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**REPORT**

**OF THE VENICE COMMISSION  
ON THE REVISED CONSTITUTION  
OF THE REPUBLIC OF ARMENIA**

**adopted by the Venice Commission  
at its 47<sup>th</sup> Plenary Meeting,  
(Venice, 6-7 July 2001)**

**On the basis of comments by:**

**Mr Gerard BATLINER (Member, Liechtenstein)**

**Mr Aivars ENDZINS (Member, Latvia)**

**Mr Vital MOREIRA (Member, Portugal)**

**Mr Kaarlo TUORI (Member, Finland)**

## **Introduction**

1. Following the fourth meeting of the Venice Commission Working Group on the Revision of the Constitution with the Armenian authorities (Strasbourg, 5-6 June 2001) [and the discussion held at the 47<sup>th</sup> Plenary Meeting of the Venice Commission (Venice, 6-7 July 2001)] on the basis of the drafts and explanatory notes submitted by the Armenian authorities and the opinions presented by the Rapporteurs, the Venice Commission made the following observations on the proposed revision of the Constitution of the Republic of Armenia.

### **General comments**

2. The Venice Commission has co-operated with the Armenian authorities, at the request of the latter, for the revision of the Constitution of the Republic of Armenia. The co-operation has taken the form of several meetings between an Armenian delegation headed by Messrs G.Haroutyunian, President of the Constitutional Court and member of the Venice Commission and Mr T. Torossian, Vice-Chairman of the Armenian National Assembly, and Venice Commission Rapporteurs, Messrs G. Batliner, A. Endzins, K. Tuori and V. Moreira. Several meetings were held between February 2000 and July 2001 at which numerous proposals were examined and discussed on the basis of an agreed clear conceptual framework
3. The participants in these meetings have tried to consider the proposals made taking into account the legal, political and social traditions of Armenia but also the European constitutional heritage, the tendencies of modern constitutional law and, naturally, the standards of the Council of Europe and, above all, the requirements of the European Convention on Human Rights.
4. As regards human rights, the amendments to the Constitution strengthen the constitutional guarantees thereof in a significant manner. The direct effect of fundamental human rights and, consequently, their justiciability are guaranteed.
5. The amendments further seek to strengthen the separation of powers and to achieve a better equilibrium in the distribution of competencies on the basis of the principle of co-operation of branches of Government.
6. In addition, the constitutional provisions on the judiciary are amended with a view to safeguarding the effective independence of the judicial authorities.
7. The development of the competencies of the Constitutional Court is particularly welcome as it meets the tendencies in most members of the Council of Europe and will contribute towards making the highest judicial authority of Armenia a powerful tool for the effective respect of the Rule of law and human rights.
8. The amendments to the chapter on Local self-government are a significant improvement and lay down the framework for developing a system of local self-government fully compatible with the European Charter of Local Self-Government.
9. Finally, the Commission notes that it has neither considered the transitional provisions of the Constitution, as they were not drafted when the present report was adopted, nor the Preamble of the Constitution, as no proposal for its amendment was made by the Armenian authorities.
10. In general, the proposed amendments are the result of a serious analysis, political maturity and deep wish to follow the standards of the Council of Europe. The Venice Commission wishes to thank the Armenian authorities for their openness and the spirit of genuine co-operation during this process.

## **On Chapter 1: Foundations of the Constitutional Order**

11. The Commission welcomes the fact that the draft constitution no longer contains a natural law terminology, which may give rise to confusion in implying the existence of supra constitutional principles and create thus legal insecurity in the control of constitutionality.
12. The Venice Commission further welcomes the new formulation of Article 4 (*“The Republic of Armenia recognises the fundamental human rights and freedoms as an inalienable and ultimate value. In the exercise of power, the people and the state shall be limited by those rights stipulated by the Constitution, as a directly functioning right”*). This wording admittedly makes human rights directly applicable and places them at the very top of the hierarchy of norms in the Armenian legal order. The Commission would have wished to see human rights placed, together with the rule of law, in the very first Article of the Constitution (*“The Republic of Armenia is a sovereign, democratic state, based on social justice and rule of law”*). It understands however that Article 1 is a fundamental provision that according to Article 114 of the Constitution cannot be subject to amendments. It further notes that, by virtue of the new wording of Article 4, the notion of “rule of law” in Article 1 encompasses respect for human rights.
13. Article 6, in its proposed new wording, provides correctly that *“Laws and other normative legal acts that contain universally mandatory rules of conduct shall take effect only after official publication”*. This wording, introduced in the draft in June 2001, follows the Rapporteurs’ proposal and no longer gives the impression that the Armenian legal order allows for « unpublished legal acts ».
14. The Commission further welcomes the formula used for setting out the rule on the hierarchy of norms: *“Laws of the Republic of Armenia shall comply with the Constitution. Other normative and individual legal acts shall be consistent with the Constitution, the laws and international treaties ratified by the Republic of Armenia”*. The ambiguity that could be created as to the place of international law in the hierarchy of norms in the Republic of Armenia is avoided, as the same Article clearly provides in its penultimate paragraph that in case the norms of international treaties differ from those of national laws, the norms provided in the treaty shall prevail.
15. The Commission welcomes the new provision in Article 7.1 that « The Church in the Republic of Armenia shall be separate from the State ». The same provision further recognises the « *historically exceptional role of the Armenian Apostolic Church* ». Having regard to Article 26 (previously 23) of the Constitution, guaranteeing freedom of thought, conscience and belief, as well as freedom of worship, the Commission understands that no negative consequences whatsoever nor any discrimination can be drawn from the provision recognising the exceptional role of the Armenian Church for persons who do not belong to this Church. A discrimination of that type would infringe Articles 9 and 14 (and possibly Protocol 12) to the European Convention on Human Rights. This position is now reflected more clearly in the wording of Article 7.1 in fine, which reads: *“The freedom of activities of all religious organisations operating in the manner defined by law shall be guaranteed in the Republic of Armenia”*.
16. The Commission had initially suggested that constitutional guarantees for private property in Article 8 (« *The right to property is recognized and protected in the Republic of Armenia* ») be moved to Chapter 2 on Fundamental Rights. It understands however the importance, for a post-communist society, of placing the constitutional guarantee for property in the Chapter on the foundations of the Constitutional order. Moreover, it notes that as a result of the its new wording, Article 8 can be seen as a provision determining

the State's position towards property and market economy (*“Economic freedom, free economic competition based on the principles of market economic relationships are guaranteed in the Republic of Armenia. Abuse of monopoly status, illegal restriction of competition and bad faith competition in the market are prohibited. In the interests of the state and society, the possible forms of monopoly and their permissible limits may be defined by law »*), whereas Article 31 guarantees an individual right to respect for his possessions.

17. The provision providing that the State shall contribute to free access to national and world cultural heritage is welcome.
18. The Commission welcomes the new drafting of Article 11.2 : *« The Republic of Armenia shall recognize and guarantee the local self-governance as an independent democratic system of public self-governance »*, a principle enshrined in the European Charter of Local Self-Government.

## **On Chapter 2: Fundamental Human and Civil Rights and Freedoms**

19. The Venice Commission insisted upon the necessity to enshrine **clearly all fundamental values** and more specifically **all fundamental human rights** in the Constitution. The Constitution should also define and list as much as far as possible a catalogue of all constitutional fundamental rights and social and cultural rights. In this respect, the provision of new Article 42, which, in its initial wording reads *“The rights and freedoms set forth in the Constitution are not exhaustive”* seemed problematic. The Commission was of the opinion that the purpose of this provision was to prevent that fundamental rights and freedoms guaranteed by international treaties be unduly restricted or ruled out by virtue of constitutional human rights guarantees. It welcomes therefore the new wording that reads as follows: *“The rights and freedoms set forth in the Constitution do not exclude other fundamental or civil rights and freedoms stipulated in the law or the international treaties of the Republic of Armenia”*.
20. The Venice Commission **strongly supports** the proposed provision of Article 15 **abolishing death penalty**. It recalls that abolition of death penalty is one of the commitments subscribed by Armenia when it became member State of the Council of Europe. It further notes that references to death penalty *“in times of war or in the event of an unavoidable threat of war”* are in substance taken from Protocol No 6 to the ECHR. It understands therefore that the implementation of this provision shall strictly respect standards applicable in other Council of Europe member States.
21. The Venice Commission has considered whether it would be advisable to include in the Constitution provisions concerning prohibition of experiments on human foetus. Relevant provisions in the Human Rights Charter of the European Union and the European Convention on Bioethics could be used as models. It finds however that it may be counterproductive to initiate a discussion on this topic at this stage of the constitutional revision process. Moreover, the Commission is confident that provisions guaranteeing respect for human dignity may well be construed in such a way so as to prevent abuses in the field of bioethics.
22. The Commission welcomes the inclusion in (new) Article 16 of an exhaustive list of cases where deprivation of liberty may be permitted. It notes that the list follows closely the wording of Article 5 par 1 of ECHR.
23. The new structure of Article 18 (previously 38) is to be welcome, as it gives a constitutional basis for judicial and non-judicial human rights protection mechanisms both in domestic and international law. As it stands in the draft, this provision guarantees to persons that claim to be victims of violations of their constitutional rights, the right to

an effective remedy before State authorities, the right of access to court, the right to address the Defender of Human Rights and the right to appeal to international bodies of human rights protection.

24. The Commission further welcomes the establishment of the Office of the Human Rights Defender (Ombudsman) by this provision. Although a clearer wording (such as “ *The office of the Human Rights Defender is hereby established*”) could have been chosen, the Commission is satisfied that this provision, together with Articles 83 par. 4 (appointment of the Human Rights Defender by the National Assembly) and 101 par 8 (allowing the Human Rights Defender to bring case before the Constitutional Court) provide a sufficient constitutional basis for the operation of this institution.
25. The Commission welcomes the new formulation of the right to respect for private and family life in Article 23 (former Article 20), which follows the suggestion of the Rapporteurs. Furthermore, the new draft correctly provides that several interferences by State authorities within the exercise of the right to respect for private and family life, correspondence (Article 23) and home (Article 24), can only take place when they are permitted by law.

The lacuna identified by the Commission’s Rapporteurs, that there was no constitutional requirement that these interferences need also to pursue aims recognised as legitimate under the Constitution, is now dealt with in a satisfactory manner in the new wording of Article 43 *in fine*. It should be noted that Article 43 now covers rights guaranteed under Articles 23 and 24.

As regards the right of individuals to have access to information on their person held by state authorities and to seek that this information be corrected or eliminated, the Commission observes that this right is restricted to *citizens*. This seems to conflict with the right granted to “*everyone*” in Article 8 of the ECHR to respect for private and family life. Since the judgment in the case *Z v. Finland*, in February 1997, the European Court of human rights has repeatedly held that data protection is a fundamental element of effective protection of the right to private life. Article 8 of the Charter of Human Rights of the European Union also refers to data protection as a fundamental right. It is further stressed that European constitutions generally grant the right to everyone and not only to citizens (see e.g. Article 10 of the Grundgesetz; Article 22 of the Constitution of Lithuania, Article 31 of the Constitution of Ukraine, Article 20 of the Constitution of Georgia. It is further underlined that Article 51 of the Polish Constitution prohibits the collection of information on *citizens* (and thus, *a contrario*, permits the collection of information on foreigners) but allows *everyone* access to official documents and information concerning him/her.

26. Article 27 guarantees freedom of opinion and freedom of speech. A new provision is added to this Article guaranteeing media freedom as follows: “*The freedom of the media and other means of information is guaranteed*”.

The Commission welcomes this addition, which goes beyond the classical safeguard for individual freedom of expression. The “*freedom of the media*” must be construed as a fundamental guarantee for pluralist democracy.

In this respect, the Commission understands that the freedom of media comprises a requirement for independence of media and in particular that media in the public sector are so structured and operated as to be independent of the Government and of any public service and to guarantee opportunities for the expression of different lines of opinion. It further implies the existence of an independent authority, entrusted with the task of guaranteeing the independence of mass media from political and economic powers. The Commission refers to Articles 38 and 39 of the Constitution of Portugal which refer to Freedom of press and freedom of the mass media and to relevant Recommendations of

- the Committee of Ministers of the Council of Europe, in particular Recommendations R (96) 10 on the independence of public service broadcasting and R (2000) 23 on the independence and functions of regulatory authorities for the broadcasting sector. If the constitutional provision is construed as suggested above, there is no need for an explicit constitutional provision on independent media authority.
27. The Commission welcomes the proposal in the draft to grant the right to peaceful assembly not only to citizens but to everyone (Article 29).
  28. Article 30.1 is a new provision setting out the constitutional foundation of civil service. The Commission recalls the need to secure compatibility of the Civil Service Act (which is being currently drafted) with this constitutional provision. Reference is made here to the opinion by Mr Tuori (CDL (2001) 25) on constitutional aspects of the Civil Service Act.
  29. The Commission takes note, with approval, of the amendment to Article 31 par 2 that forbids foreigners and persons without citizenship to possess land in Armenia, “*except in cases provided by law*”. The Commission’s Rapporteurs were of the opinion that such a strict limitation of the right to property might raise serious problems in respect of the requirement of proportionality of restrictions of fundamental rights. The new wording no longer contains such a categorical prohibition but allows for restrictions by law to the property rights of foreigners and stateless persons on land: “*The law may impose restrictions to the right of aliens and stateless persons to own land*”.
  30. As regards social rights guaranteed in Articles 32 (except 32 par 4 (right to strike)) to 34, the Commission recalls that it is advisable to make a clear distinction between classical human rights and other rights. In particular, it is necessary to make a clear distinction between individual and enforceable rights and state obligations or non enforceable rights (for example the right to an adequate standard of living, Article 34; see also CDL (2000) 105) Article 34 in fine should read “*The State shall take the necessary measures to enable the exercise of these rights.*” The words “*of citizens*” should be deleted, as the rights guaranteed do no longer belong to citizens only but to anyone.
  31. Article 36 in fine provides for an obligation of individuals “*to take care of their needy and incapable parents*”. The Commission, although it fully subscribes to this principle, stresses the fact that this obligation should not diminish in any way whatsoever the social obligations of the State towards needy and incapable individuals, as set forth in other provisions of the Constitution.
  32. The Commission notes with approval that the right to social security in Article 37 is granted to everyone and not only to citizens.
  33. Furthermore, Article 39 provides that “*everyone has the right to education*” and that basic general education is obligatory for *everyone*. The Commission welcomes these amendments that bring in line the Constitution of Armenia with Article 2 of Protocol No 1 to the ECHR.
  34. The Commission welcomes the new wording in Article 41 (former 37) guaranteeing to persons belonging to minorities the right “*to freely express, preserve and develop their ethnic, linguistic, cultural and religious identity*”.
  35. As regards **restrictions to fundamental rights and freedoms (Article 44.1)**, the Commission notes that a general clause according to which “*the limitations of human rights and freedoms may not exceed the limitations defined in effective norms of international law and shall not violate the essence of rights and freedoms instruments*” is now included in the draft. The Commission strongly supports the inclusion of this provision that is likely to remove any possible inconsistencies with ECHR.
  36. The Commission further notes in this respect that the rules as to the restrictions to fundamental rights in the Constitution of Armenia are quite dispersed as they can result

from a) the absolute character of some rights (e.g. the prohibition of torture); b) the restrictions that follow the affirmation of the right concerned (e.g. the restriction to the right to liberty (see Article 16); c) the inherent restrictions to social rights; d) the clause on restrictions to Articles 23 to 30 and 32 par 4 in Article 43 and the general clause on restrictions in Article 44.1. Although this may seem *prima facie* confusing, the combined effect of these provisions offers a sufficient protection against arbitrary restrictions to fundamental human rights and freedoms. In any case, the revision process cannot entirely reform the actual structure of Chapter 2.

37. The Commission welcomes the reference to the principle of proportionality and international obligations in Article 44 (emergency situations). It assumes that reference to international obligations covers also the procedural aspects thereof (e.g. the declaration foreseen in Article 15 ECHR).
38. The Commission welcome the provision on fundamental rights of legal person (Article 48).

### **On Chapters 3, 4 and 5 concerning the State Organs and Separation of powers**

39. The Commission has carefully considered the balance of powers in the above-mentioned Chapters of the new draft and it is convinced that the draft offers a coherent distribution of power and competences between the President, the Parliament and the Government. In particular, the Commission observes the following:
40. The new provision of Article 55 should be welcome as it clarifies the process of preventive constitutional control by the **President** with the final involvement of the Constitutional court as follows: *“The President of the Republic 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 of the Republic shall sign and promulgate within a period of five days a law that has again been adopted by the National Assembly or shall apply to the Constitutional Court with a request to obtain a conclusion as to its compliance with the Constitution. If the Constitutional Court issues a conclusion on the provisions of the law being in contradiction with the Constitution, the President of the Republic shall not sign the law ».*
41. The President’s right to *dissolve* the National Assembly (the new draft uses the term *“reduce the term of the authorities of the National Assembly”*) is now rightly framed as this power can only be exercised in those cases expressly provided for in the Constitution (in Article 74.1, in the Chapter on the National Assembly), in accordance with a procedure described in the Constitution and after consultations with the President of the National Assembly and the Prime Minister.
42. The Commission welcomes the fact that the option whereby the National Assembly could dismiss the President of the Republic has been excluded from the draft. Of course, the National Assembly still is the only body that has the power to remove the President from office but this is now clearly limited to cases of treason or other high crimes. Moreover, the Constitutional Court has a very important role in the process of the removal as it has to issue a conclusion as to the reasons for the removal (Article 57). These are thus sufficient guarantees against political dismissal of the President of the Republic. Both the political “dismissal” of the directly elected President by the National Assembly and the President’s unrestricted power to dissolve the National Assembly were regarded by the Commission as options that might create a confrontational political climate that could prejudice the effective and smooth functioning of democratic institutions. The

options taken in the new draft show a strict adherence to the principles of European democratic heritage.

43. The Commission's Rapporteurs had expressed some concern about a rule, in the original draft, empowering the National Assembly not to accept the resignation of the President of the Republic as this was quite exceptional in comparative constitutional law and there was an obvious risk that refusal of a resignation could cause difficulties in the functioning of democratic State organs. The Commission welcomes therefore the new provision in Article 58, according to which: *"The President of the Republic shall submit his or her resignation to the National Assembly. In the event the resignation has been presented again, immediately after ten days, the resignation of the President of the Republic of Armenia shall be considered as accepted, and special elections shall be held within the periods and procedures prescribed by Constitution"*.
44. Article 55 par 4 provides that the President shall appoint a new Prime Minister in case of resignation and in case of vote of no confidence. This provision should be read in conjunction with the proposed new Article 85.1, which clearly and expressly requires that the President appoint a new Prime Minister also after election of a new National Assembly. The Commission finds that this is a key element in the Constitution and welcomes this new provision. "
45. Article 55 § 13 - 15 provide for the procedure for declaring martial law and state of emergency. These provisions should be read in conjunction with Articles 44 (in the Human Rights Chapter) and Articles 81 and 100 par 6 providing for the involvement of the National Assembly and the Constitutional Court in the determination of the reasons and the proportionality of the emergency measures and the persistence of the danger requiring the use of emergency powers:  
Article 55 « *The President, ...*

*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 the President shall declare a state of martial law and may call for a general or partial mobilization. In such a situation the armed forces and other troops of the Republic of Armenia are placed under the subordination of the operative management of the chief headquarters of the Ministry of Defense. In time of war the President of the Republic may appoint and dismiss the Commander in Chief of the armed forces.*

*14) In the cases of using the armed forces or declaring martial law, a special sitting of the National Assembly shall be immediately convened by force of law, which shall examine the issue of the correspondence of the measures taken with the situation. The legal regime of martial law shall be defined by law.*

*15) in the event of an imminent danger to the constitutional order, and consulting with the President of the National Assembly and the Prime Minister, shall declare an extraordinary situation, take measures appropriate to the situation. In this case, a special sitting of the National Assembly shall be immediately convened by force of law, which shall hear the issue of the correspondence of the measures taken with the situation. The regime of the extraordinary situation shall be defined by law.*

Article 81: *"Upon recommendation of the President of the Republic, the National Assembly shall make a decision on the declaration of war and establishment of peace. In the event of impossibility to convene a sitting of the National Assembly the issue of declaring war shall be resolved by the President of the Republic.*

*The National Assembly, on the basis of the conclusion of the Constitutional Court, may terminate the implementation of measures prescribed in sections 14 and 15 of Article 55».*

Article 83.1 requires that the legal regime of military and emergency situation be regulated by law (83.1 point 22).

Article 100 par 6: *The Constitutional Court “6) shall issue a conclusion on the constitutionality of the measures prescribed by Sections 14 and 15 of Article 55 of the Constitution ».*

The Commission understands that the National Assembly has a general supervision of all measures taken with regard to emergency situations and martial law: First, the National Assembly may assess the necessity of measures taken in the context of a declaration of martial law or state of emergency. It may also, after having taken into account the relevant conclusion of the Constitutional Court, decide to revoke the declaration of martial law or of state of emergency. Although much will depend in practice on the ability of the Constitutional Court and the National Assembly to assess rapidly the situation, the Commission finds that the above provisions contain sufficient guarantees to avoid abusive declaration of emergency and use of emergency powers.

The Commission would prefer a system whereby no measures whatsoever could be taken by the President or the executive in emergency situations or under martial law, before the National Assembly has reached its decision on whether to revoke or not the President's declaration of emergency or the declaration of martial law. In any case, the Commission expects that the law on emergency, as well as the law on the declaration of martial law, will provide for clear and short limits for the Constitutional Court to adopt its conclusion and for the National Assembly to decide on the declarations.

46. The legislative powers of the President are provided for in Article 56. The Commission's Rapporteurs insisted that these powers should be based on and be compatible with the Constitution and the law. Article 56 in the new draft reads as follows: *The President of the Republic may issue orders and decrees which shall correspond to the Constitution and the laws of the Republic of Armenia.*

The Commission understands that the terms “shall correspond to the Constitution and the laws” does not only mean that the President's orders and decrees shall be compatible or notion contradiction with the Constitution and the laws but means also that the President's legislative activity must find its basis in the Constitution and the laws. Moreover, the Commission considers that the general provision of Article 49 of the Constitution, according to which the President of the Republic shall “ensure the normal functioning of the legislative and judicial authorities” cannot be regarded as a basis for the exercise of legislative powers by the President. The Commission further notes that the provision according to which the President of the Republic was given general legislative powers in matters not only expressly assigned to him/her by the Constitution and by delegation (devolution) through law, but also in all areas until the National Assembly takes legislative action is now deleted from Chapter 3 of the Constitution. In the Commission's view, this general legislative power was problematic as it definitely extended the President's legislative competencies in an unlimited way. The Commission understands that it may be justified in societies in transition, where there is an urgent need to legislate on many issues at the same time, to make use, for a transitional period, of

exceptional legislative powers of the President of the Republic. Such powers should however remain exceptional and transitional and should be regulated in the transitional provisions rather than in the corpus of the Constitution.

47. As regards the Chapter concerning the **legislative power**, the Commission observes the following:

The incompatibility of the status of member of the National Assembly with any entrepreneurial activity or any other remunerated work, (except from scientific, pedagogical or creative work) can be regarded as too strict; it is not however incompatible with European standards and can be justified by the need to have a “professional” Parliament.

48. The role of the National Assembly in the nomination of the Prime Minister is defined in Articles 74 and 74.1. These provision should be read in conjunction with the new provision of Article 85.1 and Article 55 par. 4 (see also above point 34)

Although the provisions on the nomination of the Prime Minister and the Government and the question of confidence are dispersed, the system taken as a whole manages to combine a balanced power sharing and an effective exercise of Parliamentary control over the executive. This delicate legal and political exercise will still needs to be tested in real life.

49. The Commission notes, with approval, that the draft provides for a list of areas where the National Assembly has exclusive power to legislate (Article 83.1).

50. It further notes that both the President of the Republic and the Government have a right to legislative initiative (Article 75). As observed by the Rapporteurs, a parallel legislative initiative of the President and the Government can lead to confusions and to a situation where executive organs submit contradictory bills to the National Assembly.

51. With regard to Article 80, the Commission finds that there is in the new wording a clear distinction between the right to obtain information and the right to pose questions implying political responsibility. Questions implying political responsibility are to be addressed exclusively to the Government, as provided for in Article 80, par. 3, in accordance with the principles of parliamentary democracy.

Although the issue of parliamentary inquiries is not clearly addressed in the proposed draft, such inquiries can be carried out by the Committees as foreseen under Article 73. para. 3.

52. The Commission warmly supports the new provision in Article 83 that the National Assembly appoints the Human Rights Defender. Although a qualified majority for such an appointment might have secured a large consensus for the person of the Human Rights defender and might have thus increased the prestige and credibility of this important new institution (see in this respect the opinion of Mrs Serra Lopes on the legislation concerning the Ombudsman of Armenia (CDL (2001) 26)). The Commission understands that qualified majority requirements are rare in the Armenian constitutional order and praxis. The issue as to who is entitled to submit proposals for candidates can be dealt with in the Law on the Human Rights Defender.

53. As regards the Chapter on **Executive power**, the Commission finds that the amendments proposed are coherent with the general logic of the constitutional reform aiming at re-balancing power distribution by strengthening the Government and the Prime Minister’s position as head of the executive. In particular, the following comments can be made:

54. The Government powers are defined in the Constitution and the law and the operation of the Government is now to be determined by law and no longer by Presidential decree (Article 85). This re-enforces also the role of the National Assembly.

55. As regards Article 85.1 (formation of Government after the first sitting of a new National Assembly) see above points 34 and 38.

56. In accordance with Article 86, although the President may still convene and chair a Government sitting, the (regular) sessions of the Government are no longer chaired by the President but by the Prime Minister.

In accordance with new provisions in Article 86, the President has a function of preventive constitutional control as he/she can suspend the effect of a governmental decision for one month and request the Constitutional Court to determine the suspended decision's compatibility with the Constitution and the law. The Commission understands that this function only concerns normative (regulatory) acts of the administration and not individual acts.

57. Article 85 par 2 contains a new provision according to which "*all issues of State governance which are not reserved by law to other State or local self-government bodies*" are subject to the jurisdiction of the Government". Admittedly, this provision introduces the possibility to establish by law independent regulatory bodies (such as Independent authorities on Broadcasting, Energy Commissions and others) that are not subordinate to Government.

The Commission welcomes the general rule that State bodies should operate under the authority and control of the Governmental and would favour an explicit provision on the possibility to set up independent bodies, possibly delimiting the areas in which this could be done. In any case it is to keep in mind that independent bodies' acts and decisions should also be subject to judicial review.

58. The provision of Article 88.1 seems to aim at making a clear distinction between territorial administration and local self-government. The Commission welcomes this approach.

However, the proposal to re-introduce the provision according to which the Mayor of Yerevan is appointed and dismissed by the President of the Republic (which was deleted in a previous draft) is in breach of essential principles of local democracy and in obvious contradiction with the European Charter of Local Self-Government. The Commission strongly recommends that this provision be deleted.

The Commission further notes that according to the proposed provision the Mayor of Yerevan "*shall conduct the territorial policy of the Government*". The Commission recalls that the Mayor should be the elected head of local self-government unit of Yerevan. Performing at the same time the duties of an elected head of a local self-government and of a representative of the central authority may prove quite delicate. This cannot however justify a loss of the necessary independence of the local self government (see also below, Chapter 7).

## **Chapter 6: The judiciary**

59. The Commission welcomes the provision according to which "*justice shall be administered through constitutional, criminal, civil and administrative proceedings*" (Article 91). The reference to administrative proceedings is understood as establishing a specific category of administrative law disputes. The need to subject administrative acts to judicial review is one of the fundamental elements of the rule of law. However, as regards the establishment of administrative courts (Article 92), the Commission notes that this is not a necessary element of judicial review of acts of the administration. It may well be envisaged that control over normative acts is carried out by the Constitutional Court (as it is the case under the actual Constitution), whereas judicial review of individual administrative acts is performed by specialised sections or chambers of ordinary courts (usually courts of appeal and courts of cassation), as it is the case in Croatia and Latvia, for example. The Commission refers to the comments by Mr Torfasson on the

constitutional requirement of judicial review of administrative acts (CDL (2001) 39). There are of course arguments in favour of establishing separate administrative courts and the Commission does not wish to take a definite position on this point. It emphasises however that the court system should not be too complicated. If separate administrative courts are established, this will affect the need for economic and other specialised courts. Moreover, in the Commission's opinion, the establishment or non-establishment of an administrative judiciary is a solution of such importance that it should be made at constitutional level.

60. The Commission's Rapporteurs had expressed some worry about Article 93 allowing the Prosecutor to appeal to the Court of Cassation without any specific restriction, i.e. also in civil cases. This might infringe the principle of party initiative in civil proceedings and it was all the more so since this Article did not provide for a corresponding right of parties to appeal to the Court of cassation. The new wording, which the Commission welcomes, does no longer specifically refer to the Prosecutor's right to appeal to the Court of cassation but states that judgments of other courts "*shall be reviewed by the Court of Cassation in the manner and within periods defined by law*".
61. The Commission supports the proposal to delete the provision according to which "*the President of the Republic shall be the guarantor of judicial independence*" and to replace it by "*The independence of the courts shall be guaranteed by the Constitution and laws*".
62. The fact that the Constitution retains a minimum of provisions on the Council of Justice is to be welcome, as this body, being competent for the appointment and career of judges has a particularly important role for safeguarding judicial independence.
63. The Commission observes however that decisions as to the removal of judges is left to the Constitutional Court (Article 100.8). Although this may be seen as an additional guarantee for judicial independence, the absence of any remedy against such a decision of the Constitutional Court can raise problems. A more adequate solution would be to leave the initial decision as to the removal of a judge to the Council of Justice with the possibility for the judge dismissed to appeal to the Constitutional Court. The question was further considered whether it should be possible for the Constitutional Court to raise ex officio the question of removing a judge, when the Council of Justice does not take any action. The Commission's Rapporteurs expressed concern about this; it was more appropriate to let the President of the Republic (the ultimate appointing authority) or the Minister of Justice the right to appeal to the Constitutional Court. The Commission is now satisfied that the initiative for the dismissal of a judge belongs to the Minister of Justice (Article 101.11). Of course the question remains as to the role of the Judicial Council in this matter.
64. The Commission understands that the wording used in Article 100 par 3, according to which the Constitutional Court "*shall resolve disputes on the results of referenda*" does not only refer to the results as such but also to other questions determining the validity of the referendum (e.g. the constitutionality of the question posed, the conformity of the procedure followed etc).
65. The Commission welcomes the provision of 101 par 5 enabling the bodies of local self-government to challenge the constitutionality of norms concerning their constitutional rights and powers and to bring before the Constitutional Court disputes with central government authorities.
66. The Commission welcomes the new provisions on the Constitutional Court. It understands that the very first sentence in Article 100 ("*The Constitutional Court administers constitutional justice in the Republic of Armenia*") combined with Article 101 par 5 ("*In accordance with the procedure defined by the Constitution and the law on the Constitutional Court, may apply to the Constitutional Court ... citizens, in specific cases,*

*when there exists a court decision and the constitutionality of the provision of the law or of another normative act applied in this court decision”*) is to be regarded as the provision founding the right of access individual to the Constitutional Court.

67. The Commission welcomes the fact that the right to apply to the Constitutional Court in Article 101 par 5 is not restricted to citizens (as in the original draft) but granted to “everyone”.
68. As regards the mechanism of constitutional appeals and referrals to the Constitutional Court, the Commission understands that the jurisdiction dealing with a case (and possibly the Public Prosecutor) may refer the question of constitutionality of a provision to the Constitutional Court and suspend the proceedings until the decision is made. In addition, a party to the proceedings may, after the judgement is given, challenge the constitutionality “*of the provision of the law or of another normative act applied in this court decision*”. A decision by the Constitutional Court that the challenged provision is unconstitutional should logically lead to the annulment of the judgement (otherwise the Constitutional Court proceedings will not be regarded as effective remedies). The question is left to the legislator whether the appeal to the Constitutional Court shall be made only after the exhaustion of other available judicial remedies or whether it can be made after any judgement, even before the final one. The Commission understands that the latter option is more likely to be followed.
69. The Commission supports the provision of Article 101 par 7 enabling the Human Rights Defender to appeal to the Constitutional Court. This mechanism offers both the Human Rights Defender and the Constitutional Court the possibility to become important actors in the protection of human rights and constitutional order. The Human Rights defender should be able to request a decision by the Constitutional Court on the constitutionality of a provision at any time, irrespective of a specific pending or decided case.
70. The 30 days time limit set out in the Constitution in force (Article 102) for dealing and deciding any case brought before the Constitutional Court is rather unrealistic. Its abolition in the new text of Article 102 is to be welcome.
71. It is not yet clear whether the Procuracy and the Prosecutor General are to be regarded as parts of the judiciary or as an independent office attached to the executive. Much will depend on whether the Procuracy will also be entrusted with the task of defending the State interests in civil and administrative cases (American model). However, placing the Procuracy in Chapter 6 as part of the judiciary and the fact that Prosecutors are appointed by the President – and not by the Prime Minister (see Article 55 par 9) would rather indicate a preference for the continental approach. If the continental model is followed, Prosecutors should be included in the composition of the Judicial Council and the latter should be competent for their appointment, career and possible removal.

## **On Chapter 7: Local Self Government**

72. The Commission welcomes the provisions in this Chapter. Article 104 gives a definition of communities and sets out the right to local self government and establishes the communities’ legal personality, whereas Article 105 par 1 enshrines the communities’ own powers and the principle that the communities may also exercise powers upon delegation by the State. The Rapporteurs also welcome the constitutional guarantee of communities’ budgetary independence as enshrined in Article 106.
73. The Commission welcomes the fact that in Article 107 there is now an express constitutional guarantee for the election of the “council of elders” and the “leader of the community”. This is in conformity with the requirements of the European Charter of Local Self Government.

74. The Commission understands that Article 108.1 distinguishes the scope of State supervision over the exercise of delegated powers (first sentence of Article 108.1) from the supervision over the exercise of own powers of the communities (second sentence of Article 108.1). It is recalled in this respect that in accordance with the European Charter of Local Self Government State supervision over the exercise of the communities' own powers should be confined to a review of legality.
75. In Article 108 concerning the city of Yerevan, the principle should be included that the Mayor and the council must be elected. The Rapporteurs are aware that the elected Council and elected Mayor may be entrusted with tasks concerning the execution of Governmental policy in the capital and this may place them in a difficult positions as Governmental policy may not always be compatible with the elected council's or Mayor's policies. This is however not so unusual and the Rapporteurs note that several European capitals have found specific solutions to these problems. The Law on the city shall have to address this problem.
76. The Commission's Rapporteurs had expressed concern that Article 109, allowing the dismissal of elected mayors and the dissolution of the elected communities' councils, might lead to situations that could be incompatible with the very essence of democracy. The Commission now notes, with approval, that the new draft expressly provides that the dismissal may only take place for reasons "*stipulated by law*" and on the basis of a conclusion by the Constitutional Court. In this respect the Commission recalls that the legislator is bound, when adopting norms on the reasons for revocation of elected mayors and communities' councils, to respect the essence and the principle of local self-governance.
77. The Commission finds the norms contained in Article 110 regulating merger and split of communities in general compatible with European standards. It welcomes the new wording that follows the Rapporteurs' suggestion.

**APPENDIX**

**PROPOSED REVISED CONSTITUTION  
OF THE REPUBLIC OF ARMENIA**

## RECOMMENDATIONS FOR CONSTITUTIONAL REFORMS

### CHAPTER 1. The Foundations of Constitutional Order<sup>2</sup>

Article 1. The Republic of Armenia is a sovereign, democratic state, based on social justice and 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 the fundamental human rights and freedoms as an inalienable and ultimate value. In the exercise of power the people and the state shall be limited by those rights stipulated by the Constitution, as a directly functioning right.<sup>3</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.~~<sup>4</sup>

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-government bodies and public officials are competent to perform only such acts, for which they are authorized by legislation.

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<sup>2</sup> Chapters 1-7 of the Constitution have been edited with a new wording, taking into consideration:

- a) a) the recommendations made by the Constitutional Reforms Commission under the RA President,
- b) b) the recommendations made during the discussions held with the experts of the Venice Commission of the Council of Europe on November 16-17 in Yerevan, on February 13-14 in Paris and on June 5-6, 2001 in Strasburg
- c) c) the requirements of the Universal Declaration of Human Rights, European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 December 16 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and universal norms fixed in other documents on human rights,
- d) d) the experience of the international constitutional practice,
- e) e) the conclusions of various experts (particularly, those of Professors H.Schwartz, Otto Luchterhandt, W.Shults, R.Rubell, members of the Venice Commission Mr. M.Hertzog and Mr. H. Torfason ).

<sup>3</sup> Supplements and amendments are presented in such an underlined italic shift.

<sup>4</sup> The provisions presented in strikethrough font have been either deleted or moved (in this case it has been moved to Article 14).

Article 6. ~~The supremacy of the law~~ supremacy of 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, ~~unless otherwise provided by the Constitution.~~

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

Laws of the Republic of Armenia shall comply with the Constitution. Other normative and individual legal acts shall be consistent with the Constitution, Laws and international treaties ratified by the Republic of Armenia.

~~Laws shall be applied only after official publication. Laws and other normative legal acts that contain universally mandatory rules of conduct shall take effect only after official publication. Unpublished legal acts pertaining to human rights, freedoms and duties shall have no juridical force.~~

International treaties shall take effect for the Republic of Armenia only after they have been ratified or approved. International treaties signed on behalf of the Republic of Armenia shall be applied only after 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 other norms are provided in these treaties ratified international treaties other than those provided by the laws, then the norms provided in the treaty shall prevail.

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

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

Article 7. ~~The multiparty system~~ ideological pluralism and the multipartyism 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 shall be separate from the state. The Republic of Armenia recognizes the historically exceptional role of the Armenian national Apostolic Church in the spiritual life of the Armenian people, in the work of developing national culture and preserving the nation preserving national identity. At the same time The freedom of activities of all the religious organisations operating in the manner defined by law shall be guaranteed 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 integrity of the Republic of Armenia, the inviolability of its borders. The armed forces shall maintain neutrality in political matters and shall remain under civil supervision.

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 at his or her discretion, the results of his/her intellectual property. 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.~~

Economic freedom, free economic competition based on the principles of market economic relationships are guaranteed in the Republic of Armenia.

Abuse of monopoly status, illegal restriction of competition and bad faith competition in the market are prohibited.

In the interests of the state and society, the possible forms of monopoly and their permissible limits may be defined by law.

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 contribute to the free access to the national and world cultural heritage.

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 (provinces) and communities shall be the administrative-territorial units of the Republic of Armenia.

The names and borders of the administrative-territorial units shall be defined by law.

Article 11.2 The Republic of Armenia shall recognize and guarantee the local self-governance as an independent democratic system of public self-governance.

Article 11.3 The procedure for the acquisition and termination of citizenship of the Republic of Armenia shall be defined by law. Armenians by ethnicity 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 person may be deprived of citizenship of the Republic of Armenia, or the right to change citizenship.

A citizen of the Republic of Armenia may not be handed over to a foreign state, except for the cases prescribed by international treaties of the Republic of Armenia. The decision on the handing over may be appealed to the court.

The citizens of the Republic of Armenia shall be under the protection of the Republic of Armenia within the territory of the Republic of Armenia and beyond its borders.

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

Article 13. The flag of the Republic of Armenia is tricolor made of three horizontal and equal strips of red, blue and orange. The coat of arms 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.

## CHAPTER 2. Fundamental Human and Civil Rights and Freedoms

### ~~Article 14~~<sup>6</sup>.

~~Article 14~~ 14. The natural and inalienable dignity of the human being, as an indissoluble basis of his freedoms and rights, shall be respected and protected by the state.

The Republic of Armenia shall secure the protection of the human and civil rights and freedoms fixed by the Constitution, in accordance with the principles and norms of international law, on the basis of the Constitution and the laws.

Article 14.1. ~~Citizens~~ People, regardless of race, sex, language, creed, political or other persuasion, national or social origin, wealth or other status, are legally equal, have all the rights, freedoms and obligations defined by the Constitution and laws and shall be given equal protection of the law without discrimination.

~~Article 16. All are equal before the law and the court and shall be given equal protection of the law without discrimination.~~<sup>7</sup>

Article 17 15. 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.~~

The death penalty is prohibited in the Republic of Armenia, except in time of war or in the event of an unavoidable threat of war, on the basis of law.

Article 18 16. Everyone has the right to freedom and immunity. ~~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.~~

~~Everyone has the right to apply to a superior court with a request to check the legality and justified nature of his/her detention.~~

~~Everyone has the right, pursuant to the bases and procedure defined by law, to indemnification of damage caused by his/her illegal arrest or detention.~~

No one may be deprived of freedom otherwise than in the following cases and by the procedure defined by law:

- 1) 1) when a person is convicted to deprivation of freedom by a competent court,
- 2) 2) for not executing the lawful verdict of the court or for the purpose of ensuring the performance of any obligation provided by law,
- 3) 3) in the event there is a substantiated suspicion of having committed a crime or if it is necessary to prevent the commission of a crime by him or his flight after its commission,
- 4) 4) to supervise the education of a minor,
- 5) 5) to prevent the spread of infectious diseases, as well as other dangers to the public,
- 6) 6) to prevent the illegal entry of a person into the country, to deport him or to hand him over to another state.

Every arrested person shall, in a language understandable to him, be immediately informed about the reasons for his arrest and any charge presented against him.

In accordance with the provisions of sub-point (3) of this Article every person arrested or detained shall, within 48 hours, be subject to be brought to the court, which shall, not later than within 24 hours, make a decision on his detention or choosing other precautionary

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<sup>6</sup> See Chapter 1, Article 11.3

<sup>7</sup> See Article 14.1 with new wording.

measures. The free release of the person may be conditioned upon guarantees to be present at the trial.

Every person has the right to appeal the legality and justification of his/her detention through judicial procedure.

Every person has the right to compensation on the grounds and by the procedure defined by law against the damage caused for having been kept under illegal arrest or detention.

~~Every person who is deprived of freedom because of detention has the right to appeal the legality of his detention.~~

~~Every person who, in violation of the provisions of this Article, has become a victim of arrest or detention, has the right to compensation endowed with the power of claim.~~

No one may be arrested, put into detention or be deprived of freedom solely for the non-performance of his contractual obligations.

A person may not be searched otherwise than according to the procedure defined by law.

Article 17. 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 have the right to humane treatment and respect towards their dignity.

No one may be subjected to scientific, including medical experimentation without his or her consent.

Article 18. Everyone has the right to defend his or her rights and freedoms by all means not forbidden by law. If the constitutional rights and freedoms of a person have been violated, then he has the right to effective means of legal protection before state bodies.

~~Everyone has the right to defend in court the rights and freedoms fixed in the Constitution and the laws.~~

Everyone has the right to receive, on the grounds and in the manner defined by law, the support of the Defender of Human Rights for the protection of his rights and freedoms.

Everyone has the right in accordance with the international treaties of the Republic of Armenia to apply to interstate bodies of protection of human rights and freedoms for the protection of his rights and freedoms, if all the intrastate legal protection means have been exhausted.

Article 19. Everyone has the right to restore any rights which may have been violated, as well as to a public hearing by an independent and impartial court within a reasonable period, 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, however, the final judicial acts are subject to promulgation in an open-door court session.

Article 20. Everyone has the right to receive legal assistance. ~~Legal assistance is provided free of charge at the expense of state resources in cases prescribed by law.~~ Proceeding from the interests of justice, legal assistance is provided free of charge to an accused not having sufficient resources to pay for the services of a defender, as well as in other cases prescribed by law.

Everyone has the right, from the moment he or she is arrested, detained or charged, to be informed about his or her rights, as well as the causes for arrest or detention, and to have a defender.

Every convicted person has the right to have his or her conviction reviewed by a higher court, in a manner prescribed by law. Every convicted person has the right 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 21. 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 22. A person shall not be compelled to be a witness against himself or herself, or be a witness 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 meted by the law in effect when the crime was committed.

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

A law eliminating the punishability of an act ~~and~~ or mitigating the punishment has retroactive effect.

A law prescribing or increasing liability does not have retroactive effect.

No one can be convicted a second time for the same act.

Article 20 23. ~~Everyone has the right to defend his or her private and family life from unlawful interference and defend his or her honor and reputation from attack.~~ Everyone has the right for his personal and family life to be respected.

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

The bodies of state power cannot gather, keep, and provide other information about a person than prescribed by law.

Each citizen, except in cases prescribed by law, has the right to become acquainted with official information and documents about him and can demand their correction or elimination, if they are not reliable or have been obtained by illegal means.

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

Article 21 24. Everyone has the right to immunity of 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 in the manner prescribed by law by court decision and, in individual urgent cases provided by law, prior to the court decision.

Article 22 25. Every ~~citizen~~ person has the right to freedom of movement and residence within the territory of the Republic.

Everyone has the right to leave the Republic.

Everyone residing in the Republic of Armenia legally and every citizen has the right to return to the Republic.

Article 23 26. Everyone has the right to freedom of thought, conscience, and creed. The freedom to exercise one's religion and beliefs may be restricted only by law on the grounds prescribed in Articles 43 and 44 of the Constitution.

Article 24 27. Everyone has the right to freely assert his or her opinion. It is prohibited to force a person to retract or change his or her opinion.

Everyone has the right 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 the media and other means of information is guaranteed.

Article 24.1 27.1 Everyone has the right to submit applications or proposals to competent state and local self-government bodies with respect to the protection of his/her individual or social interests and to receive adequate answers.

Article 25 28. Everyone has the right to form associations with other persons, including the right to form and join trade unions.

Every citizen has the right to form political parties with other citizens and join such parties.

The rights to create and become members of parties and trade unions may, in the manner defined by law, be limited for individual groups of servants of the armed forces and public servants.

~~These rights may, in the manner provided by law, be restricted for persons in the armed forces and state service.~~

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

The activities of associations, including parties, may be suspended or prohibited only in cases prescribed by law, by court decision: court procedure.

Article 26 29. ~~Citizens have-~~ Everyone has the right to hold peaceful and unarmed meetings, rallies, demonstrations and processions.

This Article does not prohibit prescribing limitations by law on the exercise of those rights by persons in the armed forces and state service.

Article 27 30. Citizens of the Republic of Armenia who have attained the age of eighteen years have the right to participate in the government of the state directly or through their freely elected representatives.

The law may provide for suffrage in elections of local self-government bodies for persons who 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 suffrage in elections of local self-government bodies.

Article 30.1 Citizens have the right to be accepted into state service on general terms stipulated by law.

The principles and the procedure for organization of state service shall be defined by law.

Article 28 31. Everyone has the right to private property and inheritance.

The owner, at his/her discretion, may possess, use and dispose of the property belonging to him, the results of his intellectual activity. No one may be deprived of property, except by the court, by court procedure in cases prescribed by law.

~~Foreign citizens and persons without citizenship shall not have the right to own land, except in cases prescribed by law.~~

The law may provide limitations on land ownership for foreign citizens and persons without citizenship.

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

The implementation of the right to property shall not cause harm to the environment, violate other persons', the public's and the state's rights and legal interests.

Article 29 32. Every citizen one has the right to freedom of choice in employment.

Everyone has the right 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.

Everyone has the right to get involved in entrepreneurial activity not forbidden by law. The limitations relating to the execution of this right shall be defined by law.

~~Citizens~~ Employees have the right 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.

The state carries out effective employment and unemployment reduction programs. The hiring of children under 16 on a permanent job shall be prohibited. The procedure and conditions for their hiring to a temporary job shall be defined by law.

Compulsory labor is forbidden, except in cases prescribed by law.

Article ~~30~~ 33. Everyone has the right to rest.

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

Article 33.1 Everyone has the right to live in an environment favourable for his or her health and well-being and is obliged personally as well as together with others to preserve and improve the environment.

The state shall conduct policies ensuring environmental security for the present and future generations.

Public officials shall be held responsible for concealing environmental information and or refusing to provide it.

Article ~~31~~ 34. Every ~~citizen~~ one has the right to an adequate standard of living for himself or herself and his or her family, including to adequate housing, as well as to the improvement of living conditions. The state shall undertake necessary measures to enable the exercise of these rights of citizens.

Article ~~32~~ 35. 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 of marital age have the right to marry and create a family, they enjoy equal rights when marrying, during marriage, and in divorcing.

All the legal relationships related to marriage and family are regulated by law.

Article 36. Parents shall have the right to and shall carry an obligation to care for the upbringing, health, full and harmonious development and education of their children.

Depriving of parental rights or limiting thereof may be implemented only by a court decision in a procedure defined by law.

Adult capable persons are obliged to take care of their incapable and needy parents.

Article ~~33~~ 37. Every ~~citizen~~ one has the right to social security during old age, disability, sickness, loss of an income earner, unemployment and in other cases and procedure prescribed by law.

Article ~~34~~ 38. Everyone has the right 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~~ 39. Every ~~citizen~~ one has the right to education.

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

Secondary education shall be free of charge in state and community educational institutions. ~~Every citizen is entitled to receive higher education and other professional 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.~~

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

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

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

Article 36 40. Everyone has the right 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 41. ~~Persons~~ Citizens belonging to national minorities have the right to the preservation of their traditions, to freely express, preserve and develop their ethnic, linguistic, cultural and religious identity and the development of their language and culture.

Article 43 42. ~~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.~~

The rights and freedoms set forth in the Constitution are not exhaustive and do not exclude other fundamental human and civil rights and freedoms stipulated by law or by the international treaties of the Republic of Armenia.

Everyone is 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 worsen the legal status of an individuals shall not have retroactive effect.

Legal acts that improve the legal status of an individuals, remove or mitigate ~~their~~ his/her liability shall have retroactive effect, if that is provided by those acts.

Article 44 43. The fundamental human and civil rights and freedoms established under Articles 23–27 23-30 and part four of Article 32 of the Constitution may be restricted only by law, if necessary for ~~state and public security~~ state security and public tranquility, the preservation of public order, the prevention of crime, the protection of public health and morality, the constitutional rights, freedoms, honor and reputation of others in democratic society. The limitations of human rights and freedoms may not exceed the scopes defined by the effective norms of international law.

Article 45 44. Some human and civil rights and freedoms, except for those provided under Articles 17, 19, 20, 39, 41–43 15, 17-22, 26 and 42 of the Constitution, within the scopes of international obligations assumed in respect of derogating from the obligations in emergency situations, may to the extent equivalent to the situation be temporarily limited in a manner prescribed by law, in the event of martial law, or in cases prescribed under paragraph 14 of Article 55 of the Constitution.

Article 44.1. The limitations of human and civil rights and freedoms may not exceed the scopes defined by the effective norms of international law or shall not violate the essence of freedoms and rights.

Article 46 45. Everyone is obliged to pay taxes, duties, and make other mandatory payments in the amounts and manner prescribed by law.

Article 47 46. Every citizen is obliged to participate in the defense of the Republic of Armenia in the manner prescribed by law.

Article 48 47. Everyone is obliged to uphold the Constitution and the laws, and respect the rights, freedoms and dignity of others.

The exercise of rights and freedoms for the purpose of the violent overthrow of the Constitutional order, for the instigation of national, racial, or religious hatred or for the incitement to violence and war is forbidden.

Article 48. Legal persons are also endowed with fundamental human and civil rights and freedoms insofar 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 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 succession 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 ~~east 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 east.

*If the Constitutional Court accepts for hearing a case on the results of the elections of the President of the Republic, it must make a decision within ten days following the recording of the receipt of the application, and the time-frames defined by this Article shall be calculated from the moment the decision of the court enters into effect.*

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

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

A President of the Republic 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, the presidential elections shall be postponed by two weeks. If during this period the obstacles recognized as insurmountable are not removed, then *on the fortieth day after the expiry of the mentioned two-week period* ~~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.~~

*In the event of the passing of one of the candidates prior to the election day new elections shall be held on the fortieth day.*

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 with Article 57 of the Constitution, extraordinary 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 the following oath to the people during a special sitting of the National Assembly, with the participation of the members of the Constitutional Court: “Assuming the office of the President of the Republic of Armenia I swear: to fulfill the requirements of the Constitution in an unreserved manner; to respect human and civil rights and fundamental freedoms; to ensure the independence, territorial integrity and security of the Republic to the glory of our fatherland and to the prosperity of our people.”

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:~~

The President of the Republic shall sign and promulgate within a period of five days a law that has again been adopted by the National Assembly or shall apply to the Constitutional Court with a request to obtain a conclusion as to its compliance with the Constitution. If the Constitutional Court issues a conclusion on the provisions of the law being in contradiction with the Constitution, the President of the Republic shall not sign the law.

- 3) may ~~dissolve the National Assembly~~ reduce the term of the authorities of the National Assembly and designate extraordinary elections in the cases and by the procedure stipulated by the Constitution after consulting with the President of the National Assembly and the Prime Minister. Extraordinary elections shall be held no sooner than thirty and no later than forty days after the ~~dissolution~~ reduction of the term of the authorities of the National Assembly<sup>8</sup>.

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

- 4) In the manner prescribed by the Constitution shall appoint and dismiss the Prime Minister. Upon the recommendation of the Prime Minister shall appoint and dismiss the members of the Government.

In the event of a vote of no confidence in the Government by the National Assembly, the resignation of the Prime Minister or the office of the Prime Minister remaining vacant, shall accept the resignation of the Government, shall appoint a Prime Minister and form the Government.

~~Shall appoint and remove the Prime Minister. The President 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 President shall, within twenty days, accept the resignation of the Government, appoint a Prime Minister and form a Government.~~

- 5) shall make appointments to ~~civilian~~ state office positions in cases prescribed by law;
- 6) shall establish and preside over a 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 to the ratification of the National Assembly and sign ~~international treaties that are ratified by the National~~

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<sup>8</sup> In the opinion of the Venice Commission experts the specific issues relating to the ~~dissolution~~ reduction of the authorities of the National Assembly shall be regulated in the chapter on the National Assembly.

~~Assembly, ratify intergovernmental agreements~~ their ratification instruments, approve or annul the international treaties that do not require ratification;

8) shall appoint and recall the diplomatic representatives of the Republic of Armenia to foreign countries and 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, shall appoint and remove the deputy Prosecutors General upon the recommendation of 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 Constitutional Court or agree to involve him as an accused or initiate an administrative responsibility case against him through the judicial procedure ~~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;~~

H) 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 appeals, the courts of first instance, economic, administrative 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 involve the judge as an accused in court, initiate an administrative responsibility case against him through the 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 supreme Commander in Chief of the armed forces, shall coordinate the activities of the state bodies in the field of defense, shall appoint and remove the staff of the highest command of the armed forces and other troops;

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. In such a situation the armed forces and other troops of the Republic of Armenia are placed under the subordination of the operative management of the chief headquarters of the Ministry of Defense. In time of war the President of the Republic may appoint and dismiss the Commander in Chief of the armed forces.

14) In the cases of using the armed forces or declaring martial law, ~~the President of the Republic~~ a special sitting of the National Assembly shall be immediately convened by the force of law, which shall examine the legal rationale for declaring martial law. the issue of the correspondence of the measures undertaken with the situation. The legal regime of martial law shall be defined by law.

15) in the event of an imminent danger to the constitutional order, and consulting with the President of the National Assembly and the Prime Minister, shall declare an extraordinary situation, take measures appropriate to the situation; ~~and address the people on the subject making an address to the people in advance. In this case, the President of the Republic~~ a special sitting of the National Assembly shall be immediately convened by the force of law, which shall hear the issue of the legal rationale and proportionality the correspondence of the measures undertaken with the situation. The regime of the extraordinary situation shall be defined by law.

16) shall grant citizenship of the Republic of Armenia and resolve the issue of granting political asylum shall, by the procedure defined by law, resolve issues pertaining to granting citizenship of the Republic of Armenia and political asylum;

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

18) may grant pardons to convicted individuals.

Article 56. The President of the Republic may issue orders and decrees which ~~shall be subject to execution throughout the Republic.~~

~~The orders and decrees of the President of the Republic may not contravene~~ shall correspond to the Constitution and the laws of the Republic of Armenia.

56.1 The President of the Republic is immune.

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

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

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

If, by the conclusion of the Constitutional Court, the bases for removal of the President of the Republic from office are absent, the issue shall be removed from the National Assembly's discussion.

Article 58. ~~The resignation of the President of the Republic shall be accepted by the National Assembly~~ The President of the Republic shall submit his or her resignation to the ~~at the sitting of the National Assembly.~~ The National Assembly shall accept the resignation of the President of the Republic by a majority vote of the total number of Deputies. *In the event the resignation has been presented again, immediately after ten days, the resignation of the President of the Republic of Armenia shall be considered as accepted, and special elections shall be held within the periods and procedures prescribed by Constitution.*

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, which make the continuous performance of his/her authorities impossible, upon the recommendation of the Government and on the basis of a conclusion 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. If by the conclusion of the Constitutional Court the bases for the incapacity of the President of the Republic to exercise his or her duties are absent, the Government may not apply to the National Assembly with such a proposal.

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 duties of the President of the Republic shall be performed by the President of the National Assembly, and if that is not possible, by the Prime Minister. In the event the duties of the President of the Republic are not possible to be performed by the President of the National Assembly or the Prime Minister these shall be performed by the President 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.

If the RA President cannot perform his/her duties temporarily, he/she shall officially inform the President of the National Assembly about that, who takes upon himself/herself the performance of the duties of the President of the Republic during that period except for the cases prescribed by clauses 2-6 and 8-12 of Article 55 of the Constitution.

Article 60.1 Elections of the President of the Republic shall not be held in conditions of martial law, and the President of the Republic shall continue the performance of his or her

authorities ~~until~~. *In this case, on the fortieth day after* the termination of martial law, ~~after~~  
~~which~~ elections of the President of the Republic shall be held.

Article 61. The President of the Republic shall set up his staff. The compensation, servicing and security of the President of the Republic shall be prescribed by law.

#### **CHAPTER 4. The National Assembly *Legislative power***

Article 62. Legislative power in the Republic of Armenia shall be vested in the National Assembly. In cases provided by Articles 57, 58, 59, 66, 67, 73, 74, 74.1, 77, 78, 80, 81, 83, 84, 85.1, 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 the President of the National Assembly.

*The National Assembly may adopt addresses according to the procedure prescribed by its rules of procedure.*

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

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

*The procedure for the activity of the National Assembly, the formation and activity 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 one~~ one hundred and one Deputies.

The authority of the National Assembly shall expire in June of the fourth year following its election, on the opening day of the first session of the newly elected National Assembly, on which day the authority of the newly elected National Assembly shall begin.

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 in 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 authorities of the National Assembly shall be prolonged in time of martial law until the opening day of the first session of the newly elected National Assembly after the termination of martial law.*

Article 64. Any person having attained the age of twenty five years, 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 state office, *be in the bodies of local self-government, be engaged in entrepreneurial activities, as well as* engage in any other paid work, except for scientific, pedagogical and creative work.

*A Deputy shall perform his or her authorities on a permanent basis.*

The ~~compensation~~ *status and* guarantees for the activity 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 parliamentary authorities,* may not be prosecuted or held liable for actions arising from his or her status, or for his or her opinions expressed in the National Assembly, provided these are not slanderous or defamatory.

A Deputy may not be ~~arrested and subjected through the judicial process to administrative or criminal~~ *involved as an accused or subjected to a suit for administrative responsibility through the judicial process* without the consent of the National Assembly.

*A Deputy may not be arrested without the consent of the National Assembly except for cases when he or she was caught while committing a crime or immediately thereafter. In such a case the President of 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 National Assembly, upon violation of the provisions of the first part 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.

The procedure for the termination of Deputy's powers shall be 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 decree of the President of the Republic.

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~~ first Monday of September to the ~~second~~ third 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 Republic~~ President of the National Assembly, at ~~initiative of the Government or of at least one third of the total number of Deputies.~~

~~Extraordinary sittings shall be conducted~~ with the agenda and timetable specified by the initiating party.

An extraordinary sitting or session of the National Assembly may be convened by the President of the Republic, defining the agenda.

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

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 total 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 legislative acts ~~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 established may be established by a procedure defined under the procedural rules of the National Assembly, for the preliminary

consideration of particular draft laws 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~~ *concept paper of the program* of its activity 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 submission. 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. If the National Assembly does not give a vote of confidence to the Government headed by the Prime Minister appointed upon the proposal of the President of the National Assembly or, in the event the President of the National Assembly does not present any candidacy, to the Government headed by the Prime Minister appointed by the President of the Republic, as well as if does not give a vote of confidence twice to the Government headed by the Prime Minister appointed with its approval, then the President of the Republic shall, by the procedure prescribed by Article 55, point3 of the Constitution, ~~dissolve~~ reduce the term of the authorities of the National Assembly, by assigning special elections, which shall be held in the manner defined by point3 of Article 55 of the Constitution. The term of authorities of the National Assembly may ~~may be dissolved be~~ reduced by the President of the Republic also:*

*a) if the National Assembly fails, within two months, to make decisions with respect to draft laws that are deemed urgent by decision of the Government;*

*b) if, during the regular session of the National Assembly, its sittings are interrupted for over two months;*

*c) if, during the regular session of the National Assembly it is unable, for over two months, to adopt any decision in relation to 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~~ *may* stipulate the sequence for debate of its proposed draft legislation and may demand that they be voted on only with amendments acceptable to it. ~~Any draft legislation considered urgent by a Government decision 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~~ *in case of the existence of the conclusion* of the Government *and at its demand* 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 the adoption of a draft law proposed by it *or by a Deputy*. If the National Assembly does not adopt a vote of no confidence against the Government in the manner provided by Article 74 of the Constitution, then the ~~latter's~~ *Government's* proposed draft law is considered to have been adopted *or the draft law presented by the Deputy to have not been adopted.*

The Government may not raise the issue of a vote of confidence in conjunction with a draft law ~~proposed by it~~ more than twice during any single session.

Article 76. The National Assembly, upon submission by the Government, shall adopt the state budget and together with that the four-year plan of activity of that Government, by years. 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 states and international organizations.

The National Assembly shall examine and adopt the annual report on the implementation of the state budget if on the conclusions of the National Assembly's Oversight Office are available.

~~Article 78. In order to ensure the legislative basis of the Government's program, the National Assembly may authorize the Government to adopt decisions that have the effect of law that do not contravene any laws in force during a period specified by the National Assembly. Such decisions must be signed by the President of the Republic.~~

Article 79. The National Assembly shall elect and recall the President of the National Assembly and two deputies to the President ~~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 National Assembly shall elect two Vice Presidents of the National Assembly.~~

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

Article 80. Deputies have the right to ask questions to the Government. 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. The Deputies shall also have the right to address written questions to the Government, the heads of the bodies of territorial administration and local self-government, state institutions and to receive answers therefrom.

~~The answers in connection with~~ to the written questions raised by the Deputies are not presented at the sitting of the National Assembly.

At least ten Deputies or a faction of Deputies may apply with a written query to the Government, to the Chairman of the Central Bank. The Prime Minister, the members of the Government, the Chairman of the Central Bank shall answer the queries of the Deputies. A query shall be answered during a regular session not later than within 30 days following the receipt of the query and during the first sitting of the next session, if the session is over. The answer to the queries of the Deputies is presented at the sitting of the National Assembly and, by the decision of the National Assembly, may be discussed at the sitting prescribed by paragraph 1 of this Article.

Article 80.1 To develop the legislative policy and to organise its implementation a Council of the National Assembly composed of the President of the National Assembly, his/her Deputies, the Chairmen of the standing committees shall be established. The Council also approves the cost estimate of the National Assembly. The procedure of the activities of the Council is defined by the ~~regulations~~ rules of procedure of the National Assembly.

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

- 1) declares an amnesty;

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

- a) a) which are of a political or military nature, relate to the autonomy and territorial integrity of the country,
- b) b) which relate to human rights, freedoms and obligations,
- c) c) which foresee essential financial obligations for the Republic of Armenia,
- d) d) the application of which provides for a change in laws, or an adoption of a new law, or define norms other than prescribed by the laws,
- e) e) which so provide.

3) ~~may declare war~~ shall make a decision on the declaration of war and establishment of peace. In the event of impossibility of ~~convening~~ a sitting of the National Assembly ~~being convened~~ the issue of declaring war shall be resolved by the President of the Republic.

The National Assembly, on the basis the conclusion of the Constitutional Court, may terminate the implementation of the measures prescribed by 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 and his deputy 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,~~ 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;

3) may, on the basis of the conclusion of the Constitutional Court, terminate the powers of a member of the Constitutional Court appointed by it, approve such member's ~~arrest involvement as an accused or the initiation of proceedings to subject him/her to administrative responsibility, and authorize the initiation of administrative or criminal proceedings against such member~~ through the judicial process.

4) appoints the Defender of Human Rights for a five-year term. The grounds for the termination of the authorities of the Defender of Human Rights are defined by law.

Article 83.1. The following are defined exclusively by the RA laws:

1. 1. human and civil rights, freedoms and obligations, the guarantees for those rights and freedoms,
2. 2. citizenship, citizens' status as subjects of law, the status of foreigners and persons without citizenship,
3. 3. the bases for the utilization of natural resources and environmental safety,
4. 4. the bases of social protection, the forms and types of pension provision, the bases of labor and employment, marriage, family, childhood and maternity, upbringing of children, education, culture and health,
5. 5. labor relationships and social security,
6. 6. the legal status of ownership,
7. 7. the legal grounds and guarantees for entrepreneurship, the rules of competition and norms of antimonopoly regulation,

8. 8. the status of physical and legal persons, the subjects and objects of civil law, transactions, representation, the law of obligations,
9. 9. principles of foreign relations and external economic activity,
10. 10. legal regime for the formation of a free economic zone,
11. 11. the bases for the regulation of demographic and population movement processes,
12. 12. the grounds for the creation and activity of parties and other unions of citizens,
13. 13. the legal status of the mass media,
14. 14. the bases of state service and the activity of the organs of executive power,
15. 15. the bases of state statistics and information,
16. 16. the administrative territorial structure of the Republic of Armenia,
17. 17. the bases of local self-government,
18. 18. court formation, judicial procedure, the status of judges, the bases of court expert examination, the organization and activity of the procuracy, investigative and pre-investigative bodies, the notariat, organs and institutions executing punishments, and the bases of the organization and activities of advocates,
19. 19. the status of the capital of the Republic of Armenia, the special statuses of other settlements,
20. 20. the bases of national security, the organization of the armed forces of the Republic of Armenia and the bases for ensuring social order,
21. 21. the legal regime of the state border,
22. 22. the legal regime of the military and emergency situation,
23. 23. the procedure for the organization and holding of elections and referenda,
24. 24. the procedure for the formation and activities of the RA National Assembly, the status of the Deputies of the National Assembly,
25. 25. the definition of crimes, administrative and disciplinary violations and the liability for them,
26. 26. the state budget and budgetary system of the Republic of Armenia,
27. 27. the tax system, taxes, duties and mandatory payments,
28. 28. the principles for the organization and activities of the financial, credit and investment markets,
29. 29. the status of the national currency, the legal regime of applying foreign currency in the Republic of Armenia,
30. 30. the procedure for issuing and circulating state securities,
31. 31. the procedure for sending subdivisions of the armed forces of the Republic of Armenia to other states, the procedure for permitting the subdivisions of the armed forces of other states on the territory of the Republic of Armenia and the conditions of their stationing,
32. 32. the state anthem, state flag and coat of arms,
33. 33. the procedure for the use and protection of state symbols,
34. 34. state awards,
35. 35. military ranks, diplomatic classifications and other special degrees,
36. 36. state holidays,
37. 37. the units of weight, size and time, the procedure for defining state standards.

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 the case of reducing the term of authorities of the National Assembly, as well as in time of martial law or in the cases provided by Section 14 of Article 55 of the Constitution.

## **CHAPTER 5 The Government Executive power**

Article 85. The executive power of the Republic of Armenia shall be vested in the Government of the Republic of Armenia and other bodies performing the functions of executive power defined by law.

~~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.~~

The Government shall conduct the domestic and foreign policy of the Republic of Armenia. All issues of state governance which are not reserved by law to other state or local self-government bodies are subject to the jurisdiction of the Government.

The Government shall adopt decisions on the basis of the Constitution, international treaties, laws of the Republic of Armenia, the normative acts of the National Assembly and the President the Republic and to ensure their execution, which shall be subject to execution within the overall territory of the Republic.

The Government shall consist of the Prime Minister and the ministers.

The Government is considered formed, if the Prime Minister and all the ministers prescribed by law have been appointed.

The Prime Minister and the ministers must be RA citizens.

~~The Prime Minister shall appoint one of the ministers as deputy Prime Minister, who will to perform the authorities of the Prime Minister in the absence of the Prime Minister.~~

The authorities 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 85.1. After the first sitting of the newly elected National Assembly or accepting the resignation of the Government, the President of the Republic shall present to the approval of the National Assembly the candidacy of the Prime Minister. After receiving the approval of the National Assembly the President of the Republic shall appoint a Prime Minister and, upon the presentation of the latter shall form the Government within a two-week period. If the National Assembly does not give approval to the candidacy of the Prime Minister, then the President of the Republic shall present a new candidacy. In the event the new candidacy does not receive approval the President of the Republic shall appoint a Prime Minister upon the proposal of the President of the National Assembly. During the activities of the Government formed in this manner, the President of the Republic may dismiss the Ministers of Defense and Foreign Affairs from office without the proposal of the Prime Minister. In the event there is no candidacy for Prime Minister presented by the President of the National Assembly within the period of seven days, the President of the Republic shall appoint a Prime Minister and shall form the Government.

Article 86. The sessions of the Government shall be convened and 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 sitting 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 Government sitting.

The President of the Republic may suspend the effect of the decisions of the Government for a duration of one month and apply to the Constitutional Court to ascertain their compliance with the Constitution and and the laws.

In cases provided for by Article 59 of the Constitution the Prime Minister may, upon the request of the majority of the members of the Government, convene an extraordinary Government sitting.

Article 87. The Prime Minister shall oversee the Government's ~~regular~~ activities and shall coordinate the work of the Ministers.

The Prime Minister shall adopt decisions on issues connected to the organization of activity of the Government. ~~In cases prescribed by the rules of operations of the Government, decisions of the Prime Minister shall also be signed by the Ministers responsible for their implementation.~~

Article 87.1 A minister shall govern a specific area of management provided for by the law, shall ensure the implementation of the Government program in that area on the basis of the law shall issue orders and decrees.

Article 88. A member of the Government may not be a member of any representative body, carry out entrepreneurial activities, hold any other ~~public~~ office, or engage in any other paid occupation, except for scientific, pedagogic and creative work.

Article 88.1 State governance in the marzes shall be performed by the marzpets (governors), who shall be appointed and removed by the President upon the recommendation of the Prime Minister.

State governance in the city of Yerevan shall be performed by the mayor of Yerevan, who shall be appointed and removed by the President of the Republic, upon the nomination of the Government. The mayor of Yerevan, in cases provided by law, may also be removed from office by the council of elders of Yerevan.

The marzpets and the mayor of Yerevan shall conduct the territorial policy of the Government, manage the operation of the territorial services of the executive bodies, except for cases provided by law.

Article 89. The Government:

1) shall submit the ~~program~~ concept paper of the program of its activity to the National Assembly for approval in accordance with Article 74 of the Constitution;

2) shall submit the draft state budget and the four-year social-economic program of the country, broken down by years, to the National Assembly for approval, guarantee the implementation of the budget and the program, and submit a report on that 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 maintenance 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 and the program of the social-economic development of the country 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 jointly 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 and the program. 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 the program with related amendments approved by the Government shall be considered adopted.

In case of a vote of no confidence in the Government related to approval of the proposed state budget and the program, the new Government after the presentation of its concept paper to the National Assembly and receiving the vote of confidence shall present the National Assembly the draft state budget and program within a period of ~~twenty~~ thirty days, which shall be debated and approved within a period of thirty days in accordance with the procedure determined by this Article.

## CHAPTER 6. The Judicial Power

Article 91. In the Republic of Armenia justice shall be administered solely by the courts in accordance with the Constitution and the laws. ~~through constitutional, civil, eriminal and administrative proceedings.~~

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

~~Judicial acts shall be rendered in the name of the Republic of Armenia.~~

Article 92. The Constitutional Court, courts of general jurisdiction of first instance, appeal and cassation, as well as the economic court, and administrative courts, and in the cases provided by law also other specialized courts, operate in the Republic of Armenia.

~~The sentences, verdicts and decisions of the courts mentioned in this Article having entered into legal force shall be reviewed by the Court of Cassation of the Republic of Armenia in the manner and periods defined by law.~~

~~The courts of general jurisdiction in the Republic of Armenia shall be the courts of first instance, the courts of appeals and the Court of Cassation.~~

~~In the Republic of Armenia, there shall 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 of the courts of general jurisdiction, economic and other specialized courts entered into legal force shall be reviewed by the Court of Cassation in the manner and within periods defined by law. ~~may be reviewed by the Court of Cassation based on appeals filed by the Prosecutor General, his or her deputies, or specially licensed lawyers registered with the Court of Cassation.~~

Article 94. ~~The President of the Republic shall be the guarantor of judicial bodies. The independence of the courts shall be guaranteed by the Constitution and laws. He or she shall preside over the Council of Justice. 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 appeals and the Court of Cassation. 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.~~

~~The authorities of the courts, the procedure for their formation and activities shall be defined by law.~~

~~The authorities and the procedure for the formation of the Constitutional Court shall be defined by the Constitution, and the procedure for its activities shall be defined by the Constitution and the law on the Constitutional Court.~~

~~Article 94.1 The Council of Justice shall be formed and act according to the procedure defined by the Constitution and law.~~

~~The Council of Justice shall consist of seven judges elected by the general meeting of the judges of the Republic of Armenia for three years through secret ballot and three legal scholars appointed by the President of the Republic.~~

~~The Council of Justice shall elect a chairman of the Council from its membership.~~

Article 95. The Council of Justice, upon the proposal of the Minister of Justice, shall in the manner defined by law:

- 1) 1) make and present to the approval of the President of the Republic the lists of the official fitness of the candidates for judges and of the professional advancement of the judges, on the basis of which the appointments are made,
- 2) 2) issue a conclusion on the candidacies of the nominated judges,
- 3) 3) present a proposal on the award of qualification classifications for the judges,

4) 4) subject the judges to disciplinary responsibility.

The Council of Justice, upon the proposal of the Prosecutor-General, shall issue a conclusion to the President of the Republic on agreeing to involve the judge as an accused or to institute a proceeding to subject the judge to administrative responsibility through the judicial process.

~~5) Shall, upon the recommendation of the Minister of Justice, draft and submit for the approval of the President of the Republic the annual lists of judges, in view of their competence and professional advancement, which shall be used as the basis for appointments;~~

~~6) shall, upon the recommendation of the Prosecutor General, draft and submit for the approval of the President of the Republic the annual lists of prosecutors, in view of their competence and professional advancement, which shall be used as the basis for appointments;~~

~~7) shall propose candidates for the presidency of the Court of Cassation, the presidency and judgeship positions of its chambers, the presidency of the courts of appeals, courts of first instance and other courts. It shall make recommendations about the other judicial candidates proposed by the Minister of Justice;~~

~~8) 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;~~

~~9) shall make recommendations regarding training programs for judges and prosecutors;~~

~~10) 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;~~

~~11) shall take disciplinary action against judges. The president of the Court of Cassation shall chair the meetings of the Council of Justice 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;~~

~~12) shall express its opinion on issues of pardons when requested by the President of the Republic. The operational procedures of the Council of Justice shall be prescribed by law.~~

Article 96. Judges and members of the Constitutional Court are unchangeable. 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 subject only 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.

The judge and the member of the Constitutional Court may not be involved as an accused or subjected to administrative responsibility through the judicial process without the agreement of the body stipulated by the Constitution. The judge and the member of the Constitutional Court may not be arrested, with the exception of cases when the arrest is made at the scene of the crime and arises from the interests of the investigation of the case. In such a case the President of the Republic, the Chairman of the Constitutional Court and the chairman of the respective court shall be immediately notified.

Article 98. Judges and members of the Constitutional Court may not hold any other state office, be in the composition of the local self-government bodies, carry out entrepreneurial activities, as well as ~~not~~ engage in any other paid occupation, except for scientific, pedagogical 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 administers constitutional justice in the Republic of Armenia.

The Constitutional Court, in the procedure defined by 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 decisions of the Government, the Prime Minister, and the representative bodies of local self-government are in conformity with the Constitution;

1.1) shall resolve disputes having arisen between bodies of state power, as well as between state and local self-government bodies, on issues of the constitutionality of authorities, shall interpret the Constitution of Republic of Armenia in the event of resolving such disputes;

1.2) shall decide the issue of compliance of the decisions of the National Assembly, the decrees and orders of the President of the Republic, and the decisions of the Prime Minister with the RA laws;

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

3) shall resolve disputes concerning the results of referenda,

3.1) shall resolve disputes concerning the decisions adopted on the results of presidential and parliamentary elections;

4) shall recognize as insurmountable or eliminated the obstacles facing a candidate for President of the Republic;

5) shall issue a conclusion on the existence of grounds for the removal of the President of the Republic;

6) shall issue a conclusion on the measures prescribed by Sections 13 and 14 of Article 55 of the Constitution;

7) shall issue a conclusion on the incapacity of President of the Republic to perform his or her functions;

8) shall issue a conclusion on the termination of the authorities of a member of the Constitutional Court, his or her engagement as an accused or instituting an administrative responsibility proceeding against him through the judicial process; ~~arrest or initiation of administrative or criminal proceedings through the judicial process;~~

8.1.) shall render a decision on the termination of the authorities of a judge.

8.2.) shall issue a conclusion on the availability of grounds prescribed by law on the termination of the authorities of the leader of the community and the dissolution of the community council of elders.

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

Article 101. In accordance with the procedure defined by the Constitution and the law on the Constitutional Court, to the Constitutional Court may apply:

1) the President of the Republic, in the cases prescribed by points 1, 1.1., 1.2, 2, 3, 8, 9 of Article 100 of the Constitution;

2) the National Assembly, in the cases prescribed by points 1.1, 1.2, 3, 5, 6, 8, 9 of Article 100 of the Constitution;

3) ~~at least one third of the Deputies~~ at least one fifth of the Deputies in the cases prescribed by points 1 and 1.2 of Article 100 of the Constitution;

4) the Government, in the cases prescribed by points 1, 1.1, 1.2, 7 and 8.2 and 9 of Article 100 of the Constitution;

5) the representative bodies of local self-government, on the question of the constitutionality of the normative acts enumerated in point 1 of Article 100 of the Constitution relating to their constitutional rights or to dispute the state bodies' exceeding their constitutional authorities;

6) every person, in specific cases, when there exists a final court act ~~and~~ or the constitutionality or compliance with law of this or that provision of another normative legal act listed in point 1.2. of Article 100 of the Constitution applied towards him/her is being disputed;

7) the courts and the Prosecutor General, with questions on the constitutionality of the provisions of normative acts relating to the specific case under their examination;

8) the Defender of Human Rights, on issues of the consistency of the normative acts listed in point 1 of Article 100 of the Constitution with the provisions of chapter 2 of the Constitution;

9) the candidates for the President of the Republic and Deputies, on issues relating to them in the scopes of points 3.1 and 4 of Article 100 of the Constitution;

10) the Central Electoral Commission, in the cases prescribed by point 4 of Article 100 of the Constitution.

11) the Minister of Justice, in the cases prescribed by point 8.1 of Article 100 of the Constitution.

~~4) Presidential and parliamentary candidates on disputes concerning election results;~~

~~5) the Government in cases prescribed by Article 59 of the Constitution.~~

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

~~Article 102. The Constitutional Court shall adopt its decisions and conclusions 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 1 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 Constitution and the law on the Constitutional Court.

The decisions of the Constitutional Court are final, are not subject to review, enter into force upon promulgation.

The Constitutional Court may also set another date for the entry into force of its decision when the normative act or an individual provision of it loses its legal effect.

The Constitutional Court shall adopt decisions on issues provided for in Article 100, points 1-4 (including point 1.1) and 9, whereas on issues provided for in points 5-8 it shall adopt conclusions. The conclusions, and the decisions on issues provided for in points 1.1 and 9, shall be adopted by at least two thirds of the votes of the total number of members, the remaining decisions shall be adopted by the majority of votes of the total number of members.

On issues of parliamentary elections, as well as on the basis of individual applications of citizens the Constitutional Court, in a procedure defined by law, may hear the case and render a decision by a panel of three members of the Constitutional Court.

Other bodies of state power may not adopt decisions contrary to the conclusions of the Constitutional Court.

All When resolving the issues relating to the activities and financing of the Constitutional Court and the material and social security of its members, shall be examined agreed with the Constitutional Court in advance by the state bodies that have the jurisdiction of making corresponding decisions.

Article 103. The Procuracy of the Republic of Armenia represents a unified, centralized system, headed by the Prosecutor General. The Procuracy, in the cases and by the procedure provided for by law:

1) shall institute a criminal case and 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 property interests of the state;

5) shall appeal the sentences, verdicts and decisions of the courts;

6) shall oversee the execution of punishments and other means of criminal-legal influence and administrative compulsion ~~other sanctions.~~

The Procuracy 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 marzes (provinces) and communities. Marzes shall include urban and rural communities.~~

Article 104. The local self-governance is conducted in the communities. The local self-governance is the right of community, provided and guaranteed by the state, to resolve the local matters with self-responsibility, in consistence with Constitution and laws, for the well being of the inhabitants.

Article 104.1. The community shall be the aggregation of the inhabitants of one or several settlements. The community is endowed with the right of self governance.

The community is a legal person and has the right to ownership and other property rights.

Article 105. In implementing local self government the community shall participate in exercising power on the local level insofar as not reserved to other state bodies by the Constitution and laws.

Authorities of the community pertaining to managing and disposing of the community's property, resolving issues of community significance and other authorities aimed at fulfilling the requirements of the community shall be exercised by the community as its own authorities, in its own name and under its responsibility. A part of the community's own authorities may by law be deemed obligatory.

For the purpose of the more efficient implementation of the powers of the state they may be delegated to the communities community bodies by law.

Article 105.1. The land within the territory of the community, except for the land required for the state needs and belonging to the physical and legal persons, is the property of the community.

Article 106. The communities shall be autonomous in the formation of their budgets.

The sources for community revenues shall be defined by law.

The law shall define such sources of funding for the communities which shall ensure the carrying out of their authorities.

The authorities delegated to the communities shall be subject to mandatory funding from the state budget.

The communities shall define local taxes and duties within the limits provided by law.

The communities may define fees for the services they render.

~~The State shall be authorized to exercise control in the manner defined by law over the use of the local financial resources, which shall not limit the authorities of the community powers.~~

Article 107. The community shall implement its right to self-government through the bodies of local self-government, i.e., the council of elders and the leader of the community, which in the manner defined by law shall be elected for the term of four years.

The council of elders of the community, in the procedure defined by law, shall dispose of the community's property, shall approve the budget of the community upon the presentation of the leader of the community, shall oversee the implementation of the budget, shall define local taxes, duties and fees in the manner defined by law, shall adopt legal acts mandatory for implementation on the territory of the community. The acts adopted by the council of elders of the community may not contradict legislation, the procedure for their promulgation and entry into force shall be defined by law.

The authorities of the leader of the community and the procedure for their exercise shall be defined by law.

The members of the community may directly participate in the administration of the community's affairs, by resolving matters of community significance through local referenda. The procedure and conditions for holding local referenda shall be defined by law.

Article 108. Yerevan is a community. The authorities of the leader of the community in Yerevan shall be exercised by the mayor of Yerevan. The characteristics, as well as authorities of the bodies of local self-government in Yerevan shall be defined by the Law on Yerevan.

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

Yerevan has an independent budget.

Article 108.1 The procedure for state monitoring of the exercise of the authorities delegated to the community shall be defined by law. In order to ensure the legality of the general activities of the community it shall be subject to legal oversight in the manner prescribed by law.

Article 109. In the cases stipulated by law, the Government, on the basis of a conclusion by the Constitutional Court, may dismiss the leader of the community or dissolve the council of elders of the community.

Prior to the newly elected leader of the community's assuming his/her obligations, the marzpet shall appoint an acting leader of the community for a term of not more than six months.

Article 110. If necessary, enlargement of communities may take place by the will of communities themselves, as well as, irrespective of their will, by the National Assembly, upon the recommendation of the Government. Prior to the discussion of the issue in the National Assembly the Government shall promulgate the results of the local referenda held in those communities. The communities may be consolidated or split irrespective of the results of the local referenda.

~~Article 105. Local self-government shall be realized in the communities.~~

~~To manage the property of the community 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 leader of the community: a City Mayor or Village Mayor.~~

~~The leader of the community shall organize his or her staff.~~

~~Article 106. The council of elders of the community, upon the recommendation of the leader of the community, shall approve the community budget, oversee the implementation of the budget, and determine local taxes and fees as prescribed by law.~~

~~Article 107. State government shall be implemented through the marzes (provinces).~~

~~The Government shall appoint and remove the marzpets (governors of the provinces), who shall implement the Government's regional policy and coordinate the regional activities of republican executive bodies.~~

~~Article 108. The City of Yerevan shall have the status of a marz (province).~~

~~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 communities.~~

~~Article 109. In cases prescribed by law, the Government may remove the leader of a community upon the recommendation of the marzpet.~~

~~When the leader of a community 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 leader of community may take office, an acting leader of community shall be appointed by the Prime Minister for urban communities and by the marzpet for rural communities.~~

~~Article 110. The election procedure of local self government bodies and their powers shall be determined by the Constitution and the laws.~~

## **CHAPTER 8. Adoption of The Constitution, Amendments And Referendum<sup>10</sup>**

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, within twenty one days after receiving the draft Constitution or the draft of constitutional amendments, may remand it 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 the manner provided in Article 111 of the Constitution. Laws passed by referendum may be amended only by referendum.

Article 113. A draft submitted to a referendum shall be considered adopted, if more than half of the participants in the voting, but not less than one third of the citizens included in the voters' lists, have voted in favor.

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

## **CHAPTER 9. Transitional Provisions**

(will be supplemented after the consideration of the package of reforms).

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<sup>10</sup> *The proposals on this chapter will be considered after the final clarification of the general approaches.*





