ASSESSMENT OF THE OVERSIGHT FUNCTION DEFINED BY THE NEW RULES OF PROCEDURE OF THE GEORGIAN PARLIAMENT

TRANSPARENCY INTERNATIONAL GEORGIA

The Parliament of Georgia adopted the new draft Rules of Procedure with the first hearing. The draft law was approved following the consideration of recent amendments, as well as the need to improve the Rules of Procedure and strengthen the Parliament as an institution. The draft law introduces changes to the legislative process, oversight functions of the Parliament, governance, transparency and accountability of the legislative body.

The following is an assessment of the legislative changes to the oversight functions of the Parliament of Georgia.

DRAFT LAW, INITIATOR

Legislative Initiative: Draft Law - Rules of Procedure of the Parliament of Georgia.

Initiators: Irakli Kobakhidze, Tamar Chugoshvili; Irine Pruidze, Giorgi Kakhiani, Anri Okhanashvili, Eka Beselia, Mamuka Mdinaradze, Archil Talakvadze, Irakli Sesiashvili, Irakli Beraia, Guram Macharashvili.

ESSENCE OF THE DRAFT LAW

The purpose of the draft law is, on the one hand, to reflect the recent changes in Georgian Constitution in the Rules of Procedure of Parliament, and, on the other hand, to correct problematic provisions. As the draft law initiators state in the explanatory note, *"the existing provisions facilitate a fast legislative process that cannot ensure adequate quality of lawmaking. Foresight and other functions of the Parliament are not regulated in a systematized way, which, in most cases, results in an inability to fulfill any of these functions."*

The new draft Rules of Procedure introduces systematic existing norms and, in some cases, introduces new regulations. A separate chapter is devoted to oversight functions, which includes innovations in the following areas: MP questions, interpellation, Prime Minister's speech, Prime Minister's report, mandatory invitation of public officials, thematic research group, temporary investigative commission.

1. CONFIDENCE VOTE

CONFIDENCE VOTE PROCEDURE

CURRENT PROVISION	PROPOSED AMENDMENT
Within 5 days after the withdrawal of the authority of the Government of Georgia, the political subject with the best results in the parliamentary election shall submit to the President of Georgia a candidate for the position of the Prime minister, and within 7 days after the withdrawal of the authority of the Government of Georgia, the President shall nominate a candidate for the position of the Prime-Minister proposed by the election subject with the best results in the Parliamentary elections. Within 7 days, the candidate for the position of the Prime-Minister shall nominate the candidates for the positions of Ministers and present the composition of the Government to the Parliament of Georgia for the vote of declaration of confidence.	Within 2 weeks after the withdrawal of the authority of the Government of Georgia, resignation of the Prime-Minister or withdrawal of authority for any other reason, the Parliament shall vote to declare confidence in the composition of the government submitted by the candidate for Prime-Minister of the Government of Georgia, nominated by the political subject. The Parliament must be presented with the composition of the government and government program no later than day 9 after the withdrawal of the authority of the Government of Georgia, resignation of the Prime-Minister or withdrawal of authority for any other reason.

2. VOTE OF NO CONFIDENCE[1]

INITIATORS OF THE VOTE OF NO CONFIDENCE

CURRENT PROVISION	PROPOSED AMENDMENT
Vote of no confidence is considered initiated when **more than half** of the current nominal list of MPs votes in favor.	More than 1/3 of the full composition of the Parliament.[2]

PROCEDURE OF DECLARING NO CONFIDENCE

CURRENT PROVISION	PROPOSED AMENDMENT
After raising the issue on declaring no-confidence, not less than two-fifth of enlisted members nominates a candidate of Prime-Minister. The Parliament shall vote to submission of the candidate of the Prime -Minister to the President. The President shall be authorized to nominate a candidate of Prime-Minister or to refuse from nominating.[3]	Along with raising the issue on declaring no-confidence, the initiators shall present the Parliament with candidate of Prime-Minister, new composition of the government and the government program. If the Parliament votes to declare its confidence in the new government with a majority of full composition, no confidence shall be declared in relation to the current government.

3. GOVERNMENT PROGRAM IMPLEMENTATION REPORT

DEADLINE FOR SUBMITTING THE PRIME MINISTER ANNUAL REPORT

CURRENT PROVISION	PROPOSED AMENDMENT
Once a year, in the first week of the autumn plenary session.	Once a year, in the final month of the spring plenary session.

PRESENTATION OF AN EXTRA REPORT ON THE IMPLEMENTATION OF A SPECIFIC PART OF THE GOVERNMENT PROGRAM

CURRENT PROVISION	PROPOSED AMENDMENT
The Parliament may request a report on the implementation of the overall government program.	The Parliament may request a report on the implementation of a specific part of the government program.

DECISION ON SUBMITTING AN EXTRA REPORT

CURRENT PROVISION	PROPOSED AMENDMENT
The Parliament makes a decision to demand an extra report based on the request of a committee or faction by the majority of votes of the present MPs, but no less than one-fourth of the MPs.	The Parliament makes a decision to demand an extra report based on the request of a committee or faction by the majority of votes of the full composition of MPs at a plenary session.

FORMAT OF THE REVIEW OF ANNUAL AND EXTRA REPORTS

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	The Prime Minister presents an oral report together with a written one, which is followed by a political debate.

RESULT OF REVIEW OF ANNUAL AND EXTRA REPORTS

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	A review may be followed by the adoption of a resolution.

4. MP INQUIRY, INTERPELLATION

DEFINITION AND SEPARATION OF MP INQUIRY AND INTERPELLATION

CURRENT PROVISION	PROPOSED AMENDMENT
A Member of Parliament is authorized to pose an inquiry to the government, a government member or a body accountable to the Parliament. The inquiry as well as its response must be in written form. An inquiry (posed by 10 MPs or a faction) may be oral or written in form. An oral inquiry can be posed at the plenary session, but no later than 14 days before the Government Hour. A written inquiry can be submitted 15 days before the plenary session. The Government Hour A written inquiry is submitted to the Office of the Parliament, which records it in a special book and gives out a certificate on the reception of a written inquiry.	A Member of Parliament is authorized to pose an inquiry to the government, a government member, a body accountable to the Parliament, the Ombudsman, the Public Defender, a local public institution or pose an inquiry through the interpellation procedure to the government, a government member or a body accountable to the Parliament. The inquiry as well as its response must be in written form. Interpellation - A group of seven MPs, a faction is authorized to pose an inquiry to the government of Georgia, a member, accountable to the Parliament, a member of government. The inquiry must be in written form, its content must be specific and relevant to the issue of public interest. The inquiry may be accompanied by an explanatory note. The response shall be provided orally at the plenary session.

MP INQUIRY CONTENT

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	The content of the inquiry must be formulated in a specific and clear manner, and must fall under the competence of the recipient.

PROCEDURE FOR RESPONDING TO AN MP INQUIRY

CURRENT PROVISION	PROPOSED AMENDMENT
Each body and public official that was addressed with an inquiry shall submit a written answer to the Parliament within 15 days. In agreement with the author of the inquiry, the deadline for providing an answer can be extended by 10 days.	Each body and public official that was addressed with an inquiry shall submit a written answer within 15 days. In agreement with the author of the inquiry, the deadline for providing an answer can be extended by 10 days. The answer is given to the author of the inquiry by the Office of the Parliament and is published on the official website, with indication of the violation of the deadline (if any).

DEADLINES FOR RESPONSE TO MP INQUIRIES / INTERPELLATIONS

CURRENT PROVISION	PROPOSED AMENDMENT
Inquiry responses must be provided at the plenary session, on the last Friday of each month, during the Government Hour. The response shall be submitted to the plenary session of the Parliament in writing.	The response shall be submitted to the plenary session in writing. In case of interpellation, the witnesses shall appear before the Parliament twice during each session: on the last Friday of March, May, September and November, and respond to all questions received no later than 10 days prior.

PROCEDURE FOR RESPONDING TO MP INQUIRIES / INTERPELLATION

CURRENT PROVISION	PROPOSED AMENDMENT
In agreement with a respective official, the Chair of the session determines the time for answering an inquiry at the plenary session of the Parliament. For making clear separate issues an MP can address a reporter once for no more than 3 minutes. After the final speech of the reporter, there are not more speeches on the issue.	At a plenary session of Parliament, the author of the inquiry is initially given 10 minutes, followed by 3 minutes given to the addressee, which may be extended by another 10 minutes. The author may take no more than 3 minutes to request clarification from the addressee, who then can take 10 minutes to provide the clarification. After the break, a debate shall be held: the majority and minority are given 45 minutes each, while factions and MPs not part of either majority or minority are given 15 minutes; first word is given to independent deputies, followed by representatives of the minority and then finally the majority.

DEBATES ON MP INQUIRIES / INTERPELLATION FOLLOWING A RESPONSE

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	A resolution may be adopted following the conclusion of debates and the final speech of the addressee.

5. INVESTIGATIVE AND OTHER TEMPORARY COMMISSIONS

TEMPORARY INVESTIGATIVE COMMISSION

BASES FOR SETTING UP A TEMPORARY INVESTIGATIVE COMMISSION

CURRENT PROVISION	PROPOSED AMENDMENT
Information: • About illegal actions of state bodies, public officials, corruption offences, which threaten the state security, sovereignty, territorial integrity, political, economic or other interests of Georgia. • About misappropriation of state and local self-governing entities budgets. • Studying which is particularly important from the State and public points of view.	Information: • About illegal actions of state bodies, public officials, corruption offences, which threaten the state security, sovereignty, territorial integrity, political, economic or other interests of Georgia. • About misappropriation of state and local self-governing entities budgets.

THE NUMBER OF VOTES REQUIRED TO SET UP A COMMISSION[4]

CURRENT PROVISION	PROPOSED AMENDMENT
Majority of the current list of MPs	1/3 of the full composition of the Parliament

VOTING PROCEDURE

CURRENT PROVISION	PROPOSED AMENDMENT
Parliament votes on the relevance of creating a temporary investigative commission by the majority of votes of the MPs present at the plenary session, but no less than one-third of the full composition of the Parliament. Pursuant to nominating the candidates for the temporary investigative commission membership the draft decision on creation of the temporary investigative commission is put on vote.	The double vote procedure for creating a commission is being annulled. Parliament votes on a draft resolution on setting up a temporary investigative commission. In case of support of 1/3 of the full composition of the Parliament, opposing votes shall not be taken into consideration.

ELECTING THE COMMISSION CHAIR

CURRENT PROVISION	PROPOSED AMENDMENT
Majority of the current list of MPs	Majority of the temporary investigative commission

OTHER TEMPORARY COMMISSION

BASES FOR SETTING UP A TEMPORARY COMMISSION

CURRENT PROVISION	PROPOSED AMENDMENT
• On the issues of restoring the territorial integrity and de-occupation. • For studying a petition or a complaint on the problems of State importance. • For studying the activities of the State Audit Office.	In order to fulfill non-permanent tasks of state and / or public importance faced by the Parliament, the implementation of which requires collegial study and decision.

6. SUMMONING OF ACCOUNTABLE BODIES TO THE PARLIAMENT, MINISTER'S HOUR

OBLIGATION TO ATTEND SESSIONS

CURRENT PROVISION	PROPOSED AMENDMENT
The officials elected, appointed or confirmed by Parliament, and officials appointed with Parliament's consent, if required shall attend the sittings of the Parliament, committee, investigative and other temporary commissions, the Majority or the Minority. A Member of Government, official, who is elected by the Parliament, also an official, to whose appointment Parliament gave its consent, are authorized, in case of the request - obliged, to attend the committee sittings.	The obligation of accountable persons to attend faction, majority and minority sessions has been removed.

PROCEDURE FOR SUMMONING OFFICIALS TO THE PLENARY SESSION

CURRENT PROVISION	PROPOSED AMENDMENT
On the basis of the request of a committee or a faction and by the majority of votes of MPs at the plenary sitting, but no less than one-fifth of all enlisted MPs, Parliament is authorized to make a decision on inviting a Member of the Government of Georgia to the plenary sitting, on the issue to be discussed and the date of the consideration at the plenary sitting. This person attends the Parliament from 4 pm to 7 pm on the last Friday of the plenary session of the month.	On the basis of the request of a committee or a faction and by the majority of votes of MPs at the plenary sitting, but no less than one-third of all enlisted MPs, the Parliament is authorized to summon a member of government, public official accountable to the Parliament, head of a body accountable to the Parliament. This person attends the Parliament, as a rule, on the last Friday of the plenary session of the month.

PROCEDURE FOR REVIEWING AN ISSUE AT A PLENARY SESSION

CURRENT PROVISION	PROPOSED AMENDMENT
In agreement with a respective official, the Chair of the session determines the time for answering an inquiry at the plenary session of the Parliament. For making clear separate issues an MP can address a reporter once for not more than 3 minutes. After the final speech of the reporter, there are no more speeches on the issue. The issues heard can become the subject of the Parliamentary discussion, with the purpose of which a special group, composed of no less than one representative of each initiator of the issues, can be created for preparing a draft decision.	The summoned individual shall speak about the issues he/she was asked about no later than 10 days prior. The presenter is given 20 minutes to speak, after which MPs may ask questions.[5] A political debate shall be held following the conclusion of the speech and the Q&A. A resolution may be adopted following the conclusion of the official's speech.

MINISTER'S HOUR

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	At least once a year, a member of government, except the Prime Minister of Georgia, shall present a report on the implementation of a specific component of the Government Program at the plenary session of Parliament. The report must also address issues that will be brought before the Minister in accordance with the procedure established by the Rules of Procedure. The Office of the Parliament shall set the schedule for the members of government to present their reports before the Parliament, in agreement with the government members and committee initiators, before the beginning of the spring session.

SUMMONING TO A COMMITTEE SESSION

CURRENT PROVISION	PROPOSED AMENDMENT
A member of government, official, who is elected by the Parliament, also an official, to whose appointment Parliament gave its consent, is authorized, in case of request - obligated, to attend committee sessions, answer questions raised at the session and report on the activities performed.	A member of government, public official accountable to the Parliament,[6] head of a body accountable to the Parliament, is authorized, in case of a request - obligated, to attend sectoral committee sessions in accordance with the Rules of Procedure, answer questions raised at the session and report on the activities performed. The attendance to the committee session shall be mandatory for the official upon request by at least one-fourth of the committee members.[7]

7. REVIEW OF REPORTS OF ACCOUNTABLE BODIES

DEFINING ACCOUNTABLE BODIES

CURRENT PROVISION	PROPOSED AMENDMENT
No provision is present.	• Definitions for accountable bodies and officials have been introduced: • Accountable body – a body that submits performance reports to the Parliament in accordance with the Constitution or a legislative act, or that is in any other way accountable to the Parliament based on a legislative act. • Accountable official – a person, member of government, head or public official of a body accountable to the Parliament that submits performance reports to the Parliament in accordance with the Constitution or a legislative act, or that is in any other way accountable to the Parliament based on a legislative act.

PROCEDURE FOR REVIEWING REPORTS

CURRENT PROVISION	PROPOSED AMENDMENT
The Rules of Procedure do not define the procedure for reviewing reports in a systematized manner.	The draft law determines a general rule for reviewing the reports of an independent body.

PUBLIC INFORMATION REPORTS – THE SO- CALLED DECEMBER 10 REPORTS

CURRENT PROVISION	PROPOSED AMENDMENT
Public information reports are submitted to the Office of the Parliament. The Rules of Procedure do not determine a procedure for reviewing these reports.	The Human Rights and Civil Integration Committee shall prepare and submit to the Office a unified report on the public information reports submitted by public institutions. The Office shall include the issue on the agenda of the next plenary session. The Committee shall be authorized to summon the head of the public institution and request additional information about the report. Parliament shall adopt a resolution on the assessment of public information reports and relevant recommendations.

8. STUDY OF THE ACTIVITIES OF THE STATE AUDIT OFFICE AND LEGALITY OF STATE BUDGET EXPENDITURES

CURRENT PROVISION	PROPOSED AMENDMENT
A temporary commission may be created in order to carry out a financial audit of the State Audit Office.	For the purpose of controlling the legality of state budget expenditures, the Finance and Budget Committee of the Parliament creates a permanent working group reviewing the audit reports issued by the State Audit Office. The purpose of the work group is to review, evaluate and issue recommendations based on annual and other reports submitted by the State Audit Office.[10] The working group shall monitor the implementation of recommendations adopted by the Parliament.

9. CONTROL OF THE ENFORCEMENT OF NORMATIVE ACTS

CURRENT PROVISION	PROPOSED AMENDMENT
The Parliament controls the following through its committees: • Enforcement of normative acts adopted by the Parliament. • Enforcement and compliance with Georgian legislation of normative acts adopted by the Government of Georgia, Ministers, the Executive Government and other state agencies.[11]	• The Parliament controls the following through its committees: • Enforcement of normative acts adopted by the Parliament. • Enforcement and compliance with Georgian legislation of normative acts adopted by the Government of Georgia, Ministers, the Executive Government and other state agencies. • Analyzes court decisions, with the authority to take appropriate steps in case legislative shortcomings are identified.

10. CONSIDERATION OF PUBLIC OFFICIAL CANDIDATES

CURRENT PROVISION	PROPOSED AMENDMENT
The procedure for selecting and approving public officials is defined separately for each position. **Committees are not obligated to consider candidates.**	The selection process will be systematized. **The obligation to hear candidates at committee and plenary sessions is being introduced.** The committee selected by the Bureau will seek and verify information about the candidates, including their biographies, work experience and professional education. Candidates are obligated to provide the committee with full information about them. The relevant committee listens to each candidate and elaborates its conclusion.

11. THEMATIC PRESENTER, THEMATIC RESEARCH GROUP

CURRENT PROVISION	PROPOSED AMENDMENT
No separate provision.[12]	For the purpose of studying issues of interest and preparing draft decisions, committees or permanent councils may appoint a presenter (thematic research presenter) or a group of presenters (thematic research group) from MPs, the latter will choose the main presenter from among its members.

ASSESSMENT / RECOMMENDATIONS

Parliamentary oversight is an essential component of democracy. Effective control of bodies accountable to the Parliament is also necessary for good governance. With the recent amendments made to the Constitution, Georgia has completely moved to a parliamentary model of governance, which creates an even greater necessity to strengthen parliamentary oversight.

Following the constitutional amendments, Transparency International Georgia prepared a report with recommendations on strengthening parliamentary oversight. A part of these recommendations have been included in the draft Rules of Procedure, namely:

- Encouragement of debates by the Rules of Procedure, namely, the possibility to hold a debate following the Prime Minister's speech and interpellation.
- Setting a regulatory framework for the content of inquiries posed by MPs.
- Annulment of the double vote procedure for creating a temporary investigative commission.[13]
- Introduction of the procedure for reviewing public information reports submitted to the Parliament by public institutions.
- Greater institutionalization of cooperation with the State Audit Office.

The proposed Rules of Procedure contain a number of significant improvements strengthening parliamentary oversight, namely:

- Simplification of the procedure for declaring a vote of no confidence towards the government.
- Presentation of a report on the government program by the Prime Minister. Review of specific sections of the government program. The possibility to hold political debates in both cases.
- Separation of MP inquiries and questions, and introduction of the interpellation procedure.
- Introduction of the Minister's Hour.
- Introduction of sectoral reports.
- Annulment of the double vote procedure for creating a temporary investigative commission.
- Expansion of the possibility for creating other temporary commissions.
- Introduction of procedures for reviewing public information reports (the so-called December 10 reports) during sessions and public information oversight mechanisms.
- Introduction of a general procedure for reviewing reports of independent bodies.
- Improvement of the process for selecting public officers.

The following changes need to be made to the draft Rules of Procedure to ensure even greater effectiveness of parliamentary oversight:

- According to the draft Rules of Procedure, no less than ¼ of committee members shall be authorized to summon a member of government, public official accountable to the Parliament, head of an accountable body.[14] New rules also annul a faction's authority to summon an accountable official to a faction session. This change should be compensated by the opposition's right to summon officials to committee sessions. As it stands, the draft Rules of Procedure strip opposition factions of the authority to summon accountability officials to committee sessions.
- While the draft Rules of Procedure require MP inquiries to pertain to issues under the recipient's authority, the document does not determine a specific course of action when this requirement is not met (e.g., no record is made of the inquiry, government member is not obligated to respond, and so forth). The draft law must make this provision foreseeable. The accountable official must be obligated to provide a reason for refusing to answer an inquiry, while failure to provide a reason must result in a sanction (e.g. fine). In case of a Minister, the Parliament must have the right to adopt a resolution and address the Prime Minister with a recommendation on to hold the Minister responsibility.
- The Parliament must be able to appeal to the Prime Minister with the recommendation to hold a Minister for failing to attend the Minister's Hour.
- The bases for setting up temporary investigative commissions are being limited and no longer include issues of state and public importance. Other temporary commissions do not have the investigative authority required to deal with the above issues, therefore, this change must be reverted. Members of the temporary investigative commission must have full access to classified investigative materials, and should not require the consent of the Chief Prosecutor to access criminal materials.
- The authority of committees in determining the compliance of sub-legal acts to the legislation must be clearly defined.
- In order to strengthen the role of the opposition, in accordance with the best practices in European countries, the Rules of Procedure should provide the possibility for appointing minority representatives as committee chairs. According to best international practice, chairs of certain committees are representatives of the opposition or the ruling party and the opposition rotate to hold the position. In most cases, the representative of the opposition is appointed as the chair of the Finance and Budget Committee.
- The Rules of Procedure must include a definition for independent bodies and define the general rule and the procedure for submitting and reviewing their reports.

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1 A separate assessment will be prepared on parliamentary oversight of the defense and state security sectors.

2 Changes in the Rules of Procedure reflect constitutional amendments.

3 The current nominal list is the number of MPs who has the status of a Member of Parliament in that moment.

4 The full composition of the Parliament is 150 MPs.

5 If the President refuses nomination of the candidate of Prime-Minister presented to him by the Parliament, the Parliament shall be authorized to vote for submission of the same candidate of Prime-Minister. If submission is supported by three-fifth of the enlisted MPs, the President shall be obligated to nominate the candidate of Prime-Minister submitted to him within 3 days.

6 A low quorum for setting up a comission is in line with recent constitutional amendments.

7 The time allotted to the author of each question must not exceed 2 minutes, with a possibility of extension by another 30 seconds, without the right to clarification. A Member of Parliament has the right to pose only a single question. After hearing all of the questions, the official shall reply to each of them separately.

8 A member of government, head or public official of a body accountable to the Parliament that submits performance reports to the Parliament in accordance with the Constitution or a legislative act, or that is in any other way accountable to the Parliament based on a legislative act.

9 The request for the summons must include exhaustive information about the issue(s) to be discussed with the person summoned to the committee session. The summoned person has the right to not speak about issues that have not been previously known to them in accordance with the procedure established by the Rules of Procedure. The new Rules of Procedure also define procedural rules for delivering the speech. For 30 minutes after the end of the speech, MPs have the right to pose questions about the report. First question is asked by the initiator of the summons. Time for the Q&A must be fairly divided among the majority, minority and independent MPs. A Member of Parliament has the right to pose only a single question. After hearing all of the questions, the official shall reply to each of them separately.

10 The composition of the working group shall reflect the proportionality of factions in the Parliament (including unaffiliated MPs). This group is accountable to the Finance and Budget Committee. Working group sessions are public. The working group is obligated to convene at least one session per month.

11 The Parliament, in case of necessity, adopts a resolution reflecting its assessment of the enforcement of normative acts, together with recommendations on appropriate amendments.

12 Similar functionc (though incomplete) are held by temporary commissions and committee working groups.

13 According to the draft Rules of Procedure, the content of the question must be specific and explicitly concerned with issues under the authority of the addressee.

14 This norm was worsened after the first hearing of the draft law. The initial version allowed a faction to summon an accountable official to a committee session if the faction had at least one representatives in the committee. After the change, considering the current composition (as of 23.10.2018), a minority faction will be able to summon an official only to the European Integration Committee, while the National Movement and the Patriots factions will not be able to summon an official to any of the committees (since these factions do not have ¼ of members in any committee). More information about committee compositions can be found here.

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