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Problems with the Modern State Territorial Organization[***]

Among the contemporary problems of Georgian constitutionalism one of the most important issues is the establishment in the country of an effective territorial model.
In the Georgian constitution of August 24, 1995, due to numerous objective circumstances, the decision regarding state-territorial organization issues has been left blank and their organization according to the article 2 paragraph 3 of the constitution has been passed on to constitutional legislation. A very important state decision has to be made, which increases the significance of this subject immeasurably for our country.
Our country for a long period of time did not have the opportunity to independently determine the its state formation issue. Without consideration for Georgian centuries long state traditions and historical development the imposed sate organization system gave rise to many difficult problems, the resolving of which was not possible without consideration for existent reality and objectives and aims that stood in front of the newly formed state. The country must once again follow the path of its traditional historical development, the path of temporarily deranged natural inner evolution. Together with the latter, the new state organizational model must aid the restoration of lost and violated territories wholeness, the country's political, economic and cultural revival. The principles of constitutionalism remain expedient for Georgia, which from the day of obtaining of independence up to the present day is in search of the state model (here the management as well as the territorial organizational model are implied), this in confirmed by the recent formation of another new state constitutional committee with the aim of implementing amendments to our constitution. In Georgia, all of the active constitutional committees executed unsuccessful attempts of resolving the above-mentioned issue and the issue, as of today, is unresolved. Based on the difficulty of the subject the resolving of the problem cannot be the result of a onetime decision, a process must be conducted, which will find its development, which requires solid theoretical basis. Through utilization of the comparative method the study of the main models of state organization for the country in the stage of transformation may be very beneficial, and may help us in finding organic state organization.
From this standpoint, we are not only faced with huge problems related to Abkhazian and Ossian societies, but also in the legal consciences of the Georgian society. For resolving the legal problem (status) of Abkhazia and Ossetia a big compromise must be reached, both sides must be convinced in the offered model's effectiveness, which cannot be reached without bringing up of successful precedents of world constitutionalism.
Which territorial organization model should we choose: Unitary or Federal? What should be the status of autonomies and other territorial units? What quantity of competency will remain with the central government and what quantity of competency should be handed over to territorial units? Which model of federation will be beneficial for Georgia?
With consideration of the official position of the Georgian government, the determination of the

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Abkhazian legal status must be carried out with consideration for the highest legal status for the autonomous units mentioned in the world constitutionalism practice. Thus, several regions of the country (first of all Abkhazia and afterwards Ossetia) unlike from the regions with equal status will have special status, which implies a higher status, more rights and responsibilities in comparison to other territorial units and more inner autonomy. Based on the above-mentioned, we think that in the future Georgian territorial organization model the existence of an asymmetrical model is imminent.

Key Words: *territorial organization, asymmetrical federalism, referendum.*

1. Introduction

In XXI century, the European States political system and the national issue of territorial organization is faced with completely new problems and is in search of new solutions for resolving the above problems.

Today, Europe is faced with new reality, where national state territorial units are demanding to be recognized as independent states. During the analysis of each state's political system, the study of the national territorial organization issue is of utmost importance. The relationship between the regions and the center is one of the most significant subjects, which is based on social, historic-national, geographic and other conditions.

One of the most expedient problems of the contemporary constitutional states remains the resolution of the territorial-organizational issue and when we are discussing the new configuration of the European States, in the first place, we consider Scotland, Catalonia, Basque country[1], Flanders, Southern Tirol, Corsica – the regions of Europe, which historically always endeavored to gain independence from the central state and whose ethnical identity conditions their strive towards establishment of an independent state within Europe. Despite several attempts of each region to place the process towards independence in legal borders, the above was only achieved by Scotland, when the Prime Minister of the United Kingdom and Scotland's first minister signed an agreement regarding the conduction of a referendum on independence of Scotland in 2014[2].

From this aspect, the Catalonia example is very interesting. The economic instability and the concept "Coffee for everyone" made the strive towards independence more intense.

The state territorial organization form determined by the Spanish Constitutional Court – "Autonomous State", which is unidentified by the constitution, has not been considered enough[3].

Unlike the United Kingdom, the Spanish Central Government is abstaining from holding a referendum, despite many political and non-political activities executed by the Catalonians for the benefit of holding the referendum.

Some experts, which are for the independence of Catalonia, are discussing the issue of association. According to Professor Peres Pransech of Autonomous University of Barcelona, independence should not be understood as the complete annexation of Catalonia from Spain. The issue may be the establishment of such relations between Spanish government and the Catalonian government, which exist between Puerto-Rico and USA[4].

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[1] Basque country - País Vasco (esp.)

[2] *Breda V.,* La devolucion de Escocia y el referendum de 2014: ¿Cuales son las respuestas potenciales en España? UNED. Teoría y Realidad Constitucional. Num.31, 2013. 69-88.

[3] *García Barcia, Maria.,* Catalonia: The New Europestate? ILSA Journal of International & Comparative Law ILSA Journal of International & Comparative Law, Summer, 2014, 402.

[4] Ibid, 418.

2. Scotland – the road towards the referendum of September 18, 2018

The road that Scotland took towards the referendum was quite difficult, and the results of the referendum more or less hated the started centuries ago process for independence, but the following question is sounded by many – until when?

Despite the results, September 18, 2014 was very significant day for the modern history of Scotland. 5 million of Scotts were presented with the opportunity to determine the future of Scotland after the 300-year integration with Great Britain. The referendum question was established in the following way: "Should Scotland be an independent State? Yes or No?[5]"

In case of majority of Scottish votes for secession, the Scottish government would commence negotiations with the government of the United Kingdom regarding the dismantling of the British United Kingdom.

Nevertheless, the eventual dissolution of Great Britain extremely bothered Europe, according to experts, politicians, analysts and scientists, the late events that took place in Scotland and the results of the Referendum directly influenced the future of Belgium, Italy, and especially Spain.

The contemporary Great Britain perfected the operational parliamentary regime, but this perfection in itself, which is more the result of time, habits and traditions rather than institutions, conditioned its uniqueness. Nevertheless, it must be mentioned, that numerous difficulties, which Great Britain is faced with already for several decades, harmed the functionality of its political system.[6]

The many century long turbulent history of the Kingdom of Scotland terminated in 1707, when the Acts of Union was signed, on the basis of which was established the Great Britain's Kingdom. Negotiations regarding the integration conditions were started between the delegations of two countries in April 1706. Details were agreed on July 22, 1706 in the form entitled Treaty of Union, which later became the basis of the Unity Act. The contract was made up of 25 chapters, in which were mentioned for the first time the unification of Scotland and England as one State called Great Britain; in the contract were also mentioned the conditions for inheritance of power (specifically, the execution of inheritance of power in the newly formed kingdom according to the inheritance act of 1701); regarding the unified parliament, establishment of general trade rules, taxes and other economy based issues; it was highlighted that the special judicial system of Scotland, the state and inheritance of legal positions would persist; regarding the representation of Scotland in the unified parliament and etc., also in the contract was discussed the privileged position of the Scottish Presbyterian Church.

During the reign of Queen Anna on May 1, 1707 the Union Act came into force. The parliaments of Scotland and England became unified in the Great Britain's parliament. The English historians also call the "Union Act" the "Union of Parliaments". In the period following the Union Act there were many attempts to call England and Scotland Southern and Northern Great Britain, nevertheless, the latter idea did not become widespread. 1707

The Stuart Dynasty, who was not satisfied with the Union Act attempted to execute an attack on Scotland. Jacob III Stuart, candidate for the throne, who had the support of France, attempted in 1708 to come in the proximity of the coast of Scotland, nevertheless, this attempt was subsided by Admiral Bing. In 1714, after the death of Queen Anna, according to the throne inheritance act, the crown was given to Gregory Hannover, the son of Sophia and the grandson of Jacob I. In 1715-1716 in Scotland was ongoing the great

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[5] *Liñeira R.,* Ha de ser Escócia un país independent? El debat a dos mesos del referéndum, Institut de Ciencia e politique i socials, №7, Julio, 2014, 3; <http://www.icps.cat/archivos/Quaderns/q07_cat.pdf>

[6] *Pacte P., Melen-Sukramanian P.,* Constitutional Law. Tbilisi University Publication, Tbilisi, 2012, 238.

rebellion of the Jacobians, nevertheless, the rebellion was quickly subsided and Scotland remained within the Great Britain.

The Union Act is still in effect as of today, nevertheless, from 1999 the parliament of Scotland was resuscitated on the basis of the act regarding the establishment of the parliament of Scotland issued by the parliament of England (Scotland Act 1998)[7].

2.1. Act Regarding Scotland

In 1707, after the establishment of the United Kingdom, the parliaments of England, Wales, and Scotland stopped functioning. On the span of many decades, the issue of resuscitation of the parliament was the issue, which was traditional and a matter of life and death for Scotland.

In the 60's of XX century, the economic upturn in Scotland (the discovery of oil fields in the northern sea) and the victory of the Scotland's national party candidate in the Westminster parliament, solidified the Scottish parliament establishment supporters position.

In 1969 was established Royal Committee, whose aim was to review different propositions regarding the Scottish and Wale's management structure. The committee came to the conclusion that the best way to resolve the problem was the establishment of an independent parliaments. In 1978 the British parliament passed a law regarding the Scottish assembly, nevertheless, its activation was conditioned by the results of the referendum, which was to be held after the law came into force.

As a result of the referendum held on March 1, 1979, the issue did not receive sufficient votes (only 40%) and it was annulled. The attempt to establish a Scottish parliament failed. In the following years, this issue did not lose its expediency. One of the factors was the circumstance that in 1979-1997 at the head of Great Britain was the conservative party, then, when in the Scottish election districts were victorious representatives of other parties, which significantly aided the idea regarding the establishment of an independent Scottish parliament.

In 1989 a group of parties, social and community organizations created the Scottish constitutional convention, which contained numerous revolutionary regulations regarding the Scottish parliament. This convention became the basis of foundation of Scottish "White book" in 1997 and afterwards the bill of Scotland1989[8].

In 1997 in the British parliamentary election the labor party came out victorious. The Labor party's pre-election promise in case of victory was the establishment of the Scottish parliament.

On November 11, 1997 as a result of a referendum held in Scotland, with the majority of votes citizens supported the establishment of the parliament with the right for tax modifications, and after the latter the government presented the Scottish act project[9] in the parliament. It was passed by the parliament on November 17, 1998 and it was accepted by the queen on November 19, 1998[10].

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7 *Harlow C., Rawling R.,* Law and Administration, ed. Cambridge, New York: Cambridge University Press, 2009, 87.

8 In the Bill of 1998 are discussed the general principles of the regional government. These regulations in 1998 became the basis for the Act of Scotland- the general principles of Scottish parliament organization and business.

9 The act of Scotland determines the mixed system of formation of the Scottish parliament. From 129 deputies 73 will be elected in one mandate districts by means of the majority system and 56 in multiple mandate regions by means of a proportional system. The territory of Scotland is subdivided into 74 election districts, where one deputy is elected, in one district are 8 election regions, in each must be elected 7 deputies. During the European parliament elections the election region borders coincide with the borders of the election district. In the election districts the elections are conducted by means of party lists.

10 Constitutional legal Assessment of 1707 of the Union Act and the act of Scotland of 1998 see *Tierney S.*, Constitucional Law and National Pluralism, Oxford University Press, Oxford, 2004, 112.

As a result of long-term political negotiations, an agreement was reached between Great Britain's Prime Minister David Cameron and Scottish First Minister Alex Salmond regarding the conduction of a referendum[11]. Prognosis after possible independence were numerous and in many directions, the subjects of the debates were the membership of EU and also economic and financial issues.

3. Example of Belgium

The example of federalization of the unitary state was Belgium, which currently is the newest federal state in the world. In this country in 1993 the constitutional modification process came to an end and the unitary organization mentioned in the constitution of 1831 was alternated by the federal organization. The federalization of Belgium was caused by the conflict between two nations – Valons and Flamandes – who lived in this country.

In 1830 along with the establishment of the new Belgian State people were assuming that also a new unified Belgian Nation would be established, which would unify through State related patriotism the two nations -Valons and Flamandes- living in the country at the time. In the first days of statehood it was revealed that the placement of the two nations under one state would be a very difficult issue to resolve. The national conflict started due to the fact and request of equaling the French tongue with the Native Flemish tongue of the Flanders in order that the latter would receive an equal with the French language status of the state language. After the resolving of the above-mentioned request it was revealed that the national conflict would not be resolved with only the language related issue[12] .

One of the leaders of the Valons, J. Destre, in his manifest "Letter to the king", was announcing to Albert I that the problem of Belgium was not only linguistic but more of national character: A Belgian citizen does not exist because a Belgian should does not exist. Belgium is extremely artificial political formation and not a nationality. The unification of Valons and Flammandes is not desirable and is impossible.

Terrible conclusion: The Belgian Citizen does not exist because Belgian should does not exist, which made it clear to everyone that in order to resolve national problems the qualitative constitutional reforms process should have been commenced, which went on for 25 years. After long analysis and revision of different options the federal resolving of national issues was selected[13].

The State was subdivided into three regions: Valonia, Flanders, and Brussels and into three cultural unions: French, Flemish, and German language cultural unions, each one of the was assigned the status of the federation subject.

Thus, the federation is made up of unions and regions. It contains three unions and three regions: French union, Flemish union and German speaking union. Also the regions of Valonia, Flanders, and Brussels.

The whole territory of Belgium is divided into four linguistic regions: Francophone region, Dutch language region, German language region and the bilingual Brussels.

The legislative authorities of the Federal State are being executed by the house of representatives and the Senate. The members of the Federal chamber according to law are subdivided into French and Dutch

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11 St Andrew's House Scothish Executive, "Agreement Between the Scottish Goverbnebt abd the United Kingdom Government on the referendum on independence for Scotland 12 October 2012" .

12 Wilfried Swenden & Maarten Theo Jans, 'Will It Stay or Will It Go?' Federalism and the Sustainability of Belgium, 29 West Eur. Pol. 878,879-81(2016).

13 Céline Romainville, Dynamics of Belgian Plurinational Federalism: A Small State Under Pressure, 38 B.C. Int'l & Comp. L. Rev. 225 (2015), <http://lawdigitalcommons.bc.edu/iclr/vol38/iss2/3>.

language groups. The house of representatives is made up of 150 members, who are elected directly by the citizens. The Senate is made up of 71 members and its members represent by an uneven number representatives of each national groups and linguistic zones – 25 members are elected by the Dutch Election Panel; 15 by the French Election Panel; 10-10 senators correspondingly are appointed by the Flemish and French Council from their members; 6 senators are appointed by those senators, which were appointed by the Flemish Council and French Unions Council, 4 more by Francophone, German speaking and Flemish population. In the legislative process the rights of the panels are not equal, the role of the house of representatives is more significant than the role of the Senate.

The house of representatives unilaterally makes decisions regarding the rules of naturalization, responsibilities of the government members, state budget and other accounts, and military contingent. For those legislative projects, which require the revision of both chambers, the house of representatives has the right to overturn the veto of the Senate. Such a weakness of the representative body of the federation subjects in the federal legislative process is reflected completely on the weakness of federalism as a whole. If $3/4$ of one of the linguistic groups presents a motivated resolution in the parliament, with the proof that the legislative project to be reviewed e cept for the budget law seriously harms the relations of unions, the parliamentary procedure will be halted and the resolution will be passed on to the council of ministers, which must come up with own conclusion or corrections to the legislative project.

The head of the e ecutiveauthority is the king, who appoints and releases ministers. If the house of representatives announces vote of distrust towards the government and does not offer a candidate for the post of prime minister to the king, the king then has the right to release the house of representatives, which automatically means that the senate members will also be released.

The king appoints the judges, approves and published laws, and ensures the e ecutionof the laws. e does not have the right to disrupt the business of regions and unions. The federal bodies will get involved in the business of provinces and communes when laws are being violated or the common state interests are being harmed.

The monarchy institute does not contain the spirit of federalism, it corresponds to the central state model, the federal state organization form is related to the republican management form, because the principle of election and the parliamentary supremacy directly e presses the principles of federalism.

The Federal Government is made up of no more than 15 members, where equally are represented French and Dutch speaking persons. The competency of the Federal government is – the determination of rules for naturalization, the issue of responsibilities of Federal ministers, state budget and e penditures,and military matters. The competency of federal bodies spreads on to only those issues, which are given in the constitution and on the laws issued on the basis of the latter.

The representative bodies of the elgian regions and unions -councils are established through elections. The government members are elected by the regional councils. The French and Flemish union councils and governments are at the same time the councils and governments of alonia and Flanders. The latter through its decrees regulate the issues of culture, education, pension regime and relations between the communes. They also have the right to sign international contracts related to the above-mentioned issues. The constitution also places under the French and Flemish competencies the regulation of languages in the spheres of management, training and education, also, during the drawing up of documentations, in the state or state controlled institutions.

The initiative right for amendment of the constitution belongs to both of the chambers of the parliament. fter the above initiative, the chambers are considered as released. The amendments to the constitu-

tion will be implemented by the newly elected chambers with ⅔ o otes he amendments do not re ire rati cation rom the re ions

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4. The Particularities of Establishment of a New State

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[7] *Pacte P., Melen-Sukramanian P.,* onstit tional aw bilisi ni ersity blication bilisi 7 7

satisfy the state. The authentic characterization of the state is only possible by means of its historical and pollical criteria[18].

Of course, the above-mentioned concept cannot be considered from the standpoint of absolute criteria. According to French scientists Pierre Pactes and Ferdinand Melen-Sukramanian, this is a concept, which highlights the decisive significance of the fact in the state related sphere and which partially is legal.

Together with the above, the sovereignty issue is of utmost importance, when in the contemporary globalized world sovereignty surpassed the national state borders and it acquired new spaces and new importance. According to Professor Joan Luis Peres Pransech, sovereignty, as of today, is the concept, which slowly loses its force in the globalized world and together with the governmental authority it requires adaptation to the new environment.

Nevertheless, we must mention that for very many states, particularly for the newly formed ones, the notion of sovereignty is very valuable and cannot be consider as cliché or passed stage.[19]

Thus, we can consider sovereignty as legal criterion of the state, which has two directions: sovereignty within the own state borders and sovereignty during relation with other states. According to the classical doctrine of sovereignty, it is the state's political-legal organization's essential element.

The European State territories, which will receive independence through secession, may come to be considered outside of the EU borders. Nevertheless, as has been revealed from the referendum preparation events results, the new independent state, in this case Scotland, will not have to follow all formal procedures and requirements for acceptance of a new state into the EU. The danger that Scotland will be considered outside of the EU in reality does not exist, because there is a way where a new state (in this case Scotland) is not required to undergo all of the procedures necessary for acceptance into EU[20].

There is difference of opinions regarding the above-mentioned. First of all, it must be mentioned that the most important historical objective of the EU is for the European continent to be the space of peace, stability and further development. Article 49 of the EU agreement states those conditions, which must be met by the state wanting to become a part of the union, in order to become a fully-fledged EU member[21]:

1. The newly formed state must be European;
2. It must uphold principles of freedom and democracy, and main human rights and freedoms fundamental values;
3. It must be a legal state.

The EU is open for all European states, which meet the requirements mentioned in article 49, which means, first of all, the legal basis for request of unification. Also, the requesting state must satisfy the principles mentioned in article 6 paragraph 1, which are common for all member states and on the basis of which the EU was founded.

The argument that Scotland will easily become the EU member was considered already decade ago by surveyors Urkens and Keating.[22] Specifically, the exclusion from the EU of the region, which is experi-

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[18] *Colliard C.A.,* Institutions des relations internationals, Dalloz, 1978, №79. 59,

[19] *Beaud O.,* "Le souverain", in Revues Pouvoirs, 1993, n67, p.33; "La souveraineté dans la contribution à la théorie de l'État de Carré de Malberg", Rd, 1994, 1251; "fédéralisme et souverainеré, notes pour une théorie constitutionnelle de la Fédération", RDP, 1998, 83. See also: M. Troper, "Le titulaire de la souveraineté", RDP, 1996, 1504; "M. David, "Positivisme juridique et souveraineté du people selon M.Troper.", RDP, 1997, 965. Two articles by Carl Schmidt on Souvernigty, RDP, 1999, 660; f. Luchaire "La souveraineté, RFDC, 2000, 451; A. Haquet, Le concept de souveraineté en droit constitutionnel français, PUF., 2004., see in the same place, 61.

[20] *Breda V.,* La devolution de Escocia y el referéndum de 2014: ¿Cuáles son las repercusiones?", Teoría y Realidad constitucional, núm. 31, 2013, 70.

[21] <http://europa.eu/legislation_summaries/enlargement/ongoing_enlargement/l14536_es.htm>.

[22] *Breda V.,* La devolution de Escocia y el referéndum de 2014: ¿Cuáles son las repercusiones?, Teoría y Realidad constitucional, núm. 31, 2013, 70.

encing economic upturn, will have a more serious effect, nevertheless, the newly formed state must request new admission to the EU. The assertion that the new state, even if this state was a part of EU in the past, cannot be considered as an automatic argument.

The new state, in this case, the state of Scotland, will be consider as a new subject on the international scene. Then, when the central state (in case of independence of Scotland -Great Britain's United Kingdom and Northern Ireland) will still have the status of an old member.

Despite this, with pragmatic aspects of integration of Scotland, it is less likely that a secessionist region, which in the past was a member state, will be treated as a newly accepted region in the EU. According to experts, it is unimaginable that after a 40-year long membership Scotland would be excluded from the EU. And the population, which had European citizenships for 40 years, will no longer have the right for the latter. The new state – Scotland will have to walk in the same way as the new candidate-member country.

In case if the secession of Scotland from Great Britain would have been executed with most likelihood the independent Scotland would still carry out the international responsibilities of Great Britain (for example, the debts of the United Kingdom). In this case, it is illogical that the new state would share and would be responsible for paying the old state's debts, nevertheless, not international privileges and prerogatives[23].

It will be very difficult for the EU to allow the precedent of integration of a state that acquired its independence through secession. The majority of the EU institutes are located in Belgium, in Brussels. Belgium is the youngest Federal organization state. It is the rare example of federalization of a unitary state, where in 1993 was completed the amendment to the constitution process and the unitary state organization mentioned in the constitution of 1831 was alternated by the Federal organization. The Belgian federalization was caused by the intensified national conflict between two nations abiding this territory – Valons and Flamands. The Flamands and Valons turned to each other for partnership in resolving their problems and did not involve the third power and that is why today Belgium is the rare exception, which was not transformed by the national problems into a country of civil wars.

The example of Scotland will hold incentive for this portion of Belgium and in case of disassembly of Belgium it is possible for a circumstance to be established, where the majority of EU institutes will be located on the territory of a non-member country (if Flanders will be the international legal inheritor of Belgium.)

The above-mentioned circumstances are considered in the Foreign Affairs Committee's report, which was written by Graham Avery[24] and presented to the parliament of Great Britain.[25]

By means of what mechanism can a new country, whose origins are from the old European region-from Member State, can be integrated through simple procedural integration, is so far vague. Nevertheless, the experts deem it possible that this will include simplified procedures for acceptance and that these procedures will be less strict.

It must be mentioned that the big portion of the EU oil, also the supply of natural gas is located exclusively on the territory of Scotland. Taking into consideration the above-mentioned economic reality, there are important pragmatic aspects, so that the integration of Scotland into EU be simplified. And not only Scotland, but other rich EU regions, which are governed by the independence prone parties.[26]

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[23] *Breda V.,* La devolution de Escocia y el referéndum de 2014: ¿Cuáles son las repercusiones…", Teoría y Realidad constitucional, núm. 31, 2013, 70.

[24] Graham Avery – the General director of the European Committee, the advisor of the European Political Center, Brussels. Member of the Oxford Sant Anthony college.

[25] *Avery, G.,* "The Foreign Policy Implications of and for a separate Scotland¨", Forreign Affairs Commite, the UK Parliament, 17 de oc. 2012.

[26] *Breda V.,* Teoría y Realidad constitucional, núm. 31, 2013, La devolution de Escocia y el referéndum de 2014: ¿Cuáles son las repercusiones?", 72.

Nevertheless, we must mention here that as of yet the merger of simplified acceptance with EU norms and international legislation is not institutionally and normatively clear. Also, negotiations are ongoing for the following issues:

- In connection with the foreign debt – Scotland's first minister and the leader of the national party, Alex Almond, stated that Scotland would not share the foreign debt of Great Britain, which will have to be executed by independent Scotland in case if Great Britain refuses to utilize the active currency "pound" in the new state[27]. The above-mentioned request is an answer to the position of Great Britain, the refusal for Scotland of utilization of the pound in the new state. The Britain's position that in case of independence Scotland must create its own currency, or must become a member of the Euro zone.

In relation to economics – Scotland's developing economy gives guarantees for the latter to be a valuable member of the EU. Developing economy sector are: science, tourism, innovative industry, communication, energy, technologies, food and beverage, and financial services.

Below are listed conditions, which may hinder Scotland's economic development:

1. The decrease of capital expenditures by two last government of Great Britain;
2. Refusal for creation of an independent fund financed by the incomes from the extracted oil from the northern sea;
3. Domestic debt accumulated during the governance of the labor party;
4. The instability of incomes from the time of Margaret Techer;
5. Artificial increase of London's economic activity on the expense of other members of the United Kingdom;
6. And finally, the political rigidity of the current British coalition

Alister Darling, who is the leader of the campaign "Together, Better" criticizes the position of the supporters of independence. According to him the economic strategy significantly depends on currency. Also, politicians and experts express concerns regarding security. "In case of independent Scotland, the British Islands will be less secure" the later citation of the minister of internal affairs of Britain was met with counterarguments from the supporters of independence: First, Scotland already has independent police and independent legal system and second, both sides cooperate in relation with anti-terrorist matters. Nevertheless, the argument of the Britain's minister of internal affairs relies on a long-term and multi-directional research. Moreover, according to the statement of the minister the independent Scotland will not be able to utilize British Spy Services[28].

Therefore, by the referendum of September 18, it was possible to put a start to a new era in the European history, nevertheless, this did not happen. Europe and the world was faced with a new reality, when in June 2016 in the United Kingdom was conducted a referendum regarding the leaving of EU with unexpected results.

For leaving EU voted 17.410.742 citizens, and for staying – 16.577.342 participation was at 72%[29].

For the first time in the united Europe's history a member state made the decision regarding leaving the union. Europe was faced with completely new unprecedented reality. There are suppositions that the disassembly of the union will encourage secessionists.

On June 24, 2016, an article written by En Gaiper was published in the "Mirror" -

EU Referendum results fallout explained: What we know so far after Britain votes for Brexit; Britain voted for Brexit but what did it all mean, how, and why?

[27] The given threat-promise was made public during the presentation of the Scotland's Economic strategy.

[28] <http://internacional.elpaís.com/internacional/2013/10/30/actualidad/1383133041_473657.html?rel=rosEP>.

[29] <http://www.bbc.com/mundo/noticias-internacional-36484790>.

By answering the above questions, we will get a completely new European reality not only from the economic and political standpoint, but also from the territorial-organizational standpoint.

5. Perspectives of Territorial Organization of Georgia

In the Georgian constitution of August 24, 1995, due to numerous objective circumstances, the decision regarding state-territorial organization issues has been left blank and their organization according to the article 2 paragraph 3 of the constitution has been passed on to constitutional legislation. A very important state decision has to be made, which increases the significance of this subject immeasurably for our country.

Our country for a long period of time did not have the opportunity to independently determine the its state formation issue. Without consideration for Georgian centuries long state traditions and historical development the imposed sate organization system gave rise to many difficult problems, the resolving of which was not possible without consideration for existent reality and objectives and aims that stood in front of the newly formed state. The country must once again follow the path of its traditional historical development, the path of temporarily deranged natural inner evolution. Together with the latter, the new state organizational model must aid the restoration of lost and violated territories wholeness, the country's political, economic and cultural revival. The principles of constitutionalism remain expedient for Georgia, which from the day of obtaining of independence up to the present day is in search of the state model (here the management as well as the territorial organizational model are implied), this in confirmed by the recent formation of another new state constitutional committee with the aim of implementing amendments to our constitution. In Georgia, all of the active constitutional committees executed unsuccessful attempts of resolving the above-mentioned issue and the issue, as of today, is unresolved. Based on the difficulty of the subject the resolving of the problem cannot be the result of a onetime decision, a process must be conducted, which will find its development, which requires solid theoretical basis. Through utilization of the comparative method the study of the main models of state organization for the country in the stage of transformation may be very beneficial, and may help us in finding organic state organization.

From this standpoint, we are not only faced with huge problems related to Abkhazian and Ossetian societies, but also in the legal consciences of the Georgian society. For resolving the legal problem (status) of Abkhazia and Ossetia a big compromise must be reached, both sides must be convinced in the offered model's effectiveness, which cannot be reached without bringing up of successful precedents of world constitutionalism.

6. Conclusion

Which territorial organization model should we choose: Unitary or Federal? What should be the status of autonomies and other territorial units? What quantity of competency will remain with the central government and what quantity of competency should be handed over to territorial units? The choice is not easy and that is why we think that the special analysis and research of world successful constitutionalism models is of utmost importance, as a result of what can be established the following recommendations regarding the solutions to the problem:

1. Inside the state are functioning two constitutional authorities: Central government and the government of Abkhazian Autonomous Republic. Between them are distributed responsibilities according to the constitution. The Abkhazian Autonomous Republic possesses the government that does not spring

from the central government. The central governments rights belong to the latter and the remaining competencies belong to the Abkhazian Autonomous Unit.

2. The Abkhazian Autonomous Republic possesses the founding government, independently approves its constitution and determines the government bodies system, which does not require the approval of the central government.
3. Between the Central government and the Abkhazian Autonomous Republic's government the rights and responsibilities are distributed in accordance with the constitution, none of the sides has the right to change the balance of powers appointed by the constitution. It is not permitted for the central government to limit or take away the right appointed to the Abkhazian Autonomous Republic's government by the constitution.
4. Dual chamber system. Two chamber parliament. The sovereign government of the Federal state has two sources. The will of all citizens and Abkhazian Autonomous Republic's Achara Autonomous Republic's and other territorial units' will. The Federal government is based on the balance of these two wills. In the Federal State the parts of the federation are simultaneously subjects and objects of the central government. Separate subject cannot hinder the approval of the undesired decision by the central government. The subjects taken as a whole can oppose an undesirable process. Inside the Federal State a state important decision cannot be made without participation and majority approval of the subjects. The source for decisions of the Federal government is a mixture of people's and Federation's parts' sanctions. One chamber of the legislative executive body of the Federal government, which is formed by the subjects of the Federation, protects their interests, and refuses and blocks any attempts of issuing a law that opposes the rights of the subjects. Without the consent and approval of the latter it is impossible to implement constitutional changes. The president should not have the right to release the supreme representative body of the Federation Subjects, i.e. Federal parliament. As the highest body inside the state it can vote for its own release, but the president does not have the right to release the latter. If we give the president such a right that would mean that we would be saying that in the state exists a body, which is more powerful than the state representative council, and this would be in contradiction with the principles of Federalism.
5. The Abkhazian Autonomous Republic has a political organization which is independent of the central government and the role of executing own responsibilities independently. The candidates for judges of the supreme (constitutional) court and the candidacy of the supervisor of the National Bank should be approved by the latter. The Georgian vice-president must speak Abkhazian language.
6. It is not allowed on the territory of the Abkhazian Autonomous Republic to appoint representatives of the central government; the constitution must directly consider any possibilities of involvement in or coordination of the business of the latter.
7. Functionality of languages;
8. The state-legal relations between the central government and the government of the Abkhazian Autonomous Republic are characterized by equality of both parties, there is no subordination between them. None of the parties has the right of changing the above relations or the right to control the business of the other government. The conflicts between the two are reviewed by the courts. Such laws cannot be annulled by the representatives of the center. It is not allowed to get involved in the exclusive competencies of the Abkhazian Autonomous Republic and the limitation of the business of its government except for the cases that go against the constitution regarding national security and common national interests. The decisions of both parties can be annulled by the constitutional court with the motive of non-constitutionalism.

Together with the involvement of members of the federation in the business of the government's federalism concept related highest body, it is important to uphold the principle of independent from the central government organization and functionality by the members of the federation. These two principles logically condition that between these two independent from each other levels-federation's government and federation subjects- the function of resolving conflicts and the control of business must be executed by an independent arbiter. Such a body is the constitutional court.

9. The established constitutional design is eternal, and it has double protection from all of the future revisions: a) the constitution names the established state organization as eternal and continuous. The legislative authority is connected with the constitutional organization; b) it is not permitted to annul the Abkhazian Autonomous Republic, or the change of its territory and other changes.

10. The Georgian Constitutional Court three judges are elected by the parliament of the Abkhazian Autonomous Republic. To the Georgian Constitutional Court belongs the exclusive right and authority to resolve any conflict in relation with the constitution between the central government and the government of the Abkhazian Autonomous Republic (disregarding if the Abkhazian Autonomous Republic's constitution or law corresponds with the constitution or not), and also regarding the two parties' competencies.

11. Foreign relations. The general principles of international law and the norms ratified by the Georgian parliament are indivisible parts of the Abkhazian Autonomous Republic's legislation. It is obligated to provide necessary support for the execution of international obligations of the Georgian government.

Abkhazian Autonomous Republic is authorized with the consent of the Georgian parliament to make agreements with other states and international organizations on the subjects that are in the latter's exclusive competency, which correspond to the sovereignty of the Georgian State and territorial wholeness. The Georgian parliament is authorized to determine through law that some such agreements do not require such consent.

12. Citizenship.

6.1. Separation of Competencies between the Central Government and the Government of the Abkhazian Autonomous Republic

When we talk about the separation of competencies between the central government and autonomous units, first of all must be separated the special competency of the central government. The execution of these matters is authorized only by the Federal government. The involvement of other government subjects in the above-mentioned authority is the violation of the constitution.

II. Special competency of the Abkhazian Autonomous Republic. It has been taken out from the jurisdiction of the central government and the right for its execution belongs exclusively to the Abkhazian Autonomous Republic.

III. Competitive, i.e. common competency. The authorities included in the latter do not belong exclusively to any side, it execution can be carried out by the territorial units only in case, where the federal government has not regulated this issue. The members of the federation execute this competency until the central government issues corresponding norms regarding the above competency. We think that to the common competencies should belong all those rights, for which the central government is authorized to issue legislative norms, and the executive and administration matters is included in the competency of the Federation members. Also those rights, for the execution of which the government's one subjects needs the consent of the government's other subject.

IV. Remaining competencies. Those rights, which are not included in the central government's or federation members' special competencies and which were not included in the competitive competencies, are considered as remaining competencies. It is essential for federalism that the competency of the federal government must be complacently determined, and the remaining competencies must belong to the subjects of the Federation.

6.2. Six Main Legal Principles which Ensure the Wholeness of the State

1. Prohibition of secession;

2. Prohibition of change of federation subject status unilaterally;

3. On the whole territory of the federation free movement of human beings, information and objects. There is no customs service within the federation and there are no state borders;

4. The supremacy of the federal legislation. This general rule of prioritization of common federal legislation has been recognized in all federal states, and according to the latter if some law of the federation subject surpassed its authority and is in opposition with the federal constitution, or other legislative norm (which is assessed by the constitutional court independently from both sides), the advantage goes to the Federal law, and the federation subject law in the portion where it comes into opposition with the federal law becomes passive. Any norm of the Federal legislation hierarchy has advantage over federation subjects' legislation. The decree issued on the basis of the Federal Legislation has more power than the federation member's constitutional norm;

5. The unity of state organization's foundations. According to the principle of subordination, the federation subjects' constitutions must be in conformity with the Federation State constitutional model. The federation subjects form must be the same as the general principles of the federation state political organization, such as are legal state, republican governance, democracy, and social state.