

The Constitution of the Autonomous Republic of Ajara is set to be amended

Parliament of Georgia is holding the first hearing of the initiative of the Supreme Council of the Autonomous Republic of Ajara – the draft amendments to the Constitution of the Autonomous Republic of Ajara.

Draft law, initiator



Legal initiative: [“On passing the Constitutional Law of the Autonomous Republic of Ajara ‘On Amending the Constitution of the Autonomous Republic of Ajara’”](#)

Initiator: Supreme Council of the Autonomous Republic of Ajara

Main points of the draft law



Parliament of Georgia, on 13 October 2017, along with passing amendments to the Constitution of Georgia, adopted the Constitutional Law of Georgia [“On the Autonomous Republic of Ajara”](#), according to which the Supreme Council was to submit to Parliament its own amendments to the Constitution of the Autonomous Republic of Ajara no later than 19 April.

To ensure public discussion of the proposed amendments, an organizational commission was [formed](#) and, after public discussions were held, the Supreme Council adopted them in three hearings. After that, the amendments to the Constitution of the Autonomous Republic of Ajara were presented to Parliament with changes in some of the provisions.

The proposed draft completely changes the existing Constitution of the Autonomous Republic of Ajara. Amendments were proposed in several different directions, including:

- There are changes in the list of issues that are under special authority of the Autonomous Republic of Ajara;
- The principle of universal nature of authority is being established whereby the Autonomous Republic of Ajara can exercise any authority which is not considered by the Georgian legislation a special authority of the national government or exclusive authority of local government and exercising which is not ruled out by the Georgian legislation from the scope of authority of the Autonomous Republic of Ajara;
- [The following] is established: the Autonomous Republic of Ajara exercises authority delegated by the state;
- The procedure of appointment of the Government of Ajara is being changed;
- New regulations for the scope of authority of the Supreme Council are being introduced;
- The norms regulating the oversight function of the Supreme Council are being changed.

Current version



Proposed amendment



1. Scope of authority of the Autonomous Republic of Ajara

According to the [current version](#) of the Constitution of the Autonomous Republic of Ajara, as well as the [now obsolete Law on the Status of the Autonomous Republic of Ajara](#), the scope of authority of the Autonomous Republic, issues under its special authority are/were, among others:

- Passing and amending the Constitution of the Autonomous Republic of Ajara and normative acts of the Autonomous Republic of Ajara;
- Defining the structure, the scope of authority and the operation procedure of the Government of the Autonomous Republic of Ajara;
- Holding the elections of the Supreme Council of the Autonomous Republic of Ajara;
- In accordance with the rules established by the Georgian legislative acts, within the scope of revenue of the Autonomous Republic of Ajara, defining and implementing budgetary policy, elaborating the draft budget of the Autonomous Republic of Ajara, adopting the budget and carrying out oversight over its implementation;
- Introducing and abolishing local taxes and duties established by the Georgian laws;
- Managing and administering the property of the Autonomous Republic of Ajara.

It is also stipulated that, in the event the Autonomous Republic of Ajara does not regulate any of the aforementioned issues, the supreme state body of Georgia can regulate them within the scope of its authority by a normative act of Georgia. Decisions on the issues that are under special authority of the Autonomous Republic of Ajara are made independently by the government bodies of the Autonomous Republic of Ajara except for those cases when an issue is regulated by the supreme state body of Georgia. In addition, there is an imperative stipulation that the issues that are under special authority of the supreme state bodies of Georgia must not be delegated to the Autonomous Republic of Ajara.

According to the new Law on the Autonomous Republic of Ajara passed in 2017 and amendments to the Constitution of Ajara proposed on its basis, the issues under the authority of the autonomy as well as the scope of its authority are defined anew, specifically, the draft law contains additional provisions establishing the following:

- Managing and administering land, forest and water resources that are property of the Autonomous Republic of Ajara;
- Spatial-territorial planning and development of the Autonomous Republic of Ajara;
- Managing the roads and other infrastructure of the autonomous republic's local significance;
- Establishing and awarding the prizes and honorary titles of the Autonomous Republic of Ajara.

According to the project, the law allows delegation of authority by the state to the Autonomous Republic of Ajara. In parallel, the Law on the Autonomous Republic of Ajara states that the delegation must occur along with the transfer of corresponding material and financial resources.

The principle of the universal nature of authority will also be defined, according to which the Autonomous Republic of Ajara, in addition to the issues under its special authority, exercises other authorities in the spheres of economy, agriculture, tourism, health and social protection, education, culture, sports and youth policy, environment which are not considered by the Georgian legislation to be under special authority of the national government of Georgia or the exclusive authority of local government and whose implementation is not ruled out from the scope of authority of the Autonomous Republic of Ajara by the Georgian legislation.

The new detail of the draft law presented to Parliament compared to the initial version is also the right of the Autonomous Republic of Ajara to establish Legal Entities of Private Law in addition to the right to establish Legal Entities of Public Law.

2. Rule of appointing the government

According to the Ajaran Constitution and the obsolete law on its status, the rule of appointing the government implies/ implied the existence of the procedure of agreement and a special rule of voting. Specifically, the President of Georgia, after consultations with political entities represented in the Council, with the preliminary approval from the Government of Georgia, nominates a candidate for the post of the Chairperson of the Government of the Autonomous Republic of Ajara for approval by the Supreme Council. The Chairperson of the Government of the Autonomous Republic of Ajara then nominates to the Supreme Council the candidates for the posts of Ministers of the Autonomous Republic of Ajara based on the agreement with the head (heads) of relevant governmental institutions of Georgia.

The candidates for the posts of the Chairperson of the Government and of ministers are voted on separately.

According to the constitutional draft law, an agreement with the Government of Georgia for nominating a candidate for the post of the Chairperson of the Government is no longer required, while in case of ministerial candidates – an approval of the heads of the governmental institutions. It will also be stipulated that the government will be voted on as a whole.

3. Determining government composition

The obsolete constitutional law allowed the creation of ministries according to spheres: economy, finance and tourism; health and social protection; education, culture and sports; agriculture. It also indicated that it was prohibited to form in the Autonomous Republic of Ajara of a Ministry of Internal Affairs, a State Security Ministry, a Defence Ministry or other militarized body. As for the current Constitution of Ajara, it specifies four ministries:

1. Education, Culture and Sports;
2. Agriculture;
3. Finance and Economy;
4. Health and Social Protection.

It will be determined that the formation of ministries of the Autonomous Republic of Ajara is only allowed for the spheres defined by the Constitution of the Autonomous Republic of Ajara; there are 11 such spheres (instead of four): education, culture, sports, tourism, agriculture, environment, finance, economy, infrastructure, health, social protection and ecomigration.

4. Implementation of oversight function by the Supreme Council and government accountability

According to the current Constitution of Ajara, the Supreme Council of the Autonomous Republic of Ajara exercises oversight over the work of the Government of the Autonomous Republic of Ajara. The scope of authority in this regard is also defined, specifically:

- Approves the budget of the Autonomous Republic of Ajara;
- Oversees the spending of the budget resources of the Autonomous Republic of Ajara by the executive bodies of the Autonomous Republic of Ajara;
- Approves the Chairperson of the Government of the Autonomous Republic of Ajara;
- Approves the composition of the government of the Autonomous Republic of Ajara based on the nomination by the Chairperson of the Government;
- Is authorized to organize with two thirds of the nominal roll a vote of no confidence in the Government of the Autonomous Republic of Ajara;
- The current version of organizing the vote of no confidence envisages a two-stage procedure: 1. Raising the issue – at least two thirds of the Council's nominal roll can do this; and 2. The government's powers are terminated after a vote of no confidence by two thirds of the Council's nominal roll;
- Oversees the implementation of normative act it passes;
- In cases envisaged by the law, approves the appointment and dismissal of public officials;
- A possibility to summon an accountable public official to the session of the Council is also envisaged.

The draft Constitution of Ajara envisages new regulations for the implementation of oversight functions by the Supreme Council, specifically:

- A provision on question and interpellation is added whereby a Council Member is authorized to pose a question to the Government of the Autonomous Republic of Ajara, a government member, other agencies accountable to the Supreme Council, government agencies of territorial entities of all levels, state institutions. Providing a timely and comprehensive response to the question posed by a Supreme Council Member is mandatory. Interpellation: A faction of the Supreme Council, a group of at least three Supreme Council Members have the right to interpellate the Government of the Autonomous Republic of Ajara, other agencies accountable to the Supreme Council, a government member who are obliged to answer the question at the session of the Supreme Council. The response may become subject of discussion for the Supreme Council.
- The provision concerning summoning/inviting accountable public officials will change to say that an accountable person is authorized and, in the event of a request, obliged to attend the sessions of the Supreme Council, its committees and commissions, answer the questions posed at the sessions and present a report on conducted activities.
- A new entity – an ad hoc commission of the Supreme Council – is added; it can be formed on the initiative of at least one third of the Supreme Council Members; it is also determined that the number of opposition representatives in an ad hoc commission must not be less than one half of the total number of commission members;
- According to the amendment, the reduction of current resources allocated to the Supreme Council in the budget of the Autonomous Republic of Ajara compared to the budget allocation of the previous year can only occur with preliminary consent of the Supreme Council.
- The draft law provides for a simplified procedure for the vote of no confidence; the right to raise the issue will lie with no less than one third of the nominal roll and the Supreme Council will vote no confidence in the government with the majority of the nominal roll in secret vote. The draft also sets a restriction for the same Members to initiate the procedure of the vote of no confidence during subsequent six months. The new Law on the Autonomous Republic of Ajara passed in 2017, contrary to the current version of the Constitution, envisages a vote of no confidence in the government of the Autonomous Republic of Ajara with the majority of the total number of Members as well as the approval of the government as a whole. In addition, it is stipulated that the Government of Ajara is accountable to the President of Georgia, the Government of Georgia and the Supreme Council of the Autonomous Republic of Ajara;
- Another change with regard to accountability is the introduction of an obligation for the Chairperson of the Government to deliver annual report on the work of the government.

Assessment/recommendations



The amendments proposed within the framework of the initiative envisage the increase in the powers of the Autonomous Republic of Ajara in order to decentralize and strengthen the autonomy in the following directions:

- The new rule of delegating authority and the appearance of the principle of universality deserve a positive assessment. It is important that, when expanding the powers in the spheres that are under special authority of the Autonomous Republic of Ajara, a corresponding legal basis is created, facilitating efficient administration and implementation of policies tailored for the region;
- It is a positive change that the approval from the Government of Georgia is no longer necessary for the nomination of the candidate for the post of the Chairperson of the Government of the Autonomous Republic of Ajara;
- The changes aimed at strengthening the oversight function of the Supreme Council (introduction of question and interpellation, also the provision concerning ad hoc commissions, improvement of the provision regulating the summoning to sessions, simplification of the vote of no confidence procedure, report by the Chairperson of the Government) also deserve a positive assessment. However, it is also important that new regulations and the Rules of Procedure of the Supreme Council are harmonized. In this process, it is important and expedient that the Rules of Procedure of the Supreme Council are revised to ensure improvement and elimination of flaws.