</sup> Basic provisions were endorsed by the working group of the Venice commission during discussions at Strasbourg on April 25-26, 2000.

counterbalancing influence of the National Assembly when other branches of power perform their actions.

3. The problems of constitutional guarantees for the independence of judicial power require a number of new fundamental approaches. In this respect, Articles 94, 95, 101 and 103 in the Judicial Power Section of the Constitution are in need of revision. As a result of reforms an administrative court may be created whose mission must be the provision of compliance of government decrees and other secondary legislation acts to laws by means of their overruling, in case of their contradiction to law. Equally important is the creation of specialised courts (economic, military, revenue, etc.) the need for which must be clearly stipulated in the Constitution. The necessity arises to establish a representative body and independently functioning magistrate council to guarantee the self-governance of the judicial power. The system of constitutional justice must become more efficient by completing and summarising the list of subjects and objects of constitutional supervision.
4. The methodological approach to *Territorial Governance and Local Self-Government* Section of the Constitution must be fundamentally reviewed in order to overcome confusion and to regard local self-government as an independent democratic institutional system of the society, by stipulating necessary and sufficient constitutional guarantees for the independence of local self-government, in order to ensure that local self-government is not considered a subordinate link of governance derived from state governance, but an independent democratic sub-system of the society.
5. Also, there is a need to clarify and edit the language of certain Articles in order to eliminate some inner contradictions.

As a result of the first meeting with the working group of the Venice Commission and with due notice taken of its subsequent report, the concept of RA Constitutional reforms shall be based on the following approaches:

1. The starting point is the basic principle according to which natural and inalienable human rights and freedoms must be recognised by the state as an ultimate value, must be provided with guaranteed protection, and must prescribe the nature and limitations of power as implemented by the state and the people, being based on the need to stipulate constitutional guarantees for human dignity.
2. Constitutional norms must promulgate not just constitutional human rights, but also extremely clearly define the guarantees for their implementation and the liabilities of the state and the limits for restricting of certain rights.
3. It is necessary to provide proportionality and harmony between basic constitutional principles, on the one hand, and the norms and mechanisms providing for their implementation, on the other hand.
4. The principles of the supremacy of right and the rule of law must be clearly stipulated in the Constitution; the supreme role of the Constitution in the system of legal acts and the supreme role of law as concerns secondary legislation must be defined.

5. It is necessary to overcome drawbacks and shortcomings in the implementation of the principle of separation of powers by means of applying a systemic approach. Particularly:
  - a) to clarify the place of the RA President in the system of state power;
  - b) to clarify the RA President-National Assembly-Government relations, to complete the framework of functions, powers, and checks and balances in these relations;
  - c) to clarify the RA President-judicial power relations, in order to enhance the constitutional guarantees for the independence of judicial power;
  - d) to discuss the issue of establishment of other institutional structures of state power (independent magistrate council, state council, the ombudsman institution, etc.) from the point of view of reinforcement of institutional pre-requisites for the implementation of the principle of separation of powers;
  - e) to discuss the problems of improvement of the activities of the National Assembly and the reinforcement of its supervisory authorities, in particular, with reference to the possibility to adopt organic (constitutional) laws.
6. The Constitutional provisions concerning judicial power need reforming. These must follow from principles, definitions of authority and structure which provide and guarantee:
  - a) the operational, institutional, financial and social independence of judicial power, which will guarantee the uninhibited implementation of the duties of this brunch of power;
  - b) the provision of competence, independence and impartiality of judges, as a guarantee of efficient judicial protection of human and civil rights;
  - c) the participation of an independent constitutional body in the selection and appointment of judges, in the provision of independence of judges when in the line of duty, disciplinary supervision and termination of authorities;
  - d) the establishment of a clear-cut system of the authorities of the judicial system institutions and their working relations;
  - e) the uninhibited implementation of the citizens constitutional right for justice, and the guaranteed provision of the supremacy of the Constitution;
  - f) the creation of real guarantees of self-governance in the judicial system.
7. The reform of Constitutional provisions concerning local self-government requires a clear methodological approach. The basic principles of the “European Charter of Local Self-Government” must serve as the foundation for that, providing the establishment of a clear-cut democratic system for local self-government in the Republic of Armenia.

On the basis of the above conceptual approaches the following amendments to the Constitution of RA are deemed necessary.

## CHAPTER 1

### The Foundations of Constitutional Order

**Article 1.** The Republic of Armenia is a sovereign, democratic state, based on social justice and the rule of law.

**Article 2.** In the Republic of Armenia power lies with the people.

The people exercise their power through free elections and referenda, as well as through state and local self-governing bodies and public officials as provided by the Constitution. The usurpation of power by any organization or individual constitutes a crime.

**Article 3.** The elections of the President, the National Assembly and local self-governing bodies of the Republic of Armenia, as well as referenda, are held based on the right to universal, equal and direct suffrage by secret ballot.

**Article 4.** *The Republic of Armenia recognizes fundamental human rights and freedoms as a right having direct effect and as a supreme value. In exercising power the people and the state shall be limited by this right<sup>2</sup>.* The state guarantees the protection of human rights and freedoms based on the Constitution and the laws, in accordance with the principles and norms of international law.

**Article 5.** State power shall be exercised in accordance with the Constitution and the laws based on the principle of the separation *and balancing* of the legislative, executive and judicial powers. State *and local self-governance* bodies and public officials may execute only such acts as authorized by legislation.

**Article 6.** The supremacy of **the law<sup>3</sup>** *right and the rule of law* shall be guaranteed in the Republic of Armenia.

The Constitution of the Republic has supreme juridical force, and its norms are applicable directly.

Laws found to contradict the Constitution as well as other juridical acts found to contradict the Constitution and the law shall have no legal force.

Laws shall take effect only after official publication. Unpublished juridical acts pertaining to human rights, freedoms, and duties shall have no juridical force.

International treaties *shall enter into effect for* signed on behalf of the Republic of Armenia *only following their ratification or endorsement* shall be implemented only following their ratification. International treaties *of the Republic of Armenia* that have been ratified are a constituent part of the legal system of the Republic *of Armenia*. If norms are provided in *these ratified international* treaties other than those provided by laws of the Republic, then the norms provided in the treaty shall prevail.

<sup>2</sup> The text in underlined italics represents amendments that have been mutually agreed over.

<sup>3</sup> The highlighted text is suggested to be removed or moved.

International treaties that contradict the Constitution may be ratified after making a corresponding amendment to the Constitution.

*The procedure for concluding international treaties shall be defined by law.*

**Article 7.** The *igological pluralism and the* multiparty system is recognized in the Republic of Armenia.

Parties are formed freely and promote the formulation and expression of the political will of the people. Their activities may not contravene the Constitution and the laws, nor may their structure and practice contravene the principles of democracy.

Parties shall ensure the openness of their financial activities.

*7.1 The church in the Republic of Armenia is separate from the state. The Republic of Armenia recognizes the traditional and exceptional role of the national Armenian Apostolic Church in the spiritual life of the Armenian people, in developing national culture and preserving the nation, as well as, in a procedure defined by law, accepts the freedom of other religious organisations to operate in the Republic of Armenia.*

*7.2 The armed forces of the Republic of Armenia are called upon to ensure the security, defence and territorial inviolability of the Republic of Armenia. The armed forces shall maintain neutrality in other issues pertaining to politics and domestic life and shall remain under political oversight.*

**Article 8.** The right to property is recognized and protected in the Republic of Armenia. The owner of property may dispose of, use and manage the property *or the results of his/her intellectual property* at his or her discretion.

The right to property may not be exercised so as to cause damage to the environment or infringe on the rights and lawful interests of other persons, society, or the state.

The state shall guarantee the free development and equal legal protection of all forms of property, the freedom of economic activity and free economic competition. *Abuse of dominant market position, illicit restriction of competition and unfair competition is prohibited.*

*In the interests of the state and the society the possible types and permissible limits of monopolies may be defined by the law.*

*The right to property may not be exercised so as to cause damage to the environment or infringe on the rights and lawful interests of other persons, society, or the state.*

**Article 9.** The foreign policy of the Republic of Armenia shall be conducted in accordance with the norms of international law, with the aim of establishing good neighborly and mutually beneficial relations with all states.

**Article 10.** The state shall ensure the protection and reproduction of the environment and the rational utilization of natural resources.

**Article 11.** Historical and cultural monuments and other cultural values are under the care and protection of the state. *The state shall establish the necessary conditions for free access to national values.*

Within the framework of principles and norms of international law, the Republic of Armenia shall promote the protection of Armenian historical and cultural values located in other countries, and shall support the development of Armenian educational and cultural life.

Article 11.1 *The Marzes and communities shall be the administrative-territorial units of the Republic of Armenia. The names and borders of administrative-territorial units shall be defined by law.*

**Article 12.** The state language of the Republic of Armenia is the Armenian.

**Article 13.** The flag (image 32) of the Republic of Armenia is tricolor made of three horizontal and equal strips of red, blue, and orange.

The coat of arms (image 33) of the Republic of Armenia depicts, in the center on a shield, Mount Ararat with Noah's ark and the coats of arms of the four kingdoms of historical Armenia. The shield is supported by a lion and an eagle while a sword, a branch, a sheaf, a chain and a ribbon are portrayed under the shield.

The national anthem of the Republic of Armenia is the "Our Fatherland."

The capital of the Republic of Armenia is Yerevan (image 9).

## CHAPTER 2

### Fundamental Human and Civil Rights and Freedoms

**Article 14.** The procedures for acquiring and terminating citizenship of the Republic of Armenia are determined by law. Individuals of Armenian origin shall acquire citizenship of the Republic of Armenia through a simplified procedure.

A citizen of the Republic of Armenia may not be a citizen of another state simultaneously.

No one may be deprived of the citizenship of the Republic of Armenia, as well as of the right to change citizenship.

A citizen of the Republic of Armenia may not be extradited to a foreign state, with the exception of the cases provided for by international treaties of the Republic of Armenia. The decision on extradition may be appealed in a court of law.

Citizens of the Republic of Armenia shall enjoy the protection of the Republic of Armenia on the territory of the Republic of Armenia and outside of its borders.

**Article 15.** Natural and inalienable human dignity, as an integral foundation of human rights and freedoms, shall be respected and protected by the state. Citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are equal before the law, are entitled to all the rights and freedoms, and subject to the duties determined by the Constitution and the laws.

**Article 16.** All are equal before the law and the court and shall be given equal protection of the law without discrimination.

**Article 17.** Everyone has the right to life.

Until such time as it is abolished, the death penalty may be prescribed by law for particular capital crimes, as an exceptional punishment. Death penalty is prohibited in the Republic of Armenia, with the exception of the period of martial law.

**Article 18.** Everyone is entitled to freedom and the right to be secure in their person. No one may be arrested or searched except as prescribed by law. A person may be detained only by court order and in accordance with legally prescribed procedures.

Every person shall have the right to apply to a superior court with a request to check the legality and justified nature of his/her detention.

Every person shall have the right, pursuant to a procedure and bases defined by law, to indemnification of damage caused by his/her illicit arrest or detention.

No one may be arrested, detained or deprived of freedom only for non-performance of contractual obligations.

**Article 19.** No one may be subjected to torture and to treatment and punishment that are cruel or degrading to the individual's dignity.

All persons that are arrested, detained or deprived of freedom enjoy the right of humane treatment and respect towards their dignity. No one may be subjected to scientific, including medical experimentation without his or her consent.

**Article 20.** Everyone is entitled to defend his or her private and family life from unlawful interference and defend his or her honor and reputation from attack.

The gathering, maintenance, use and dissemination of illegally obtained information about a person's private and family life are prohibited.

Everyone has the right to confidentiality in his or her correspondence, telephone conversations, mail, telegraph and other communications, which may only be restricted by court order and, in individual urgent cases provided by law, prior to a court order in a procedure prescribed by law.

**Article 21.** Everyone is entitled to privacy in his or her own dwelling. It is prohibited to enter a person's dwelling against his or her own will except under cases prescribed by law.

A dwelling may be searched only by court order and, in individual urgent cases provided by law, prior to a court order in a procedure stipulated by law.

**Article 22.** Every citizen person is entitled to freedom of movement and residence within the territory of the Republic.

Everyone has the right to leave the Republic.

Every citizen is entitled to return to the Republic.

**Article 23.** Everyone is entitled to freedom of thought, conscience, and religion. The freedom to exercise one's religion and beliefs may only be restricted by law on the grounds prescribed in Article 44 and 45 of the Constitution.

**Article 24.** Everyone is entitled to assert his or her opinion. No one shall be forced to retract or change his or her opinion.

Everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders.

*The freedom of press and other media shall be guaranteed.*

*24.1 Everyone shall have the right to submit applications or proposals to and receive adequate answers from competent state and local self-governance bodies with respect to the protection of his/hert individual or social rights.*

**Article 25.** Everyone has the right to form associations with other persons, including the right to form or join trade unions.

Every citizen is entitled to form political parties with other citizens and join such parties. These rights may be restricted for persons belonging to the armed forces and law enforcement organizations.

No one shall be forced to join a political party or association.

*The operation of associations, including parties, maybe suspended or prohibited only through a ruling of a court of law.*

**Article 26.** Citizens are entitled to hold peaceful and unarmed meetings, rallies, demonstrations and processions.

**Article 27.** Citizens *of the Republic of Armenia* who have attained the age of eighteen years are entitled to participate in the government of the state directly or through their freely elected representatives.

*The law may define suffrage in elections to local self-governance bodies for persons that are not citizens of the Republic of Armenia.*

Citizens found to be incompetent by a court ruling, or duly convicted of a crime and serving a sentence may not vote or be elected.

*The law may define additional limitations on the suffrage in elections to local self-governance bodies.*

*27.1 Citizens have the right to be accepted into civil service on general terms stipulated by law. The principles and procedure for organization of civil services shall be defined by law.*

**Article 28.** Everyone is entitled to private property and inheritance. Foreign citizens and persons without citizenship shall not have the right to own land, except in cases prescribed by law.

**Citizens may use state and community property, pursuant to law, in order to satisfy their needs.**<sup>4</sup>

The owner may be deprived of private property only by a court in cases prescribed by law.

Private property may be alienated for the needs of society and the state only under exceptional circumstances, with due process of law, and with prior equivalent compensation.

*Everyone is entitled to engage in entrepreneurial operations not prohibited by law. The limitations pertaining to the implementation of this right shall be defined by law.*

**Article 29.** Every one citizen is entitled to freedom of choice in employment.

**The state shall implement the targeted program of efficient employment and reduction of unemployment. It is prohibited to permanently employ children under 16 years of age. The procedure and terms for their temporary employment shall be defined by law.**<sup>5</sup>

Everyone is entitled to wages that are fair and that are no lower than the minimum established by law the state, as well as to working conditions which meet sanitary and safety requirements.

Citizens Workers are entitled to strike in the defense of their economic, social and work interests. The procedures and restrictions applicable to the exercise of this right shall be prescribed by law.

**Article 30.** Everyone is entitled to rest.

The maximum work period, rest days, and minimum duration of annual paid vacation shall be prescribed by law.

*Article 30.1 Everyone is entitled to live in an environment favourable for his or her health and well-being and must personally as well as together with others preserve and improve the environment.*

*The state shall implement policies ensuring environmental security for the current and subsequent generations.*

*Public officials shall be held responsible for concealing environmental information or refusing access to it.*

**Article 31.** Every one citizen is entitled to an adequate standard of living for himself or herself and his or her family, to adequate housing, as well as to the improvement of living conditions. The state shall provide the essential means to enable the exercise of these rights.

**Article 32.** The family is the natural and fundamental cell of society. Family, motherhood, and childhood are placed under the care and protection of society and the state.

Women and men enjoy equal rights when entering into marriage, during marriage, and in the course of divorce.

<sup>4</sup> The bold underlined text represents suggestions by the Committee on Constitutional reform under the President's Office.

<sup>5</sup> Text in bold represents suggestions still under discussion.

32.1 Ther parents are entitled to and must care for the upbringing, health, full and harmonious development and education of their children.

Divesting of parental rights or limiting thereof may be implemented only through a ruling of a court of law, in a procedure defined by law.

Adult capable persons must take care of their incapable or needy parents.

**Article 33.** Every citizen is entitled to social security during old age, disability, sickness, loss of an income earner, unemployment and in other cases prescribed by law.

**Article 34.** Everyone is entitled to the preservation of health. The provision of medical care and services shall be prescribed by law.

The state shall put into effect health care protection programs for the population and promote the development of sports and physical education.

**Article 35.** Every one citizen is entitled to education.

Basic general education is mandatory for the citizens of the Republic of Armenia, with the exception of the cases provided for by law. The law may define a higher level of mandatory education.

Education shall be free of charge in state and community secondary educational institutions. **Every citizen shall have the right to receive free of tuition higher and other specialized education in state educational institutions on a competitive basis. The procedure for the establishment and operation of non-state educational institutions shall be defined by law.**

In the cases and by a procedure defined by law the state shall provide financial and other assistance to educational institutions implementing specialized educational programs and to students therein.

The limits and the principles for the autonomy of higher educational institutions shall be defined by law. Higher educational institutions may not be for profit.

The procedure for the creation and operation of higher educational institutions shall be defined by law.

The limits and the principles for the autonomy of higher educational institutions shall be defined

Every citizen is entitled to receive higher and other specialized education free of charge and on a competitive basis, in state educational institutions.

The establishment and operation of private educational institutions shall be prescribed by law.

**Article 36.** Everyone is entitled to freedom of literary, artistic, scientific and technical creation, to benefit from the achievements of scientific progress and to participate in the cultural life of society.

Intellectual property shall be protected by law.

**Article 37.** Citizens belonging to national minorities are entitled to the preservation of their traditions and the development of their language and culture.

**Article 38.** Everyone is entitled to defend his or her rights and freedoms by all means not otherwise prescribed by law.

Everyone is entitled to defend in court the rights and freedoms engraved in the Constitution and the laws.

38.1 Everyone is entitled to receive, in a procedure and on the bases defined by law, the assistance of the ombudsman to protect his or her rights and freedoms.

38.2 Everyone, in accordance with the international treaties of the Republic of Armenia, is entitled to apply to intergovernmental bodies for the protection of human rights and freedoms with the issue of protection of his or her rights and freedoms, provided domestic legal remedies are exhausted.

**Article 39.** Everyone is entitled to restore any rights which may have been violated, as well as to a public hearing by an independent and impartial court, under the equal protection of the law and fulfilling all the demands of justice, to clear himself or herself of any accusations. The presence of the news media and representatives of the public at a judicial hearing may be prohibited by law wholly or in part, for the purpose of safeguarding public morality, the social order, national security, the safety of the parties, and the interests of justice.

**Article 40.** Everyone is entitled to receive legal assistance. Legal assistance may be provided on the expense of public funds free of charge in cases prescribed by law.

Everyone is entitled to be informed of his or her rights and to legal counsel from the moment he or she is arrested, detained, or charged.

Every convicted person is entitled to have his or her conviction reviewed by a higher court, in a manner prescribed by law. Every convicted person is entitled to request a pardon or mitigation of any given punishment.

Compensation for the harm caused to the wronged party shall be provided in a manner prescribed by law.

**Article 41.** A person accused of a crime shall be presumed innocent until proven guilty in a manner prescribed by law, and by a court sentence properly entered into force.

The defendant does not have the burden to prove his or her innocence. Accusations not proven beyond a doubt shall be resolved in favor of the defendant.

**Article 42.** A person shall not be compelled to be a witness against himself or herself or against his or her spouse, or against a close relative.

The law may foresee other circumstances relieving a person from the obligation to testify. Illegally obtained evidence shall not be used.

A punishment may not exceed that which could have been met by the law in effect when the crime was committed.

A person shall not be considered to be guilty for a crime if at the time of its commission the act was not legally considered a crime.

*A law that annuls the punishability of an act and mitigates punishment shall have retroactive effect.*

Laws limiting or increasing liability shall not have retroactive effect.

**Article 43.** The rights and freedoms set forth in the Constitution are not exhaustive and shall not be construed to exclude other universally accepted human and civil rights and freedoms.

*Everyone shall be free to do what is not prohibited by law and does not violate the rights and freedoms of others. No one may bear obligations that are not defined by law or on the basis of law.*

*Laws and other normative acts that aggravate the legal position of individuals shall not have retroactive effect.*

*Legal acts that improve the legal position of individuals, remove or mitigate their responsibility shall have retroactive effect, provided that is stipulated by the act in question.*

**Article 44.** The fundamental human and civil rights and freedoms established under **Articles 23 - 27** of the Constitution may only be restricted by law, if necessary for the protection of state and public security, public order, public health and morality, and the rights, freedoms, honor and reputation of others.

**Article 45.** Some human and civil rights and freedoms, except for those provided under Articles 17, 20, 39, and 41 - 43 of the Constitution, may be temporarily in a manner prescribed by law, in the event of martial law, or in cases prescribed under paragraph 4 of Article 55 of the Constitution.

**Article 46.** Everyone shall pay taxes, duties, and make other mandatory payments in amounts and manners prescribed by law.

**Article 47.** Every citizen shall participate in the defense of the Republic of Armenia in a manner prescribed by law.

**Article 48.** Everyone shall uphold the Constitution and the laws, and respect the rights, freedoms and dignity of others.

The exercise of rights and freedoms shall not serve toward the violent overthrow of the Constitutional order, for the instigation of national, racial, or religious hatred or for the incitement to violence and war.

*48.1 Legal persons shall also be entitled to fundamental human and citizen's rights and freedoms inasmuch as such rights and freedoms are applicable to them by their essence.*

## **CHAPTER 3**

### **The President of the Republic**

**Article 49.** *The President of the Republic is the head of the state.*

The President of the Republic of Armenia shall uphold the Constitution, and ensure the normal functioning of the legislative, executive and judicial authorities. The President of the Republic shall be the guarantor of the independence, territorial integrity, security and the continuity of state power of the Republic.

**Article 50.** The President of the Republic shall be elected by the citizens of the Republic of Armenia for a five year term of office.

Every person having attained the age of thirty five, having been a citizen of the Republic of Armenia for the preceding ten years, having permanently resided in the Republic for the preceding ten years, and having the right to vote is eligible for the Presidency.

The same person may not be elected for the post of the President of the Republic for more than two consecutive terms.

**Article 51.** Elections for the post of President of the Republic shall be held fifty days prior to the expiration of the term of office of the President in office and in accordance with procedures set by the Constitution and the laws.

The candidate who received more than half of the valid votes **cast for the presidential candidates** shall be considered as having been elected President of the Republic.

If the election involved more than two candidates and none received the necessary votes, a second round of elections shall be held on the fourteenth day following the first round of the election, at which time the two candidates having received the highest number of votes in the first round shall participate. The candidate who receives the highest number of votes during this second round shall be considered to have been elected.

In the event only one candidate is presented, the candidate shall be considered as having been elected if he or she has received more than half of the valid votes **cast**.

**In the event the constitutional court accepts for hearing a case on the results of the elections of the president of the Republic, it must pass a ruling within a ten day period following the documented receipt of the application, whereas the time-frames defined by this Article shall be calculated from the moment the ruling of the court enters into effect.**

If a President is not elected, there shall be new elections on the fortieth day after the first round of elections.

The President elect of the Republic shall assume office on the day when the term of the previous President expires.

A President who shall be elected by new or extraordinary elections shall assume office within ten days of such elections.

**Article 52.** In the event that one of the presidential candidates faces insurmountable obstacles (**grave medical condition of one of the candidates or incapability in view of other reasons beyond his or her control**), the presidential elections shall be postponed by two weeks. If during this period obstacles recognized as insurmountable are not removed, or in the event of the passing of one of the candidates prior to election day, new elections shall be held.

These new elections shall be held on the fortieth day following the determination of these obstacles to be insurmountable.

**Article 53.** In the event of the resignation of the President of the Republic, his or her passing, incapacity to perform his or her functions, or removal from office in accordance to Article 57 of the Constitution, special presidential elections shall be held on the fortieth day following the vacancy of the office.

**Article 54.** The President of the Republic shall assume office *in a procedure defined by law* by pledging an *the following* oath to the people during a special sitting of the National Assembly: *«Upon assuming the post of the President of the Republic of Armenia I swear: to implement the requirements of the Constitution; to ensure the fundamental human and citizen's rights and freedoms, the sovereignty, the territorial integrity and security of the Republic to the glory of our fatherland and to the prosperity of our people.»* **It may be added at the end: «May God protect us.»**

**Article 55.** The President of the Republic:

- 1) shall address the people and the National Assembly;
- 2) shall sign and promulgate within twenty one days of receipt, laws passed by the National Assembly;

During this period, the President may remand a law to the National Assembly with objections and recommendations requesting new deliberations.

The President shall sign and publish the law within five days of the second passing of such law by the National Assembly;

**A law that has been adopted by the National Assembly in second passing shall be signed and published by the President of the Republic within a period of five days or forwarded by him to the constitutional court with a request to obtain an opinion on its constitutionality. If the constitutional court issues an opinion on the provisions of the law being non-constitutional, the President of the Republic shall not sign the law.**

**3) may dissolve the National Assembly and designate special elections after consultations with the President of the National Assembly and the Prime Minister. Special elections shall be held no sooner than thirty and no later than forty days after the dissolution of the National Assembly.**

Alternative: **after consultations with the President of the National Assembly and the Prime Minister, in cases and by a procedure defined by the Constitution,** may dissolve the National Assembly and designate special elections. Special elections shall be held no sooner than thirty and no later than forty days after the dissolution of the National Assembly.

The President may not dissolve the National Assembly during the last six months of his or her term of office.

*The newly elect Natrional Assembly may not be dissolved during one year following its election.*

4) *within twenty days following the first session of the newly elect National Assembly or acceptance of the resignation of the government* shall appoint and remove the Prime Minister.

The President shall appoint and remove the members of the Government *ministers* upon the recommendation of the Prime Minister.

**Shall appoint and remove the members of the Government upon the recommendation of the Prime Minister.**

In the event that the National Assembly adopts a vote of no confidence against the Government, *the resignation of the Prime Minister or the vacancy of the post thereof* the President shall, within twenty one days accept the resignation of the Government, appoint a Prime Minister and form a Government;

**In the event a Prime Minister is not appointed by the National Assembly within the period defined by the Constitution he/she shall appoint a Prime Minister and members of the Government himself or herself. In the event the majority of the total number of the members of the National Assembly vote no-confidence against the government, shall dissolve the National Assembly. In which case the deadline prescribed by clause three of this article for the dissolution of the National Assembly shall not apply.**

- 5) shall make appointments to *civilian public office* positions in cases prescribed by law;
- 6) *shall establish and head the National security council*, may establish *other* advisory bodies.
- 7) shall represent the Republic of Armenia in international relations, conduct and oversee foreign policy, make international treaties, *submit international treaties for ratification by the National Assembly and* sign international treaties that are ratified by the National Assembly, ratify *intergovernmental agreements endorse or annul international treaties that do not require ratification*;
- 8) shall appoint and recall the diplomatic representatives of the Republic of Armenia to foreign countries international organizations, and receive the credentials and letters of recall of diplomatic representatives of foreign countries *and international organisations*;
- 9) shall appoint and remove the Prosecutor General, *upon the nomination of the Prosecutor General shall appoint and remove the deputies to the Prosecutor General* upon the recommendation of the Prime Minister.
- 10) shall appoint members *and the President* of the Constitutional Court.

He may, on the basis of a determination by the Constitutional Court, remove from office any of his or her appointees to the Court or sanction the arrest of such a member of the Court, and through the judicial process authorize the initiation of administrative or criminal proceedings against that member;

*11)* shall appoint, in accordance with the procedure provided in Article 95 of the Constitution, the president and judges. of the Court of Cassation and its chambers, the courts of review, the courts of first instance and other courts, the deputy prosecutors general and prosecutors heading the organizational subdivisions of the office of the Prosecutor General; may remove from office any judge, *agree to the latter being tried in court, called to administrative responsibility through a judicial procedure* sanction the arrest of a judge and through the judicial process, authorize the initiation of administrative or criminal proceedings against a judge and remove the prosecutors that he or she has appointed.

12) is the Commander in Chief of the armed forces and shall appoint *and remove* the staff of the highest command of the armed forces;

13) shall decide on the use of the armed forces. In the event of an armed attack against or of an immediate danger to the Republic, or a declaration of war *by the National Assembly*, the President shall declare a state of martial law and may call for a general or partial mobilization.

Upon the declaration of martial law, **on the basis of such declaration**, a special sitting of the National Assembly shall be held **immediately**. *The legal regime of martial law shall be defined by law.*

14) in the event of an imminent danger to the constitutional order, and upon consultations with the President of the National Assembly and the Prime Minister, shall take measures appropriate to the situation and address the people on the subject. *In this case a special session of the National Assembly shall be convened immediately*;

15) shall, *in a procedure defined by law, resolve issues pertaining to granting* **grant** citizenship of the Republic of Armenia and **decide on the granting** of political asylum;

16) shall award the orders and medals of the Republic of Armenia and grant the highest military and honorary titles and diplomatic and other titles;

17) may grant pardon to convicted individuals.

**Article 56.** The President of the Republic may issue orders and decrees which shall be executed throughout the Republic.

The orders and decrees of the President of the Republic shall not contravene the Constitution and the laws.

*56.1 The President of the Republic is immune.*

**Article 57.** The President may be removed from office for state treason or other high crimes.

In order to request a determination on questions pertaining to the removal of the President of the Republic from office, the National Assembly must appeal to the Constitutional Court by a resolution adopted by the majority of the deputies.

**Upon the request of and within the deadline set by the constitutional court the criminal chamber of the cassation court shall issue to the constitutional court an opinion on the factual bases for removal from office.**

A decision to remove the President of the Republic from office must be reached by the National Assembly by a minimum two thirds majority vote of the total number of deputies, based on the determination of the Constitutional Court.

*If, according to the opinion by constitutional court, the bases for removal of c from office are absent, the issue shall be taken to the National Assembly for discussion.*

**Article 57.1 In the event of dissolving the National Assembly pursuant to the procedure prescribed by Article 55, clause 3 of the Constitution, the powers of the the President of the Republic may be terminated and extraordinary elections appointed by two thirds of the total votes of the newly elect National Assembly.**

**Article 58.** *The President of the Republic shall submit his or her resignation at a session of the National Assembly.* The acceptance of the resignation of the President of the Republic shall be determined by the National Assembly shall accept the resignation of the President of the Republic by a majority vote of the total number of deputies.

**Article 59.** In the event of the serious illness of the President of the Republic or of insurmountable obstacles affecting the performance of his or her duties **for a continual lengthy period**, upon the recommendation of the Government and a determination by the Constitutional Court, the National Assembly shall adopt a resolution on the incapacity of the President of the Republic to exercise his or her duties with a minimum two thirds majority vote of the total number of deputies.

**Article 60.** In the event that the office of the President of the Republic remains vacant and until a newly elected President assumes office the presidential duties shall devolve **onto the Prime Minister** President of the National Assembly, and if that is not possible, **onto the President of the National Assembly** Prime Minister. *In the event of the impossibility of performance of presidential duties by the Prime Minister or the President of the National Assembly these shall be performed by the chairman of the constitutional court.* During this period it is prohibited to dissolve the National Assembly, call a referendum, and appoint or remove the Prime Minister and the Prosecutor General.

*60.1 The elections of the President of the Republic shall not be held under martial law, the President of the Republic shall continue the performance of his or her duties until the termination of martial law, after which elections of the President of the Republic shall be held.*

**Article 61.** The compensation, servicing and security of the President of the Republic shall be prescribed by law.

## **CHAPTER 4**

### **The National Assembly**

**Article 62.** Legislative power in the Republic of Armenia: shall be vested in the National Assembly.

Under cases provided by Articles 57, 58, 59, 66, 67, 73, 74, 77, 78, 81, 83, 84, 111, 112 of the Constitution, as well as for purposes of organizing its own activities, the National Assembly shall adopt resolutions which shall be signed and published by its President.

**The National Assembly may adopt statements and messages in a procedure prescribed by its rules of procedure.**

The powers of the National Assembly are determined by the Constitution.

The National Assembly shall operate in accordance with its rules of procedure.

*The procedure for the operation of the National Assembly, the formation and operation of its bodies shall be defined by the Constitution and the rules of procedure of the National Assembly.*

**Article 63.** The National Assembly shall have **one hundred and thirty** *seventy* one deputies.

**The authority of the National Assembly shall expire in June July of the fourth year following its elect on, on the opening day of the first session of the newly elected National Assembly, on which day the newly elected National Assembly shall assume its powers.**

**Alternative: The National Assembly shall be elected for four years. The powers of the incumbent National Assembly shall terminate on the opening day of the first session of the newly elected National Assembly.**

The National Assembly may be dissolved in accordance with the Constitution.

A newly elected National Assembly may not be dissolved during a one year period following its election.

The National Assembly may not be dissolved during a state of martial law, or under the cases foreseen under paragraph 14 of Article 55 of the Constitution, or when the removal of the President of the Republic from office is being deliberated.

*The authority of the National Assembly shall be prolonged under martial law until the opening day of the first session of the National Assembly newly elected after the termination of martial law.*

**Article 64.** Any person having attained the age of twenty five, having been a citizen of the Republic of Armenia- for the preceding five years, having permanently resided in the Republic for the preceding five years, and who has the right to vote, may be elected as a Deputy.

**Article 65.** A Deputy may not hold any other **public** office, *be in the composition of a body of local self-governance, engage in entrepreneurial operations,* nor engage in any other paid occupation, except for scientific, educational and creative work.

*A deputy shall perform his or her authority on a permanent basis.*

The **compensation** *status* and guarantees for the normal functioning of a Deputy shall be prescribed by *the Constitution and the* law.

**Article 66.** A Deputy shall not be bound by any compulsory mandate and shall be guided by his or her conscience and convictions. A Deputy, *during and after the term of his or her deputy authority,* shall not be prosecuted or held liable for actions arising from the performance of his or her status, or for the expression of his or her opinions expressed in the National Assembly, provided these are not slanderous or defamatory.

A Deputy may not be **arrested and subjected to administrative or criminal prosecution** *tried or called to administrative responsibility* through judicial proceedings without the consent of the National Assembly.

*A deputy may not be arrested without the consent of the National Assembly with the exception of cases when he or she was apprehended while committing a crime or immediately thereafter. In such a case the National Assembly shall be immediately notified.*

**Article 67.** The powers of a Deputy shall terminate upon the expiration of the term of the National Assembly, upon the dissolution of the same, upon violation of the provisions of part I of **Article 65** of the Constitution, upon loss of citizenship of the Republic of Armenia, for unfounded absences from half of the floor votes during a single session upon being sentenced to imprisonment, when deemed incapacitated and upon his or her resignation.

A Deputy's term of office shall be terminated in a manner prescribed by the rules of procedure of the National Assembly.

**Article 68.** Regular elections to the National Assembly shall be held within sixty days prior to the expiration of the term of the current Assembly.

Procedures for elections to the National Assembly shall be prescribed by law.

The date of elections shall be fixed by Presidential decree.

The first session of a newly elected National Assembly shall convene on the ~~second~~ *third* Thursday following the election of at least two thirds of the total number of Deputies.

Until the election of the President of the National Assembly, its meetings shall be chaired by the Deputy who is most senior in age.

**Article 69.** The regular sessions of the National Assembly shall convene twice per year from the second Monday of September to the ~~second~~ *first* Wednesday of December and from the ~~first~~ *third* Monday of ~~February~~ *January* to the ~~second~~ *first* Wednesday of ~~June~~ *July*.

The sittings of the National Assembly shall be open to the public. Closed door sittings may be convened by a resolution of the National Assembly.

**Article 70.** An extraordinary *sitting or* session of the National Assembly may be convened by the President of the *National Assembly*, at the initiative of at least one third of the total number of Deputies, or at the initiative of the Government *within a time-frame and with the agenda defined by the initiator. An extraordinary sitting or session of the National Assembly may also be convened by the President of the Republic, upon his or her initiative.*

An extraordinary session of the National Assembly convening upon the request of the majority of the total number of Deputies shall be held in accordance with the agenda and timetable of the Deputies requesting the session.

An extraordinary session may not last for more than six days.

An extraordinary sitting of the National Assembly may be convened by its President, upon the initiative of the Government or of at least one third of the total number of Deputies..

Extraordinary sittings shall follow the agenda and timetable specified by the requesting party.

**Article 71.** Laws and resolutions of the National Assembly shall be passed by the majority vote of the Deputies present *and voting* at a given sitting, if more than half of the total number of Deputies participate in the voting, except for cases covered under Articles 57 *part three*, 58, 59, 72, 74, 84, 111 of the Constitution, and paragraph 4 of Article 75, the first paragraph of Article 79, and Section 3 of Article 83 of the Constitution.

**Article 72.** The National Assembly shall deliberate on a priority basis any law which has been remanded by the President.

Should the National Assembly decline to accept the recommendations and objections presented by the President of the Republic, it shall pass the remanded law, again with a majority vote of the number of Deputies:

**Article 73.** There *may* shall be *not more than nine* *six* standing committees established in the National Assembly. Ad hoc committees may be established as necessary.

The standing committees are established for the preliminary consideration of draft legislation and other proposals and for the submission of findings on such legislation and proposals to the National Assembly.

*If needed* ad hoc committees *are* *may be* established *by a procedure defined in the procedural rules of the National Assembly* for the preliminary consideration of special draft legislation or for the submission of findings and reports on specific events and facts to the National Assembly.

**Article 74.** Within twenty days of the formation of a newly elected National Assembly or of its own formation, the Government shall present its program to the National Assembly for its approval, thus raising the question of a vote of confidence before the National Assembly.

A draft resolution expressing a vote of no confidence toward the Government may be proposed within twenty four hours of *the Government's* raising of the question of the vote of confidence by not less than one third of the total number of Deputies.

The proposal for a vote of no confidence shall be voted on no sooner than forty eight hours and no later than seventy two hours from its initial submittal. The proposal must be passed by a majority vote of the total number of Deputies.

If a vote of no confidence toward the Government is not proposed, or such proposal is not passed, the Government's program shall be considered to have been approved by the National Assembly.

If a vote of no confidence is passed, the Prime Minister shall submit the resignation of the Government to the President of the Republic.

*Article 74.1 In the event the Government is not formed pursuant to the procedure prescribed by Article 55, clause 4 of the Constitution or it has received a vote on non-confidence by a procedure provided for by Article 74 of the Constitution, the National Assembly shall, within a two week period following the expiry of prescribed deadlines, appoint a Prime Minister and, upon the nomination of the latter, members of the government. The National Asswmbly shall form the government with a majority of two thirds of the total votes of the deputies.*

**In the event of failure by the National Assembly to appoint a Prime Minister within the deadline prescribed by the Constitution the President of the Republic shall appoint a Prime Minister and the memembrs of the government. In the event of the National Assembly voting non-confidence to the government appointed through such procedure by a majority of the total number of deputies, the President of the Republic shall, in a procedure prescribed by**

**Article 55, clause 3 of the Constitution, dissolve the National Assembly. The the National Assembly may also be dissolved by the President of the Republic:**

- a) **if the National Assembly fails, within two months, to adopt decisions over draft laws that are deemed urgent by a resolution of the government;**
- b) **if, during a sitting of the National Assembly, its sessions are interrupted for a period over two months;**
- c) **if, during a regular sitting of the National Assembly it is unable, for a period over two months, to adopt any decision over issues under its discussion.**

**Article 75.** The right to initiate legislation in the National Assembly shall belong to the Deputies, *the President of the Republic* and the Government.

The Government shall stipulate the sequence for debate of its proposed draft legislation and may request that they be voted on only with amendments acceptable to it.

Any draft legislation which is considered urgent by a Government resolution shall be debated and voted on by the National Assembly within a one month period.

The National Assembly shall consider all draft legislation reducing state revenues or increasing state expenditures only upon the agreement of the Government and shall pass such legislation by a majority vote of the total number of Deputies.

The Government may raise the question of a vote of confidence in conjunction with its proposed legislation. If the National Assembly does not adopt a vote of no confidence against the Government as provided by Article 74 of the Constitution, then the Government's proposed legislation will be considered to have been adopted.

The Government may not raise the issue of a vote of confidence in conjunction with a proposed legislation more than twice during any single session.

**Article 76.** The National Assembly shall adopt the state budget upon its submittal by the Government. If the budget is not adopted by the start of the fiscal year, all expenditures shall be incurred in the same proportions as in the previous year's budget.

The procedure for debate on and adoption of the state budget shall be prescribed by law.

**Article 77.** The National Assembly shall supervise the implementation of the state budget, as well as of the use of loans and credits received from foreign governments and international organizations.

The National Assembly shall examine the annual report on

the realization of the state budget and adopt the report based on the findings of the National Assembly's Oversight Office.

**Article 78.** In order to ensure the legislative basis of the Government's program, the National Assembly may authorize the Government to adopt resolutions that have the effect of law that do

not contravene any laws in force during a period specified by the National Assembly. Such resolutions must be signed by the President of the Republic.

**Article 79.** The National Assembly shall elect *and recall* its President *and his/her two deputies* for the duration of its full term by a majority vote of the total number of Deputies.

The President of the National Assembly shall chair the sittings *of the National Assembly*, manage its material and financial resources, and shall ensure its normal functioning.

*The President of the National Assembly shall represent the National Assembly.*

**The procedure for managing the material and financial resources, organization and operation of the National Assembly shall be defined by the rules of procedure of the National Assembly.**

The National Assembly shall elect two Vice Presidents of the National Assembly.

**Article 80.** Deputies are entitled to ask *address written* questions to the Government, *the heads of the bodies of territorial governance and local self-governance, state institutions and to receive answers therefrom.* For one sitting each week during the regular sessions of the Assembly, the Prime Minister and the members of the Government shall answer questions raised by the Deputies

The National Assembly shall not pass any resolutions in conjunction with the questions raised by the Deputies.

*At least ten deputies or a faction of deputies may apply with a written query to the government, to the prosecutor general, the chairman of the central bank. The prime minister, the members of the government, the prosecutor general and the chairman of the central bank shall answer the queries of the deputies. A query shall be answered during a subsequent session not later than within 30 days following its receipt and, if the session is over, during the session that succeeds it.*

**Article 80.1** The questions discussed in the National Assembly shall be prepared by the council of the National Assembly composed of the President of the National Assembly, his/her deputies and the chairpersons of the standing committees.

The session of the council shall be chaired by the President of the National Assembly and, in his/her absence, by one of the deputies.

The council of the National Assembly:

1. draws draft agendas for the sessions and sittings of the National Assembly;
2. draws the estimate of the expenses of the National Assembly;
3. endorsed the structure of the staff of the National Assembly;
4. endorsed the composition of the delegations of the National Assembly;
5. nominates candidates for the positions, the appointment to which is reserved to the National Assembly. These candidates shall be presented to the sitting of the National Assembly by the President of the National Assembly.

**Article 81.** Upon the recommendation of the President of the Republic, the National Assembly:

1) may declare an amnesty;

2) shall ratify or revoke the international treaties signed by the Republic of Armenia. The range of international agreements which are subject to ratification by the National Assembly shall be prescribed by law;

3) **may** shall adopt a decision on declaring war *and establishing peace. In the event of impossibility to convene a session of the National Assembly the issue of declaring war shall be resolved by the President of the Republic.*

The National Assembly, upon the determination of the Constitutional Court, may suspend the execution of the provisions of Sections 13 and 14 of Article 55 of the Constitution.

**Article 82.** The National Assembly, upon the recommendation of the Government, shall determine the administrative-territorial divisions of the Republic.

**Article 83.** The National Assembly:

1) shall appoint *and remove* the Chairman of the Central Bank upon the recommendation of the President of the Republic;

2) shall appoint *and remove* the Chairman of the National Assembly's Oversight Office upon the recommendation of the President of the National Assembly and members and the President of the Constitutional Court from among the members of the Court.

*3) shall appoint members of the Constitutional Court and the President of the Constitutional Court from among the members of the Court*

If within thirty days of the formation of the Constitutional Court the National Assembly fails to appoint the President of the Constitutional Court, the President of the Constitutional Court shall then be appointed by the President of the Republic;

may, upon the determination of the Constitutional Court, terminate the powers of a member of the Constitutional Court the Assembly has appointed, **approve** *agree for* such member's arrest *to be tried and called to administrative responsibility*, and authorize the initiation of administrative or criminal proceedings against such member through the judicial process.

**Article 84.** The National Assembly may adopt a vote of no confidence toward the Government by a majority vote of the total number of Deputies. The National Assembly may not exercise this right in situations of martial law or under circumstances provided by Section 14 of Article 55 of the Constitution.

## **CHAPTER 5**

### **The Government**

**Article 85.** *The government is the supreme body of executive power in the Republic of Armenia.*  
Executive power in the Republic of Armenia

shall be vested in the Government of the Republic of Armenia.

The Government shall be composed of the Prime Minister and the Ministers. The powers of the Government shall be determined by the Constitution and by laws.

The organization and rules of operation of the Government shall be determined by a decree of the President of the Republic, upon the recommendation of the Prime Minister.

Alternative - **Article 85 Executive power in the Republic of Armenia shall be executed by the government of the Republic of Armenia and other bodies defined by law performing the functions of the executive. The government shall implement the domestic and foreign policies of the Republic of Armenia. All issues of state policies that are not reserved by law to other public or local self-governance bodies shall belong to the competence of the government.**

*The government shall consist of the prime minister and the ministers.*

*The prime minister and the ministers must be Armenian nationals.*

*The prime minister shall appoint one of the ministers as deputy prime minister, who will to perform the functions of the prime minister in the absence of the prime minister.*

*The powers of the government shall be defined by the Constitution and laws.*

*The structure and the procedure for the operation of the government shall be defined by law.*

**Article 86.** The meetings of the Government shall be chaired by the President of the Republic, or upon his or her recommendation, by the Prime Minister.

Government decisions shall be signed by the Prime Minister and approved by the President.

The Prime Minister shall convene and chair a Government meeting when requested by the majority of Government members under the circumstances foreseen in Article 59 of the Constitution.

*The President of the Republic may convene and chair a session of the government.*

*The President of the Republic may suspend the effect of the resolutions of the government for a duration of one month and apply to the constitutional court to resolve the issue of their conformity with the Constitution and the laws.*

*In cases provided for by Article 59 of the Constitution the prime minister may, upon the demand of the majority of the members of the government, convene an extraordinary session of the government.*

**Article 87.** The Prime Minister shall oversee the Government's regular activities and shall coordinate the work of the Ministers. **In order to perform these functions the prime minister shall adopt resolutions.**

The Prime Minister may adopt resolutions. In cases prescribed by the rules of operations of the Government, resolutions approved by the Prime Minister may also be signed by the Minister responsible for the implementation of the resolution.

**In cases provided for by the law the prime minister shall make appointments to civil posts.**

Article 87.1 A minister shall govern a specific area of management provided for by the law, shall issue instructions and orders.

**Article 88.** A member of the Government may not be a member of any representative body, engage in entrepreneurial operations, hold any other **public** office, or engage in any other paid occupation.

Article 88.1 State governance in the marzes shall be implemented by the marzpets, who shall be appointed and removed by a resolution of the government. State governance in the city of Yerevan shall be implemented by the mayor of Yerevan, who shall be appointed and removed by the President of the Republic, upon the nomination by the government. The mayor of Yerevan, in cases provided by law, may be removed from office by the elders of Yerevan.

A marzpet and the mayor of Yerevan shall implement the territorial policy of the government, manage the operation of the territorial services of executive bodies, with the exception of cases provided by law.

**Article 89.** The Government:

1) shall submit its program to the National Assembly for approval in accordance with

**Article 74** of the Constitution;

2) shall submit the draft state budget to the National Assembly for approval, guarantee the implementation of the budget and submit financial reports on the budget to the National Assembly;

3) shall manage state property;

4) shall ensure the implementation of unified state policies in the areas of finances, economy, taxation and loans and credits;

4.1 shall ensure the implementation of the state policy of territorial development;

5) shall ensure the implementation of state policies in the areas of science, education, culture, health, social security and environmental protection;

6) shall ensure the implementation of the defense, national security and foreign policies of the Republic;

7) shall ensure the protection of public order, take measures toward the strengthening of legality, the protection of the rights and freedoms of citizens, and the protection of property and public order.

**Article 90.** The Government shall submit the proposed state budget to the National Assembly at least sixty days prior to the beginning of the fiscal year and may request that this proposal, with any amendments, it may adopt, be voted on prior to the expiration of the budget deadline. The Government may raise the question of a vote of confidence in conjunction with the adoption of the state budget. If a vote of no confidence is not adopted by the National Assembly, as provided

under Article 74 of the Constitution, then the state budget and related amendments approved by the Government shall be considered adopted.

In case of a vote of no confidence related to the proposed state budget, the new Government shall present the National Assembly with a draft state budget within a period of twenty days. This draft shall be debated and voted on by the National Assembly within a period of thirty days in accordance with the procedure determined by this Article.

## **CHAPTER 6**

### **Judicial Power<sup>6</sup>**

**Article 91.** In the Republic of Armenia **justice judicial power** shall be administered solely by the courts in accordance with the Constitution and the laws.

In cases prescribed by law, trials are held with the participation of a jury.

**The courts shall pass decisions in the name of the Republic of Armenia.**

**Article 92. Constitutional justice in the Republic of Armenia shall be implemented by the constitutional court of the Republic of Armenia**

The Courts of general jurisdiction in the Republic of Armenia shall be the courts of first instance, the review courts and the court of appeals.

In the Republic of Armenia, there **shall may** also be economic, military and other courts as may be provided by law.

The establishment of extraordinary courts is prohibited.

**Article 93.** Sentences, verdicts and decisions entered into legal force may be reviewed by the court of appeals based on appeals filed by the Prosecutor General, his or her deputies, or specially licensed lawyers registered with the court of appeals,

**Article 94.** **The President of the Republic shall be the guarantor of The independence of the judicial bodies shall be guaranteed by the constitution and laws. He or she shall preside over the Judicial Council.**

**The Minister of Justice and the Prosecutor General shall be the vice presidents of the Council.**

**The Council shall include fourteen members appointed by the President of the Republic for a period of five years, including two legal scholars, nine judges and three prosecutors.**

**Three Council members shall be appointed each from among the judges of the courts of first instance, the courts of review and the court of appeals. The general assembly of judges shall submit three candidates by secret ballot for each seat allocated to judges.**

**The Prosecutor General shall submit the names of candidates for the prosecutors' seats in the Council.**

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<sup>6</sup> The issues of establishment or non-establishment of administrative courts, the state council or state tribunal are still under discussion.

**The powers of the courts, the procedure for their formation and operation shall be defined by law.**

**The judicial council shall form and operate in a procedure prescribed by law.**

**The judges of the courts of general jurisdiction shall be appointed by the President of the Republic, upon the nomination of the judicial council.**

**The procedure for the formation and operation of the constitutional court shall be defined by the Constitution and the law on the constitutional court.**

**Article 95.** The Judicial Council:

1) shall, upon the recommendation of the Minister of Justice, draft and submit for the approval of the President of the Republic the annual list of judges, in view of their competence and professional advancement, which shall be used as the basis for appointments.

2) shall, upon the recommendation of the Prosecutor General, draft and submit for the approval of the President of the Republic the annual list of prosecutors, in view of their competence and professional advancement, which shall be used as the basis for appointments.

3) shall propose candidates for the presidency of the court of appeals, the presidency and judgeship positions of its chambers, the presidency of the courts of review, courts of first instance and other courts. It shall make recommendations about the other judicial candidates proposed by the Ministry of Justice;

4) shall make recommendations regarding the candidates for Deputy Prosecutor proposed by the Prosecutor General, and the candidates for prosecutors heading operational divisions in the Office of the Prosecutor.

5) shall make recommendations regarding training programs for judges and prosecutors;

6) shall make recommendations regarding the removal from office of a judge, the arrest of a judge, and the initiation of administrative or criminal proceedings through the judicial process against a judge;

7) shall take disciplinary action against judges. The president of the court of appeals shall chair the meetings of the Judicial Council when the Council is considering disciplinary action against a judge. The President of the Republic, the Minister of Justice and the Prosecutor General shall not take part in these meetings;

8) shall express its opinion on issues of pardons when requested by the President of the Republic.

The operational procedures of the Judicial Council shall be prescribed by law.

**Article 96.** Judges and members of the Constitutional Court are appointed for life. A judge may hold office until the age of 65, while a member of the Constitutional Court may do so until the age of 70. They may be removed from office only in accordance with the Constitution and the laws.

**Article 97.** When administering justice, judges and members of the Constitutional Court shall be independent and may only be subject to the law.

The guarantees for the exercise of their duties and the grounds and procedures of the legal responsibility applicable to judges and members of the Constitutional Court shall be prescribed by law.

**A judge and the member of the constitutional court may not be tried or called to administrative responsibility in a judicial procedure without the agreement of the respective judicial instance. A judge and the member of the constitutional court may not be arrested with the exception of cases when the arrest is done on the scene of the crime and is in the interests of the investigation of the case. In such cases the chairperson of the respective court shall be immediately notified, and he or she may demand to release the arrested.**

**Article 98.** Judges and members of the Constitutional Court may not hold any other public office, nor engage in any other paid occupation, except for scientific, educational and creative work.

Judges and members of the Constitutional Court may not be members of any political party nor engage in any political activity.

**Article 99.** The Constitutional Court shall be composed of nine members, five of whom shall be appointed by the National Assembly and four by the President of the Republic.

**Article 100.** The Constitutional Court, in accordance with the law:

1) shall decide on whether the laws, the resolutions of the National Assembly, the orders and decrees of the President of the Republic and the resolutions of Government, **the prime minister, the bodies of local self-governance** are in conformity with the Constitution, **as well as whether the laws, the resolutions of the National Assembly, the orders and decrees of the President of the Republic and the resolutions of Government, the prime minister, the bodies of local self-governance are in conformity with the laws and international treaties ratified by the Republic of Armenia;**

**1.1 shall resolve competence disputes on constitutional issues that emerge between bodies of state governance, in the event of existence of such disputes shall interpret the Constitution of the Republic of Armenia upon the query of the President of the Republic, the National Assembly, the government;**

2) shall decide, prior to the ratification of an international treaty, whether the obligations assumed therein are in conformity with the Constitution;

3) shall rule on disputes concerning **the results of** referenda and the **decisions adopted on the** results of presidential and parliamentary elections;

4) shall ascertain the existence of insurmountable obstacles facing a presidential candidate or the elimination of such obstacles;

5) shall determine whether there are grounds for the removal of the President of the Republic;

6) shall determine **whether there are the constitutionality of** grounds for the application of Sections 13 and 14 of Article 55 of the Constitution;

7) shall determine whether the President of the Republic is incapable of continuing to perform his or her functions;

8) shall determine whether there are grounds for the removal of a member of the Constitutional Court, his or her arrest or initiation of administrative or criminal proceedings through the judicial process:

9) shall decide on the suspension or prohibition of a political party in cases prescribed by law.

**Article 101.** The Constitutional Court, **in a procedure defined by law**, may hear cases submitted by:

1) the President of the Republic;

2) at least one **third fifth** of the Deputies;

3) **Presidential and parliamentary candidates on disputes concerning election results the government;**

4) **the Government in cases prescribed by Article 59 of the Constitution panel bodies of local self-governance, on the constitutionality of the normative acts pertaining to their constitutional rights;**

5) **citizens over concrete cases, when this or that provision of law applied to the latter is contested in court;**

6) **the courts and the prosecutor general, over issues of the constitutionality of laws;**

7) **The ombudsman over issues of conformity with the provisions of the 2nd chapter of the Constitution of normative acts listed in Article 100, clause 1 of the Constitution;**

8) **candidates of the President of the Republic and of parliament members, appealing the decisions on the results of the elections;**

9) **the church over issues of constitutionality of normative acts pertaining to the church listed in Article 100, clause 1 of the Constitution.**

The Constitutional Court shall only hear cases that have been properly submitted.

**Article 102.** The Constitutional Court shall render its decisions and findings no later than thirty days after a case has been filed.

The decisions of the Constitutional Court shall be final, may not be subject to review and shall enter into legal force upon their publication.

The Constitutional Court shall decide with a majority vote of its total number of members on matters pertaining to Sections I through 4 of Article 100 of the Constitution, and with a vote of two thirds of its members on matters pertaining to Sections 5 through 9 of Article 100.

**Article 102** The constitutional court shall adopt decisions and conclusions in a procedure and within the time-frames defined by the the Constitution and law on the Constitutional Court.

The decisions of the constitutional court are final, are not subject to review, enter into force upon publication, may not be interpreted by any other state body or civil servant.

The constitutional court may also set another date for a normative act or an individual provision therein to lose its legal effect. This date may not exceed 12 months with respect to a law and 6 months with respect to other normative acts. When setting such dates with respect to normative acts pertaining to the state budget it shall be necessary to have a conclusion of the government.

The constitutional court shall adopt decisions over issues provided for in Article 100, clauses 1-4 (including clause 1.1) and 9, whereas over issues provided for in clauses 5-8 it shall adopt conclusions. The conclusions and decisions over issues provided for in clauses 1.1 and 9 shall be adopted by at least two thirds of the total votes of the members, the remaining decisions shall be adopted by the majority of the total votes of the members.

Over issues of parliamentary elections, as well as over individual applications of citizens the constitutional court, in a procedure defined by law, may hear the case and adopt a decision by a panel of three members of the constitutional court.

Other bodies of state governance may not adopt decisions contrary to the conclusions of the constitutional court.

The bodies of state governance may not take any steps with respect to the operation, financing, and the compensation of the members of the constitutional court, unless it is agreed with the constitutional court, otherwise it may be interpreted by the latter as a means of pressure.

**Article 103.** The Office of the Prosecutor General in the Republic of Armenia represents a unified, centralized system, headed by the Prosecutor General.

The Office of the Prosecutor General, **in cases and in a procedure provided for by law:**

- 1) shall initiate criminal prosecutions in cases prescribed by law and in accordance with procedures provided by law;
- 2) shall oversee the legality of preliminary inquiries and investigations;
- 3) shall present the case for the prosecution in court;
- 4) shall bring actions in court to defend the interests of the state;
- 5) shall appeal the judgments, verdicts and decisions of the courts;
- 6) shall oversee the execution of sentences and other sanctions.

The Office of the Prosecutor General shall operate within the powers granted to it by the Constitution and on the basis of the law on the Office of the Prosecution.

## **CHAPTER 7**

## **Territorial Administration And**

### **Local Self-Government**

**Article 104.** The administrative territorial units of the Republic of Armenia shall be the provinces and districts.

Provinces shall include urban and rural districts.

*A community shall be the aggregation of the inhabitants of one or several settlements. The community shall have the right of self-governance.*

*The community is a legal person, shall have the right to property and other property rights.*

**Article 105.** Districts shall have local self-government.

To manage the property of the district and to solve problems of local significance, self governing local bodies shall be elected for a period of three years: a Council of Elders, composed of five to fifteen members, and a District Administrator: a City Mayor or Village Mayor.

The District Administrator shall organize his or her staff. *In implementing local self-governance the community shall participate in administering power inasmuch as the Constitution and laws do not reserve it to other state bodies.*

*The powers pertaining to the management of community property, resolving issues of community significance and meeting the other needs of the community shall be implemented by the community in its own name and under its responsibility. A part of the own powers of the community may be deemed mandatory by law.*

*With the purpose of most efficient implementation of the powers of state authority these may be delegated to the communities by law.*

**Article 106.** The District Council of Elders, upon the recommendation of the District Administrator, shall approve the district budget, oversee the implementation of the budget, and determine local taxes and fees as prescribed by law. *The communities shall form their budget independently.*

*The sources for community revenue shall be defined by law.*

*The law shall define the sources of funding for the communities that shall ensure the implementation of the powers thereof. The powers delegated to the communities are subject to mandatory funding from the state budget.*

*The communities shall define local taxes and duties within the limits provided for by the law. The communities may charge payments against the services they render.*

**Article 107.** The provinces shall be governed by the state Government.

The Government shall appoint and remove the Governors of the provinces, who shall implement the Government's regional policy and coordinate the regional activities of republican executive bodies. *The community shall implement its right of self-governance through bodies of local self-governance, the elders of the community and the head of the community.*

The elders of the community, in a procedure defined by law, shall manage the property of the community, upon the presentation of the head of the community shall endorse the budget of the community, shall oversee the performance of the budget, shall define local taxes, duties and payments in a procedure defined by law, shall adopt legal acts mandatory for implementation on the territory of the community in question. The acts adopted by the elders of the community may not conflict the legislation, the procedure for their publication and entry into force shall be defined by law.

The powers of the head of the community and the procedure for the implementation thereof shall be defined by law.

The members of the community may directly participate in administering the business of the community by resolving matters of community significance through local referenda. The procedure and conditions for holding local referenda shall be defined by law.

**Article 108.** The City of Yerevan shall also be considered a province be a community. The powers of the head of the community in Yerevan shall be implemented by the mayor of Yerevan. The powers of the bodies of local self-governance in Yerevan shall be defined in the "Law on the city of Yerevan."

The law may also provide for local self-governance in Yerevan on the level of city districts.

Yerevan shall have an independent budget.

The President of the Republic, upon the recommendation of the Prime Minister, shall appoint and remove the Mayor of Yerevan.

Local self-government shall be instituted in Yerevan through neighborhood districts.

Article 108.1 The procedure for state monitoring of the powers delegated to the community shall be defined by law. In order to ensure the legality of the general operation of the community it is subject to oversight in a procedure defined by law.

**Article 109.** In cases prescribed by law, the Government, on the basis of a conclusion by the constitutional court, may remove the head of the community or dissolve the elders of the community. Administrator of a district upon the recommendation of the Governor of the Province. Prior to the new head of the community assuming office, the marzpet shall appoint an acting head of the community.

When the Administrator of a district is removed by the decision of the Government, special elections shall be held within a period of thirty days. Until such time as the newly elected District Administrator may take office, an Acting District Administrator shall be appointed by the Prime Minister for urban districts and by the Governor for rural districts.

**Article 110.** The election procedure of local self-governing bodies and their powers shall be determined by the Constitution and the laws. If necessary mergers of communities may be performed upon the desire of communities themselves, as well as irrespective of their will by the National Assembly upon the presentation by the government. Prior to the discussion of their issue in the National Assembly the government shall publish the results of the local referendum held in the communities in question. The communities may be merged irrespective of the results of local

referenda.

## **CHAPTER 8**

### **Adoption of The Constitution, Amendments**

#### **And Referendum**

**Article 111.** The Constitution shall be adopted or amended by referendum which may be initiated by the President of the Republic or the National Assembly.

The President of the Republic shall call a referendum upon the request or agreement of the majority of the Deputies of the National Assembly.

The President of the Republic may remand the Draft Constitution or the draft of constitutional amendments, within twenty one days following their submittal back to the National Assembly, with his or her objections and suggestions, requesting a reexamination.

The President of the Republic will submit to a referendum within the period prescribed by the National Assembly a draft Constitution or draft constitutional amendments, when they are reintroduced by at least two thirds of the total number of Deputies of the National Assembly.

**Article 112.** Laws may be submitted to a referendum upon the request of the National Assembly or the Government in accordance with Article 111 of the Constitution.

Laws passed by referendum may only be amended by referendum.

**Article 113.** A proposed legislation submitted to a referendum shall be considered to have been passed if it receives more than fifty percent of the votes, but not less than one third of the number of registered voters.

**Article 114.** Articles 1, 2 and 114 of the Constitution may not be amended.