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## REELECTION OF THE PRESIDENT

*Colombia, Costa Rica, Malawi, Nigeria, Sierra Leone, and Venezuela.*

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**REELECTION OF THE PRESIDENT**  
**COLOMBIA**

An amendment in 2004 to the Constitution of Colombia<sup>1</sup> eliminated the prohibition on the reelection of a President, allowing him or her to serve up to two consecutive terms of four years.<sup>2</sup> The presidential reelection provision was the object of serious criticism by President Uribe's opposition. As a consequence, the proposed constitutional amendment was challenged before the Constitutional Court, but the Court later reasserted the constitutionality of the new provision.<sup>3</sup>

President Uribe won the reelection in 2006.

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November 2007

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<sup>1</sup> Acto Legislativo 2, Dec. 27, 2004, art. 2, available at <http://www.presidencia.gov.co/sne/2004/diciembre/27/08272004.htm> (Web site of the President of the Republic of Colombia).

<sup>2</sup> Constitucion Politica de Colombia, art. 197.

<sup>3</sup> Acto Legislativo 2, Dec. 27, 2004, available at <http://www.presidencia.gov.co/sne/2004/diciembre/27/08272004.htm> (Web site of the President of the Republic of Colombia).

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**REELECTION OF THE PRESIDENT**  
**COSTA RICA**

The current Article 132 of the Constitution of Costa Rica reads as follows:

The following may not be elected President or Vice-President:

1) Anyone who has served as President during any period of time within the eight years preceding the election, nor a Vice President or whoever has replaced him, who has served during the majority of any of the periods included in the afore mentioned eight years.<sup>1</sup>

Law No. 4349 of July 11, 1969, amending Article 132, imposed an absolute ban on the reelection of the current or former Presidents, and reads as follows:

Art. 132. The following may not be elected President or vice president:

1) Anyone who has served as President during any period, or a vice president or person replacing him who has served during the major portion of a constitutional term.<sup>2</sup>

In 2002, several private citizens filed a lawsuit challenging the constitutionality of the 1969 amendment banning the reelection of the current or previous President.<sup>3</sup> On April 4, 2003, the Constitutional Chamber of the Supreme Court held that the 1969 Amendment to Article 132, paragraph 1 was unconstitutional and reestablished the original text of Art. 132 paragraph 1.<sup>4</sup>

The Court's ruling made it possible for former President Oscar Arias to run a second time for the presidential office. He won the presidential election of February 5, 2006, and initiated his new presidential period on May 8, 2006. He had previously served as President from 1986-1990.<sup>5</sup>

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<sup>1</sup> Constitución Política de la República de Costa Rica, art. 132, Nov. 7, 1949, in COLECCIÓN DE CONSTITUCIONES DE COSTA RICA (Imprenta Nacional, San José, 2000), available on line at the Web site of the Procuraduría General de la República, [http://www.pgr.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm\\_repartidor.asp?param1=NRTC&nValor1=1&nValor2=871&nValor3=936&param2=2&strTipM=TC&lResultado=15&strSim=simp](http://www.pgr.go.cr/SCIJ/Busqueda/Normativa/Normas/nrm_repartidor.asp?param1=NRTC&nValor1=1&nValor2=871&nValor3=936&param2=2&strTipM=TC&lResultado=15&strSim=simp).

<sup>2</sup> Constitución Política de la República de Costa Rica, vol. 2, art. 132, as amended by Law 4349 of July 11, 1969 (Editorial Investigaciones Jurídicas, San José, 1999).

<sup>3</sup> Expediente 02-005494-0007-CO, Resolución 2003-02771 Sala Constitucional de la Corte Suprema de Justicia, Apr. 4, 2003 (on file in Spanish with the author).

<sup>4</sup> *Id.*

<sup>5</sup> Presidencia de la República de Costa Rica, *Biografía del Dr. Oscar Arias Sánchez*, [http://www.casapres.go.cr/pres\\_bio\\_costarica.htm](http://www.casapres.go.cr/pres_bio_costarica.htm) (last visited Nov. 19, 2007).

**LAW LIBRARY OF CONGRESS**  
**REELECTION OF THE PRESIDENT:**  
**RETROACTIVELY APPLICABLE CHANGES TO CITIZENSHIP REQUIREMENTS**  
**FOR INDIVIDUALS SEEKING PRESIDENTIAL OFFICE**  
**MALAWI, NIGERIA, AND SIERRA LEONE**

**I. Malawi**

The nationality requirement to qualify for the position of head of state in Malawi has been changed once since the first Malawian Constitution was promulgated in 1966. Section 10 of the 1966 Constitution states that a person seeking the Office of the President be a citizen of Malawi and does not distinguish between a person who is a citizen by birth or by naturalization.<sup>1</sup> The 1994 Constitution, however, requires that a person aspiring to become president of the country be a “citizen by birth or descent.”<sup>2</sup>

A search of the sources available at the Law Library found no mention of retroactive applicability of the change introduced in the 1994 constitution to affect individuals who held office in 1994. It was also not possible to determine whether the changes were made to exclude individuals who held office then. Because Article 83 of the 1994 Constitution limits the president’s term of office to two five-year terms, the later citizenship requirement cannot at this time be used to exclude an individual who currently holds the Office of the President<sup>3</sup>.

**II. Sierra Leone**

No change has been made to the citizenship requirement for the head of state since the country was established in 1978. The citizenship requirements for holding the Office of the President are provided in the Constitution<sup>4</sup>. Section 22 of the 1978 Sierra Leone Constitution states that “a person shall be qualified for election as president if, and shall not be so qualified unless, he is a citizen of Sierra Leone ...”<sup>5</sup> The same language has been maintained in section 41 of the 1991 Constitution.<sup>6</sup>

**III. Nigeria**

The citizenship requirements to run for the position of president in Nigeria are established by the Nigerian Constitution<sup>7</sup>. The language on the citizenship requirement in the Nigerian Constitution has not been amended since it was established in 1979. According to

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<sup>1</sup> The Republic of Malawi (Constitution) Act (1966).

<sup>2</sup> Constitution of the Republic of Malawi (1994).

<sup>3</sup> *Id.*

<sup>4</sup> The Constitution of Sierra Leone, section 43 (1991).

<sup>5</sup> Constitution of Sierra Leone (Act No. 12 of 1978).

<sup>6</sup> The Constitution of Sierra Leone, section 43 (1991).

<sup>7</sup> Constitution of the Federal Republic of Nigeria, section 131 (1999).

section 131 of the 1999 constitution of Federal Republic of Nigeria, “a person shall be qualified for election to the Office of the President if he is a citizen of Nigeria by birth”<sup>8</sup>. The same language was used in the 1979 Constitution<sup>9</sup>.

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<sup>8</sup> *Id.*

<sup>9</sup> Constitution of the Federal Republic of Nigeria, section 123 (1979).

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**REELECTION OF THE PRESIDENT**  
**VENEZUELA**

A constitutional amendment proposed by President Chavez was approved by the Venezuelan Congress on November 2, 2007. One of its most controversial provisions<sup>1</sup> amends article 230 of the 1999 Constitution<sup>2</sup>, allowing the reelection of the president indefinitely. It also extends the presidential term from six to seven years<sup>3</sup>.

The language used in this provision is very broad, allowing the reelection of the president without any further qualifications or restrictions. Therefore, the immediate application of this provision would benefit Mr. Chavez's right to be reelected immediately after his second term expires in 2012.

The constitutional amendment as approved by Congress must now be submitted to a national referendum that will take place on December 2, 2007.

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<sup>1</sup> Text of the Constitutional Amendment, available from the Web site of the Venezuelan Congress, <http://www.asambleanacional.gov.ve/uploads/biblio/Reforma-%20Constitucional-%20final.doc> (last visited Nov. 19, 2007).

<sup>2</sup> CONSTITUCION DE LA REPUBLICA BOLIVARIANA DE VENEZUELA (Editorial Sentido, Caracas, 2000).

<sup>3</sup> Constitutional Amendment, art. 47, available from the Web site of the Venezuelan Congress, <http://www.asambleanacional.gov.ve/uploads/biblio/Reforma-%20Constitucional-%20final.doc> (last visited Nov. 19, 2007).