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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT ORGANIC LAW OF GEORGIA
ON THE AMENDMENTS TO THE ORGANIC LAW
– “ELECTION CODE OF GEORGIA”**

**This document has been classified restricted at the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

Article 1. The following amendments shall be introduced to the organic law of Georgia – “Election Code of Georgia” (Sakartvelos Sakanonmdeblo Matsne, 25, 22.08.2001, Article 107):

1. ARTICLE 3

Subparagraph Z⁴– (there is no corresponding letter in English since in Georgian alphabet there are 33 letters and in English 26 tch) - shall be added as follows:

Number of valid votes – number of votes collected in the election minus void votes.

2. ARTICLE 9¹

Paragraph 1 and 2 shall be formulated as follows:

1. The total number of voters for parliamentary, presidential and local elections, as well as for a referendum, shall be determined according to the latest available data obtained by 1 March of the election year.

2. When conducting parliamentary, presidential and common elections of representative body of local self-governance – *sakrebulo*, as well as referendum, the CEC shall publish the information on total number of voters throughout Georgia and as well as by all election districts through mass media and internet by 10 March of election year the latest. The DEC's shall publish the total number of voters in the election district (also in local majoritarian election districts upon elections of representative body of local self-governance – *sakrebulo*) as well as by all its election precincts through local mass media within the period of following 10 days.

3. ARTICLE 10

a) Paragraph 10 shall be formulated as follows:

10. The voters included in the special list (except the voters determined by Paragraph 1. “c¹” of this Article) takes part:

a) In elections conducted through both: majoritarian as well as proportional system if he or she changes address within the territory of the same election district, or in the event of local self-government election - within the territory of local election district.

b) In parliamentary elections conducted through proportional system, as well as in the presidential elections and referendum if he or she votes on the territory of another electoral district.

b) Paragraph 11 shall be added as follows:

11. In parliamentary, presidential, local self-government elections and in referendum a voter included in the special list as determined by the Paragraph 1.“c¹” of this Article votes on the territory of election/local election district determined in accordance with the place of dislocation of his or her military unit or the place of registration.

4. ARTICLE 14 SHALL BE DELETED.

5. ARTICLE 15

Paragraph 6 shall be formulated as follows:

6. The CEC shall form election districts, define their boundaries, names and numbers not later than June 1 of the election year and shall publish the relevant information with the indication of the district boundaries.

6. ARTICLE 16

a) Paragraph 2 shall be formulated as follows:

2. An election precinct is formed for a minimum of 20 and maximum of 1,500 voters. The relevant DEC shall form election precincts, define their boundaries and numbers no later than July 1 of the election year and shall publish the relevant information with indication of the boundaries. The DEC, based on the data of the bodies of local self-government, shall compile and revise a list and addresses of all the residential buildings within the election precinct and all those buildings and addresses that the election administration may use for election purposes.

b) Paragraph 6 shall be formulated as follows:

6. Election precincts existing in another state are established by the CEC, based on the data of the Ministry of Foreign Affairs, no later than 30 days prior to election day. These electoral precincts constitute a separate electoral district and their results are summed up by CEC.

7. ARTICLE 17

a) Paragraph 1 shall be formulated as follows:

1. The election administration of Georgia is an independent administrative body, which is established in accordance with this Law. The authority of the election administration is prescribed by this law.

b) Paragraph 5 shall be formulated as follows:

5. The procedure for forming election commissions and scope of their authority are determined under this Law.

8. ARTICLE 5, Paragraph 1, Sub-paragraph "H" SHALL BE DELETED.

9. ARTICLE 22¹

Paragraph 1 shall be formulated as follows:

1. The chairman of election commission and deputy chairman/secretary shall be elected upon appearance of the vacancy by the majority of commission members at the first meeting of the relevant commission in the presence of all members through roll-call voting procedure for the period that corresponds to membership term of office.

10. Article 26

Paragraph 1 shall be formulated as follows:

1. The Central Elections Commission shall be composed of 7 members. Termination of the authorities of CEC chair does not mean the termination of his/her duties as of a CEC member.

11. ARTICLE 27**a) Paragraphs 1-3 shall be formulated as follows:**

1. The members of the CEC of Georgia shall be elected by the Parliament of Georgia upon the nomination of the President of Georgia.
2. Candidates for CEC membership shall be selected through the open competition procedure.
3. President of Georgia shall issue an ordinance on holding a competition not later than 60 days prior to expiration of the term of office of CEC member.

b) Paragraph 3¹ shall be added as follows:

3¹. In order to conduct a competition the Competition Commission shall be created upon the ordinance of the President of Georgia. Each parliamentary faction shall nominate a member to the Competition Commission within 7 days from the announcement of the competition. The President of Georgia shall appoint the other members of the commission.

c) Paragraph 9 shall be formulated as follows:

9. Not later than 5 days following the deadline for the for the submission of applications the Competition Commission shall nominate to the President of Georgia at least 3 and not more than 4 candidates for each vacancy. Not later than 7 days following the nomination of the candidates, the President of Georgia shall nominate to the Parliament of Georgia 2 candidates for each vacancy of CEC member.

12. ARTICLE 28**a) Title shall be formulated as follows:****Article 28. Election of the member of CEC****b) Paragraph 1 shall be formulated as follows:**

1. Within 14 days following the nomination by the President of Georgia of the candidates for CEC membership to the Parliament of Georgia, the Parliament of Georgia shall elect the members of CEC through a roll-call vote procedure. Each candidate shall be put on vote separately. The CEC member is deemed as elected if the majority of the actual members of the Parliament vote for him or her. If the number of these people is more than the number that is to be elected, the 7 candidates with the best results shall be deemed as elected. If a winner cannot be revealed because of the equal number of votes received, these candidates are immediately put on vote until the winner is revealed among them.

g) Paragraphs 5 and 6 shall be formulated as follows:

5. The decision of the Parliament of Georgia on election of the CEC member shall be submitted to the CEC within 7 days after its adoption.

6. The decision mentioned in paragraph 5 of this article shall indicate the first and the last names of a person elected as the CEC member. The decision shall be enclosed with the documentation submitted for the competition as determined by paragraph 6 of Article 27 of this law and the statement signed by the abovementioned person certifying that he or she meets the requirements set forth in paragraph 5 of Article 18 of this law.

13. ARTICLE 28¹ shall be added to the Law as follows:

Article 28¹. Election of the chairperson, deputy chairperson and secretary of CEC

CEC, from its members, elects the chairperson, deputy chairperson and secretary of CEC pursuant to the procedure prescribed by article 22¹ of this Code.

14. ARTICLE 29

a) Sub-paragraph “h¹” and “h²” shall be added to Paragraph 1

“h¹) Registers the parties and election blocs participating in the election, the initiative groups of voters (for the presidential elections), and their representatives in CEC;

h²) Registers candidates for presidency of Georgia, party lists, candidates nominated by party/election bloc to the election districts (for the parliamentary elections);”

b) Paragraph 2 shall be formulated as follows:

2. All CEC decrees are published in Georgian Official Gazette (Sakartvelos Sakanonmdeblo Matsne) and may also be published by other mass media. The CEC ordinance relating to the issues as per subparagraphs (e) to (g), (k) to (o), (q), (h¹) and (h²) of Paragraph 1 of this article, shall be published within 3 days of their issue.

c) Following these changes, in the paragraphs 8, 11, 12, 20-22 of Article 95, paragraphs 1-2 of Article 95², paragraphs 105 of Article 98, paragraphs 2 and 3¹ of Article 100, paragraph 3 of Article 107¹, paragraphs 1, 3, 7, 8, 9, 11 and 17-21 of Article 117 the words “ordinance of CEC chairperson” shall be changed by words “ordinance of CEC”.

15. ARTICLE 31¹ SHALL BE DELETED

16. ARTICLE 34

Paragraph 1, Sub-paragraph “h¹” and Sub-paragraph “h²” shall be added as follows:

h¹) registers the initiative group of voters, its representative in the election district commission for the elections of local self-government (except the election of Tbilisi Sakrebulo);

h²) registers the candidates nominated by party/election bloc, and the candidates nominated by initiative group of voters to the election districts (for the parliamentary elections) the cases prescribed by this law;

17. ARTICLE 35

Paragraph 1, Subparagraphs “f” and “g” shall be formulated as follows:

f) Issues the relevant certificates for the election of local self-government (except the elections of Tbilisi Sakrebulo) to the initiative group of voters and its representative to the DEC;

g) Issues the relevant certificates to the candidates nominated by party/election bloc and, in the cases prescribed by this law, by initiative group of voters for the election of local self-government;

18. ARTICLE 36 SHALL BE FORMULATED AS FOLLOWS:

Article 36. Establishment of Precinct Election Commission

1. 4 members of a PEC shall be elected by the majority of the full composition of superior DEC.
2. 4 members of a precinct election commission established in a foreign country shall be elected by the majority of the full composition of CEC.
3. The first three winner parties or election blocs of the last parliamentary elections, which independently participated in the elections or were unified in the election bloc and were ahead of others in the list of the bloc members, shall appoint three members each (if the party listed the first in the list of parties of election bloc refuses to appoint commission members, this right shall be conveyed to the second party etc.). Each of the above mentioned parties shall appoint two reserve members, who shall participate in the activities of the PEC only on the ballot day, in accordance with the rules stipulated under this law.

19. ARTICLE 42

a) Paragraph 2 shall be formulated as follows:

2. The election commission shall, at random and in an inconsistent manner, check the authenticity of 20% of the number of listed supporters determined by the law. If not less than 10% thereof is deemed void, the election commission shall make an additional check of the same number of supporters applying the same procedure and so on. If the number of real signatures is less than that of necessary for the registration, the list of supporters shall be returned back to the election subject with three days time-limit to improve the deficiency. If within this time-limit the defection is not removed, or if the re-submitted lists of supporters contain less than due number of real signatures the entire list shall be invalidated and the application for registration of the election subject shall be dismissed by the relevant ordinance of the election commission chairperson.

b) Paragraph 5 shall be formulated as follows:

5. A list of supporters shall be checked according to the procedures established by the CEC. Checking the list of supporters of a party shall be finished within 10 days after the submission thereof, but not later than the 10th day from the deadline for the submission of such list; while the list of supporters of a candidate shall be checked within 3 days after the submission thereof, but not later than the 3^d day from the deadline for submission of such lists.

20. ARTICLE 43

Paragraph 1 shall be formulated as follows:

1. The costs incurred by the election administration in connection with the preparation and conduct of elections and the activities carried out by the election administration within the term of its authority shall be financed from the State Budget of Georgia.

21. ARTICLE 46

Paragraph 2 shall be formulated as follows:

“2. Setting up of an election campaign fund shall be compulsory for all subjects of election except for:

- a) majoritarian candidates running for the membership of local self-government;
- b) initiative groups.”

22. ARTICLE 48

Paragraph 8 shall be formulated as follows:

8. Election subjects that obtain the necessary number of votes determined by this Law and do not submit an election campaign fund report within the established deadline, or in proven violation of the requirements of paragraphs 2, 3, 4 and 5 of Article 46 of this Law, paragraphs 4 and 5 of Article 47, paragraphs 4, 5 and 6 of this Article, shall be warned in written by appropriate DEC or by CEC and shall be requested to remove the defecation and provide detailed written information about thereof. If the appropriate DEC or CEC considers that the violation is substantial and could affect the results of the election, it shall be entitled to apply to the court with the request of consolidation of the results of the elections without taking into account the votes received by these election subjects. Provided the election campaign fund report submitted by the election subject contains inaccurate data, the responsibility of the election subject and the managers of the election campaign fund shall be determined in accordance with the legislation of Georgia.

23. ARTICLE 49

Paragraph 8 shall be formulated as follows:

2. The PEC shall ensure that the voters have access to the information on the time and location of ballot by all available means, including mass media and also by locating the appropriate information in public areas.

24. ARTICLE 51¹

Paragraph 10 shall be added as follows:

10. Summary protocol shall be printed in Georgian language. In those precincts where the ballot papers are printed in the language understandable for local population, final protocols may be printed in the relevant language.

25. ARTICLE 51²

Paragraph 1¹ shall be added as follows:

1¹. Record book shall be written in Georgian language. In those precincts where the election bulletins are printed in the language understandable for local population, record book may be written in relevant language.

26. ARTICLE 52, Paragraph 1

a) Sub-paragraph “b” shall be formulated as follows:

“b) The PEC members - the registrars of voters (at least one member for each 300 voters), who shall also hand out ballot papers after affixing their signatures on the place provided for this purpose on the reverse side of each ballot paper;”

b) Subparagraph “d” shall be formulated as follows :

“d) Upon necessity two PEC members who shall be responsible for the transportation of ballot box. Both of them may not be the nominated by the same appointment body;”

27. ARTICLE 56**Paragraphs 3 and 4 shall be formulated as follows:**

3. As from 9:00 AM on election day, the PEC chairperson gives the appendix to the voters lists (mobile ballot box lists) to the PEC members accompanying the mobile ballot box together with the necessary number of ballot papers and special envelopes signed and sealed by the registrar.

4. Two PEC members selected as a result of ballot and willing individuals authorized to be present at the polling station shall conduct the voting at the addresses of voters.

28. ARTICLE 69**a) Paragraph 6 shall be formulated as follows:**

6. International organizations registered by CEC should submit to CEC secretary the list of observers (containing their names, surnames and registration places) no later than 2 days prior to elections;

b) Paragraph 10 shall be added as follows:

10. International organizations' observer certificate except for the data stipulated in Paragraph 9, Subparagraphs "a" and "b", should contain the notion that the observer has the right to observe elections in any precinct of any district.

29. ARTICLE 73**a) Paragraph 1 shall be formulated as follows:**

1. Election agitation begins at the time of the announcement of the elections. Candidates, on becoming election subjects, enjoy equal rights as of this day in accordance with the rule prescribed by this law;

b) Paragraph 3 shall be formulated as follows:

3. It is prohibited to transmit free and/or paid elections advertisement through television within 24 hours prior to elections date.

c) Paragraph 8 of Article 73 shall be deleted;**d) Sub-paragraph "d" should be added to Paragraph 10 as follows:**

d) military parts

e) Paragraph 13 shall be deleted;**f) Paragraph 14¹ to be added as follows:**

14¹. Obligations prescribed by Paragraph 15 of this Article cover only those newspapers that are financed from the state or local budget.

30. ARTICLE 73

a) Paragraph 5 shall be formulated as follows:

5. A broadcaster is authorized to recognize as a qualified election entity political party that enjoys support of at least 4 % of voters to be determined as a result of at least 2 public opinion polls administered during the election year or the poll administered within 1 month prior to elections on the whole territory of Georgia in accordance with the rule prescribed by this Article. The discriminatory use of the results of sociological survey by a broadcaster is prohibited.

b) Paragraph 7 shall be formulated as follows:

7. Local broadcaster is authorized to recognize as a qualified election entity political party that enjoys the support of at least 25% of voters registered in the service zone of the given broadcaster in accordance with the 2 public opinion polls administered in accordance with the rule prescribed by this law during the year of elections.

c) Sub-paragraph 11 shall be added as follows:

11. CEC is obliged to implement media monitoring in order to supervise the equal allocation of airtime and proper implementation of other obligations by media entities prescribed by this law.

31. ARTICLE 77, Paragraph 20

a) Introductory provisions shall be formulated as follows :

“20. Regarding the ordinance of an election commission on the registration of the candidate for the Presidency of Georgia, political party independently participating in elections, party list submitted by the election bloc, single candidates contained in the list and majoritarian candidates:”

b) Sub-paragraph “b” shall be formulated as follows:

“b) An appeal against the ordinance the CEC or a DEC shall be lodged to the appropriate district/city court within 2 days after the issue of the ordinance. The court will consider the appeal and make its decision within 2 calendar days from lodging the appeal. The decision of the court can be appealed within 2 calendar days in the Court of Appeal with a decision within 2 calendar days. The decision of the Court of Appeal is final and is not subject to further dispute.”

32. ARTICLE 79

Paragraph 1 shall be formulated as follows:

1. The first round of regular presidential elections shall be conducted in October of the year of the expiration of Presidential term of office. Election date shall be set by the President not later than 60 days prior to elections.

33. ARTICLE 77

Paragraph 11, Sub-paragraph “b” shall be formulated as follows:

c) An appeal shall be lodged to the appropriate district/city court, which will consider the appeal and make its decision within 2 calendar days from lodging the appeal. A citizen shall be exempted from paying the state fee if the Elections Commission does not satisfy his or her request to be in the voters list. The decision of the court can be appealed within 2 calendar days in the Court of Appeal with a decision within 2 calendar days. If the Court of

Appeal satisfies the appeal, the decision should be sent to elections administration immediately. The decision of the Court of Appeal is final and is not subject to further dispute

34. ARTICLE 86

Paragraph 4 shall be formulated as follows:

4) In the event when only one candidate took part in the first round of elections and he or she failed to obtain necessary number of votes new ballot shall be conducted.

35. ARTICLE 90

a) Paragraph 1 shall be formulated as follows:

1. Regular parliamentary elections shall be conducted in October of the year of expiration of term of office of the Parliament.

b) Paragraph 3 shall be formulated as follows:

3) If the time for elections coincides with the state of emergency or martial law, elections shall be held on 60th day after the abolition of the state of emergency or martial law. The date of elections is set by the President at the moment of the abolition of the state of emergency or martial law.

c) Paragraph 4 shall be added as follows:

4) In the event of dismissal of the Parliament prior to the expiration of its term of office extraordinary elections are held on 60th day after the decree on the dismissal of the Parliament enters the legal force. Date of extraordinary elections is set by the President at the moment the decree on the dismissal of the Parliament prior to the expiration of its term of office enters the legal force.

36. ARTICLE 97

Paragraph 2 shall be formulated as follows:

2. Any party or election bloc, which participates in the elections independently, is authorized to nominate candidates for an MP to be elected through the majoritarian system to each election district. The number of candidates should equal to the double number of mandates prescribed by this law to relevant election district. Majoritarian main and reserve candidates may be on the party lists of the same party or election bloc at the same time.

37. ARTICLE 99 SHALL BE FORMULATED AS FOLLOWS:

Article 99. Determining the Sequence Number of Election Subjects

1. The sequence number of the election subjects shall be determined in accordance with the rule stipulated by this law no later than 30 days prior to elections. In order to determine the sequence number, appropriate proceedings are conducted in the building of CEC in the presence of CEC members.

2. The right to choose the sequence number in the first turn belongs to the political entity that obtained the highest number of votes by proportional system during the previous parliamentary elections. The representative of the political entity shall submit the letter to the CEC which specifies if the political entity keeps the number assigned during the previous parliamentary

elections or takes the sequence number one. The same rule applies to the political entities that obtained the second and the third highest number of votes. They are authorized to keep the number assigned during the previous parliamentary elections or take number two and three in a relevant order, except for the case when the number that they had during the previous parliamentary elections has already been assigned to the political entity with the better results during the previous parliamentary elections.

3. In the event the sequence number was assigned to political bloc during the previous parliamentary elections, the right to use the same number belongs to the political party heading the list of bloc members. In the event, the given party refuses to take the number it is entitled to, the right to use the same sequence number goes to the party following the first one in the list and so on.

4. In the event the political parties that participated in previous parliamentary elections create an election bloc, they should indicate in their charter the sequence number of which member party shall they use.

5. The sequence number of any other political entity except for the ones mentioned in Paragraph 2 of this Article shall be determined by ballot.

6. In order to conduct ballot, the Chairperson of the CEC shall write the numbers equal to the number of political parties and blocs on the identical pieces of paper by the same writing implement. Each piece of paper shall be certified by the CEC seal. The sequence numbers already assigned in accordance with the rule stipulated in Paragraph 2 of this article shall be separated from the pile. The rest of the papers shall be folded in a way that eliminates any chance of seeing the number written on it. CEC Chairperson shall place the folded papers in a transparent box and the representatives of political parties and election blocs take the papers one by one. Allotted number shall become the sequence number of an election subject.

7. Candidates that are nominated by party/election bloc through majoritarian system shall be assigned the same number that is assigned to the party/election bloc that nominated them.

8. In the event of annulment of election registration of a party/election bloc, all the other parties keep already assigned sequence numbers.

9. CEC shall publish registered party lists through press and other means of mass media. DEC's shall publish the data to appear on ballot papers on candidates nominated in multi-mandate election districts not later than 25 days prior to elections.

38. ARTICLE 105

a) Paragraph 5 shall be formulated as follows:

5. All the candidates in accordance with the mandates of election district of one election subject the list of which obtained the highest number of votes but not less than 30% of valid votes shall be considered as elected.

b) Paragraph 6 shall be formulated as follows:

6. Mandates of the members of the Parliament of Georgia shall be granted to the party list that obtained not less than 7% of valid votes.

c) Paragraphs 17 and 19 shall be formulated as follows:

17. In the event elections conducted by proportional system is declared as accomplished, but none of the parties or election blocs succeeded to obtain 7% of the valid votes, second ballot shall be conducted in two weeks from the general elections upon the ordinance of the CEC.

18. Only those parties and election blocs are entitled to participate in the second ballot that obtained at least 2% of valid votes in general elections. Party lists of parties and election blocs remain unchanged in the second ballot. The lists may be changed only by the general rule prescribed by this law.

19. The summary protocol of the final results of elections should stipulate: the names and numbers of those election districts and precincts where elections were declared void, the grounds for the decision to declare elections void, total number of voters per each election district or precinct, number of participants of election, number of valid votes, number of elected MPs and the list of elected MPs in alphabetical order.

39. ARTICLE 123

Paragraphs 2, 3 and 3¹ shall be formulated as follows:

2. In order to determine the number of mandates obtained by party lists, the number of votes obtained by party list shall be multiplied by the number of mandates assigned to the election district and divided by the total number of votes of those parties/election blocs that obtained not less than 5% of valid votes. The whole number of the result shall be the number of mandates obtained by the party list.

3. In the event the total number of mandates obtained by party list in election district turns out to be less than the number of mandates assigned to the election district, surplus mandates shall be divided one by one in the first place among those party lists that obtained more than 5% of valid votes but could not acquire mandate by the rule stipulated in Paragraph 2 of this Article and after to the party lists that obtained at least one mandate starting from the party list that obtained the highest number of votes.

3¹. In the event more than 10 election subjects obtained 5% or more of valid votes, the division rule stipulated in Paragraph 2 of this article shall not apply. In such a case mandates shall be given one by one to that 10 election subjects starting from the one that obtained highest number of votes and to be continued in a relevant order.

40. ARTICLE 126¹³

a) Paragraph 3 shall be formulated as follows:

3. Mandates of Tbilisi Sakrebulo (local self government body) Members to be divided by proportional system shall be granted to the election subject that obtained not less than 4% of valid votes.

b) Paragraph 6 to be formulated as follows:

6. In the event more than 12 election subjects received 4% or more of valid votes, the division rule stipulated in Paragraph 3 of this Article shall not apply. In such a case mandates shall be granted one by one starting from the election subject that obtained highest number of votes and to be continued in a relevant order.