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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT CONSTITUTIONAL LAW OF GEORGIA
ON THE STATUS
OF THE AUTONOMOUS REPUBLIC OF ADJARA¹**

APPENDIX:

**AMENDMENT
TO THE CONSTITUTION OF GEORGIA**

¹ *Unofficial translation*

***Explanatory Note
concerning the constitutional Law of Georgia
on “The Status of Autonomous Republic of Adjara”
and “The Constitutional Amendments”***

The legal ground for preparation of constitutional draft “Law of Georgia on The Status of the Autonomous Republic of Adjara is paragraph 3 of article 3 of the constitution of Georgia, that directly envisages the adoption of this kind of constitutional law.

The introduced draft represents first step towards solving the issues in respect with Georgia’s state-territorial arrangement. The European model different from the Soviet one is being created for the first time in Georgia, relations between the state and autonomy are being regulated, the issues under the authority of autonomy are being determined.

Although, together with determining the issues under the authority of autonomous Republic, several issues may be delegated by providing respective financial and material resources.

Due to the experience gained in recent past, it is constitutionally forbidden to restrict the free movement of people and goods by autonomous republic, also to regulate issues in regard with human fundamental rights and freedoms.

The creation of bicameral Supreme Council is considered by the project. The Lower Chamber – the Chamber of representatives assures the representation of political parties and is elected with proportional system, and the Upper Chamber - the Republic Chamber assures the region and town representation and is elected with majoritarian system.

The draft deals in detail with major authorities of Supreme Council and each Chamber, the relations in regard with legislative procedure, formation of the Council and Ministers, etc. The precise regulation of these issues will be carried out with the constitution and legislature of the Autonomous Republic of Adjara.

The Council of Ministers of the Autonomous Republic of Adjara will be the highest executive organ of the Autonomous Republic of Adjara. The draft determines the general rule of its formation and dismissal, its composition, general authority, responsibility. Besides, the president of Georgia can appoint an authorized person in the Autonomous Republic of Adjara, who will coordinate the activities of territorial organs of governmental bodies of Georgia, operating at the territory of the Autonomous Republic of Adjara, and inform the president of Georgia on the activities of government organs of the Autonomous Republic of Adjara.

In strictly determined occasions, the President of Georgia is entitled to dismiss the Supreme Council, also – the Council of Ministers. These issues are dealt with in detail in the respective articles of the draft.

Except the above-mentioned, the draft regulates problems related with finances, property, the validity of normative acts and other important issues of the Autonomous Republic of Adjara.

The draft is accompanied with the addition project to the constitution of Georgia. Namely, the Constitutional Court of Georgia will be authorized to discuss the dispute over the “status of the Autonomous Republic of Adjara” in regard with violation of the constitutional law of Georgia.

The author of the draft is the Ministry of Justice of Georgia.

The draft is introduced by the president of Georgia.

**The Constitutional Law of Georgia
on the Status of the Autonomous Republic of Adjara**

Article 1

1. This law, in accordance with the paragraph 3 of article 3 of the Constitution of Georgia, determines the legal status of the Autonomous Republic of Adjara, the main forms and principles of governance, other issues related with the Autonomous Republic of Adjara.
2. This law represents the inseparable part of the Constitution of Georgia.

Article 2

1. The Autonomous Republic of Adjara is the inseparable part of Georgia and exercises powers determined by this law and other powers on the basis of this law.
2. In the Autonomous Republic of Adjara, the state power is carried out on the basis of principles of the constitution of Georgia. The creation of government organs not anticipated by this law is forbidden in the Autonomous Republic of Adjara.

Article 3

1. The following issues are under the competence of the Autonomous Republic of Adjara:
 - a. adopting and amending the Constitution of the Autonomous Republic of Adjara;
 - b. elections of the Supreme Council of the Autonomous Republic of Adjara;
 - c. determination of structure, authorization and the rule of conduct of the Council of Ministers of the Autonomous Republic of Adjara;
 - d. maintenance of public order;
 - e. facilitating education and science;
 - f. libraries and museums of local significance;
 - g. tourism and hotels, culture and sport;
 - h. construction of local significance;
 - i. roads and other communications of local significance;
 - j. health protection and sanitary, social insurance and charity;
 - k. agriculture and hunting business;
 - l. grocery products and control over the quality of food;
 - m. determination and enforcement of budgetary politics within the revenues of the Autonomous Republic of Adjara, in accordance with the rules established by legislative acts of Georgia, elaboration of the budget of the Autonomous Republic of Adjara, its approval and control over its execution;
 - n. introduction and adoption of local taxes determined by laws of Georgia;
 - o. management of property of the Autonomous Republic of Adjara;
 - p. maintenance of statistics necessary for the Autonomous Republic of Adjara and the archive service
2. In case, the Autonomous Republic of Adjara does not regulate any of the issues enumerated in the first paragraph of this article, the high state organ of Georgia may regulate it within its competence.

Article 4

1. Powers can be delegated to the Autonomous Republic of Adjara with the organic law of Georgia.
2. Delegation of powers to the Autonomous Republic of Adjara without provision of relative financial and material resources is forbidden.

3. Delegation of powers that are under special competence of high organs of Georgia to the Autonomous Republic of Adjara is forbidden.

Article 5

1. The Autonomous Republic of Adjara is not entitled to establish restrictions of take measures that will, directly or indirectly, hinder free movement of a citizen or goods at or through the territory of Autonomous Republic of Adjara.

2. The Autonomous Republic of Adjara is not authorized to regulate by a normative act the issues of the second chapter of the constitution of Georgia.

Article 6

1. The supreme legislative organ of the Autonomous Republic of Adjara is the Supreme Council of the Autonomous Republic of Adjara, that is composed with two Chambers – the Chamber of representatives and the Republic Chamber.

2. The Chamber of representatives is composed by 18 members, elected with proportional system, and the Republic Chamber – by 12 members, elected on basis of majoritarian system.

3. The Supreme Council of the Autonomous Republic of Adjara is elected on the basis of universal, equal and direct elections with secret ballot by the citizens of Georgia residing on the territory of the Autonomous Republic of Adjara.

4. The president of Georgia appoints the elections of the Supreme Council of the Autonomous Republic of Adjara on the basis of the rule established by organic law of Georgia.

Article 7

1. The power of the Supreme Council of the Autonomous Republic of Adjara is determined with four years.

2. The power of the Supreme Council of the Autonomous Republic of Adjara terminates by:

- a. recognition of the authority of a newly elected Supreme Council of the Autonomous Republic of Adjara;
- b. enforcement of a decree of the president of Georgia on the dismissal of the Supreme Council of the Autonomous Republic of Adjara.

Article 8

1. The member of the Supreme Council of the Autonomous Republic of Adjara is not entitled to take the position of the member of the Council of Ministers at the same time. The Georgian legislation determines other cases of incompatibility.

2. The inner organization, procedures and the rule of conduct of the Supreme Council of the Autonomous Republic of Adjara is determined by the agenda of the Supreme Council of the Autonomous Republic of Adjara, adopted by it.

Article 9

1. The Supreme Council of the Autonomous Republic of Adjara;

- a) adopts laws of the Autonomous Republic of Adjara on the issues attributed to the competence of the Autonomous Republic of Adjara by this law, also - in cases directly determined by Georgian legislation;
- b) approves the budget of the Autonomous Republic of Adjara;
- c) exercises other powers prescribed by this law, Georgian legislation and the legislation of the Autonomous Republic of Adjara;

2. The Head of the Council of Ministers signs and promulgates the laws of the Autonomous Republic of Adjara: he is authorized to return the law with his remarks to the Supreme Council of the Autonomous Republic of Adjara. The Supreme Council of the Autonomous Republic of Adjara votes for the remarks, for the adoption of which the majority established for adopting a law of the Autonomous Republic of Adjara is sufficient. For the adoption of an initial draft, the support of three fifths of the entire composition of each Chamber of the Supreme Council of Autonomous Republic of Adjara is necessary.

3. Other issues related with legislative procedures and approval of the budget of the Autonomous Republic of Adjara and the relation of the Chamber of representatives and the Republic Chamber in the course of resolving these issues are regulated by the constitution of the Autonomous Republic of Adjara and the legislation of the Autonomous Republic of Adjara, with observance of the requirements established by legislative acts of Georgia.

Article 10

The Chamber of Representatives of the Supreme Council of Adjara:

- a) approves the Head of the Council of Ministers of the Autonomous Republic of Adjara and the composition of the Council of Ministers on basis of introduction by the Head of the Council of Ministers;
- b) controls the expenditure of budgetary sources of the Autonomous Republic of Adjara by the executive organs of the Autonomous Republic of Adjara;
- c) is entitled to declare mistrust to the Council of Ministers with three fourths majority of the entire composition;
- d) carries out other powers prescribed by this law, Georgian legislation and the legislation of the Autonomous Republic of Adjara.

Article 11

The competence and the rule of conduct of the Republic Chamber of the Autonomous Republic of Adjara is administered by this law, the Constitution of the Autonomous Republic of Adjara and the legislation of the Autonomous Republic of Adjara.

Article 12

1. The Council of Ministers of the Autonomous Republic of Adjara is the High executive organ of the Autonomous Republic of Adjara, that determines and performs the main directions executive organs of the Autonomous Republic of Adjara.

2. The Council of Ministers of the Autonomous Republic of Adjara is composed by the Head of the Council of Ministers of the Autonomous Republic of Adjara and the ministers of the Autonomous Republic of Adjara.

3. The structure, competence and the rule of conduct of the Council of Ministers of the Autonomous Republic of Adjara is determined by the law of the Autonomous Republic of Adjara that is introduced to the Supreme Council of the Autonomous Republic of Adjara by the Head of the Council of Ministers of the Autonomous Republic of Adjara.

4. The Council of Ministers of the Autonomous Republic of Adjara is responsible in front of the president of Georgia and the Supreme Council of the Autonomous Republic of Adjara.

5. The president of Georgia is authorized to suspend or abolish the act of the Council of Ministers of the Autonomous Republic of Adjara, if it contradicts the Georgian Constitution, this law, the international treaties and agreements of Georgia, laws and legislative acts of the president of Georgia.

Article 13

1. The termination of power of the Head of the Council of Ministers of the autonomous Republic of Adjara causes the termination of power of the entire composition of the Council of Ministers of the Autonomous Republic of Adjara.
2. The power of the Council of Ministers of the Autonomous Republic of Adjara will also be terminated by:
 - a) recognition of power of a newly elected Supreme Council of the Autonomous Republic of Adjara;
 - b) declaring mistrust by three fourths majority of the entire composition of the Chamber of Representatives of the Supreme Council of Autonomous Republic of Adjara;
 - c) removal from office of the Council of Ministers by the president of Georgia in cases determined by this law.
3. In cases determined by sub-paragraphs “a” and “b” of the second paragraph of this article, the Council of Ministers of the Autonomous Republic of Adjara performs its duties until the formation of a new Council of Ministers.
4. Other issues related with the Council of Ministers are regulated by the legislation of Georgia and the Autonomous Republic of Adjara.

Article 14

1. The president of Georgia introduces the candidacy for the Head of the Council of Ministers of the Autonomous Republic of Adjara in 10 days period after the recognition of the power of a newly elected Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara. The Head of the Council of Ministers of the Autonomous Republic of Adjara is approved if he is supported by more than a half of the entire composition of the Supreme Council of the Autonomous Republic of Adjara. If the Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara does not approve the candidacy introduced by the president of Georgia, the president of Georgia is authorized to introduce for approval the same or other candidacy to the Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara in 10 days period.
2. The Head of the Council of Ministers of the Autonomous Republic of Adjara, in 10 days period after his approval, will introduce the composition of the Council of Ministers for approval in office, to the Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara. The composition of the Council of Ministers of the Autonomous republic of Adjara will be considered approved, if it is supported by the majority of the present, but not less than one thirds of the entire composition of the Chamber of Representatives of the Supreme Council of Autonomous Republic of Adjara.
3. In case of termination of power of a separate member of the Council of Ministers of the Autonomous Republic of Adjara, the Head of the Council of Ministers of the Autonomous Republic of Adjara appoints the respective, new member of the Council of Ministers of the Autonomous Republic of Adjara, by consenting with the Head (Heads) of relative governmental body of Georgia.
4. If the composition of the Council of Ministers of the Autonomous republic of Adjara is renewed by one half after the approval of the composition of the Council of Ministers of the Autonomous Republic of Adjara by the Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara, the Head of the Council of Ministers will introduce the composition of the Council of Ministers for approval in office to the Chamber of Representatives of the Supreme Council of the Autonomous Republic of Adjara, in accordance with the rule, established in paragraph 2 of this article.
5. Other relations concerning the formation of the Council of Ministers of the Autonomous Republic of Adjara are determined by the Constitution of Autonomous Republic of Adjara.

Article 15

1. Chairman of the Council of Ministers of Autonomous Republic of Adjara:
 - a) represents the Autonomous Republic of Adjara;
 - b) leads the activities of the Council of Ministers and the executive government of Autonomous Republic of Adjara;
 - c) is authorized to annul the act of the minister of autonomous republic of Adjara;
 - d) is authorized to dismiss the minister of the autonomous republic of Adjara;
 - e) disposes the property of the autonomous republic of Adjara;
 - f) submits the budget of autonomous republic to the Council of Autonomous Republic of Adjara for approval;
 - g) carries out other powers prescribed by this law, Georgian legislation and the legislation of Autonomous Republic of Adjara;
2. The President of Georgia is authorized to suspend or annul the act of the Chairman of the Council of Ministers of Autonomous Republic of Adjara, if it contradicts the Constitution of Georgia, this law and legislative acts of the President of Georgia.

Article 16

The President of Georgia is authorized to appoint upon the government proposal plenipotentiary of the President of Georgia in the autonomous Republic of Adjara, who coordinates the activities of territorial organs of government bodies of Georgia, operating on the territory of the autonomous Republic of Adjara, informs the President of Georgia on the activities of government organs of the Autonomous Republic of Adjara.

Article 17

1. President of Georgia is authorized to dismiss the Supreme Council of the Autonomous Republic of Adjara or suspend its activities, if their acts endanger the sovereignty of the State, territorial integrity, the performance of constitutional powers of the state governmental organs.
2. The President of Georgia is authorized to dismiss the Supreme Council of autonomous Republic of Adjara, if
 - a) it fails to approve the candidate for the Chairman of the Council of Ministers nominated by the president for three consecutive times;
 - b) it fails to perform the powers prescribed by this law and the Constitution of Autonomous Republic of Adjara;
3. In cases of dismissal of the Supreme Council of Autonomous Republic of Adjara or temporary suspension of its activities, the President of Georgia appoints a body, which carries out the authorities of the Supreme Council of the Autonomous Republic of Adjara. The powers of this body will be terminated as soon as the activities of the Supreme Council of Autonomous republic of Adjara are resumed or the authority of the newly elected Supreme Court of the Autonomous Republic of Adjara is recognized.
4. The acts adopted by the temporary body mentioned in the paragraph 2 of this article are subject to the approval by the Supreme Council of Autonomous Republic of Adjara within the month after its activities are resumed or recognition of its authority. If the Supreme Court does not approve the act adopted by temporary body, this act is without legal effect;
5. The President of Georgia appoints the elections of the Supreme Council of Autonomous Republic of Adjara or makes a decision concerning the resumption of the activities of the Supreme Court of the Autonomous Republic of Adjara within the month after the elimination of the circumstances mentioned in paragraph 1 of this Article.

6. Upon dismissal of the Supreme Council of Autonomous Republic of Adjara for reasons considered in paragraph 2 of this article the President of Georgia appoints the elections of the Supreme Council of the Autonomous Republic of Adjara within a month.

Article 18

1. The President of Georgia is entitled to dismiss the Council of Ministers of the Autonomous Republic of Adjara, if;
 - a. its activities endanger the state sovereignty, territorial integrity, the performance of constitutional authorities of state organs;
 - b. it fails to perform the powers prescribed to it by this law and the Constitution of Autonomous Republic of Adjara;
2. In case of dismissal of the Council of Ministers of Autonomous Republic of Adjara, its authorities are to be carried out by the authorized person appointed by the President of Georgia and his administration.
3. Within the month of elimination of the circumstances listed in paragraph 1 of this article, the President of Georgia will nominate the candidate for the chairman of the Council of Ministers of Autonomous Republic of Adjara to the Supreme Council of Autonomous Republic of Adjara.

Article 19

1. The Autonomous Republic of Adjara administers the issued within its competence and is authorized to create an administrative organ to this end by the law of Autonomous Republic of Adjara, determine its structure and authority and the rules of procedure.
2. The administrative organ of the Autonomous Republic of Adjara is part of the system of respective administrative organ of Georgia (in case of its existence).
3. The Ministries of Autonomous Republic of Adjara may be created in the following fields:
 - a. maintenance of public order;
 - b. economics, finances and tourism;
 - c. health protection and social care;
 - d. education, culture and sports;
 - e. ad\agriculture.
4. The Chairman of the Council of Ministers of Autonomous Republic of Adjara presents the candidate for the position of the Minister by agreement with the heads of the respective government organs and in accordance with this law to the Supreme Council of Adjara for approval.

Article 20

1. The status, structure, rule of formation and rules of procedure of the territorial organ of Georgian governmental organ and state sub-office located on the territory of Autonomous Republic of Adjara are determined by the Legislature of Georgia.
2. Only the respective armed subunit subordinated to the respective organ of Georgia may be located on the territory of Autonomous Republic of Adjara. The decision concerning dislocation, movement and operation of this subunit is made by the authorized state organ of Georgia.

Article 21

1. The Autonomous Republic of Adjara enjoys financial autonomy within the framework established by the law of Georgia. The Autonomous Republic of Adjara disposes the revenues received through collection of established taxes and fees.
2. In order to ensure the enforcement of the authorities delegated to or within the competence of the Autonomous Republic of Adjara may be provided with the part of tax or non tax revenues in accordance with the law of Georgia, also special financing from the state budget.
3. The Autonomous Republic of Adjara has its property, the rule of formation of which is determined by the Georgian legislation.

Article 22

1. The Constitution of the Autonomous Republic of Adjara is adopted by two-thirds majority of the total membership of the Supreme Council of Autonomous Republic of Adjara and in force from the moment of the enactment of the “Organic Law of Georgia on the Approval of the Constitution of Autonomous Republic of Adjara”.
2. Taking into consideration the principle of separation of authorities the normative act of Georgia prevails over the normative act of Autonomous Republic of Adjara.
3. The Supreme Council of the Autonomous Republic of Adjara is authorized to address the common court or the Constitutional Court of Georgia in case of violation of this law.

Article 23

The government of Georgia within 2 weeks from enactment of this law shall decide legal and organizational matters concerning the giving of the state property to the Autonomous Republic of Adjara by strict observation of the matters in the competence of the Autonomous Republic of Adjara in accordance with the law and the matters prescribed to the special competence of the supreme state organs of Georgia by the Constitution of Georgia.

Article 24

This law shall become effective upon its promulgation.

Mikheil Saakashvili
President of Georgia

A P P E N D I X

An amendment to the Constitution of Georgia

Article 1

The following subparagraph f shall be added to the paragraph 1 of article 89 of the Georgian Constitution (Saqartvelos Parliamentis Uwyebebi, # 31-33, 1995, art. 668, p. 6):

“f) considers the disputes concerning the violation of the Constitutional Law of Georgia on the “Status of Autonomous Republic of Adjara”.

Article 2

This law shall become effective upon its promulgation.

Mikheil Saakashvili
President of Georgia