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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT LAW OF THE REPUBLIC OF ARMENIA
ON POLITICAL PARTIES**

SECOND READING

Comments

by Mr Hans-Heinrich Vogel, Substitute Member, Sweden

I fully agree with Mr Tuori's comments on the draft of 7 May 2002, but want to add the following remarks, which to some extent repeat my comments on the first version of the Draft Law (as of 12 January 2000).

1. Concerning *membership rights of non-Armenian citizens* Mr Tuori points out that the question still can be asked, whether the restrictions according to Articles 3.(3.a.) and 17 (2) are too strict. Restrictions are – as Mr Tuori mentions – possible under Article 16 European Convention on Human Rights. However, also the European Convention on the Participation of Foreigners in Public Life at Local Level (ETS no. 144) has to be taken into account, and with regard to this Convention the restrictions appear unnecessarily harsh. It is for example not easy to understand, why Article 25 (2.f) prohibits donations of non-Armenian citizens in general – and therefore even of those non-Armenian citizens, who are, or have been, members of a party and want to give a donation to this party.

2. According to Article 7 (3) the *emblem and other symbols* shall not violate intellectual property rights of others, which is perfectly acceptable. However, also the reverse should be prohibited: Others shall not infringe on the rights of a political party to its emblem and other symbols.

3. The *founding requirements* are less strict in the draft than in the earlier version, but Article 12 (2) requires still representation “from at least one-third of the Regions of the Republic of Armenia”. This provision rules out that a party is founded for example for one region or one local community only. This restriction would not be entirely compliant with the concept of the European Charter of Self Government (ETS no. 122).

4. According to Article 14 (3) the *rejection of state registration* of a party may be appealed “by court order”. If this translation is correct and the words of the draft provision are taken literally, this provision would allow full appeal proceedings only, if a court in preliminary proceedings accepts the complaint of the party and issues an order. This would be too restrictive. If a party wants to appeal a decision to reject state registration, it should be allowed to do so without any preliminary proceedings.

5. According to Article 21 political parties have exclusive rights to *nominate candidates* in elections. This provision is in principle acceptable. It should, however, be combined with safeguards, which guarantee that the internal nomination procedures of parties follow democratic standards, and are transparent for the general public.

6. Article 25 (1) entitles parties to receive *donations*, but there seems to be no provision, which makes it mandatory for parties to disclose for the general public, which donations they have received. Article 29 (3) on financial reports of parties is not at all clear in this respect. This has to be clarified with the aim that all donations from one donor or from a group of related donors and are in excess of a certain (not too high) amount must be reported and published.

7. According to Article 25 (2.f) a party is not allowed to receive donations from legal entities “registered in six months prior to” the donation. This clause (or, maybe, only the translation) is not clear. Does this provision prohibit only donations from those legal entities, which were registered *exactly* six months before the donation, or does it

prohibit donations from entities, which were registered *six months or more* before the donation?

8. Article 29 – in paragraphs (3) and (4) – permits reporting and publishing of financial data in *consolidated form*. It is absolutely necessary to clarify by legislation to which extent consolidation is permissible. It is also absolutely necessary to prohibit by legislation the use of consolidation techniques as means to avoid disclosure to the general public of essential details of financial information.