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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ARMENIA

AMENDMENTS

**TO THE LAW
ON THE COMMISSION
FOR THE PREVENTION OF CORRUPTION**

(2nd READING)

LAW

OF THE REPUBLIC OF ARMENIA

"ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE LAW
"ON COMMISSION FOR THE PREVENTION OF CORRUPTION"

Article 1. Articles 9 and 10 of Law HO-96-N of 9 June 2017 “On Commission for the Prevention of Corruption” (hereinafter referred to as “the Law”) shall be amended to read as follows:

"Article 9. Procedure for formation of the Commission

1. The Commission shall comprise five members: a chairperson and four members. The positions of the members of the Commission shall be autonomous positions.
2. The members of the Commission shall be appointed by the National Assembly, as prescribed by the Constitutional Law "Rules of Procedure of the National Assembly", for a term of six years, except for the case of appointment of members of the first composition of the Commission.
3. The Commission shall elect from among its composition a chairperson of the Commission for the term of powers of a member of the Commission.
4. The right to nominate a candidate for the vacant position of the member of the Commission shall be reserved to the body to which the right to nominate a candidate for the given member of the first composition of the Commission was

reserved, except for the case provided for by part 7 of this Article.

5. The candidate for the vacant position of a member of the Commission shall be nominated within a period of one month after being informed — as prescribed by part 5 of Article 18 of this Law — about the automatic termination of the powers of a member of the Commission, after the imposed termination of the powers of a member of the Commission, as well as the failure to adopt the decision of the National Assembly on appointing a member of the Commission.
6. Where no candidate is nominated — within the time limit prescribed by part 5 of this Article — for the vacant position of the member of the Commission, reserved to the Government, the ruling faction of the National Assembly or the Supreme Judicial Council, the same body shall nominate a candidate for that position within a period of one month.
7. Where no candidate is nominated — within the time limit prescribed by part 5 of this Article — for the vacant position of the member of the Commission, reserved to the opposition faction of the National Assembly, the ruling faction of the National Assembly shall nominate a candidate for that position within a period of one month.
8. The appointment of a member of the Commission shall be carried out within a period of one month after the expiry of the time limit prescribed for nominating a candidate for that position. Where the decision of the National Assembly on appointing a member of the Commission fails to adopt, the right of the same body to nominate a candidate for that position shall be preserved.

Article 10. Requirements for a member of the Commission

1. Only a citizen of the Republic of Armenia, with higher education and proficiency in the Armenian language, having at least five years of work record at least three years of which in political, autonomous, administrative position or in a position of a member of a state body established in the basis of the law or in other positions, having mandate to organize, manage, oversight and coordinate (whether in public or private sector) may be appointed as a member of the Commission.
2. At least one of the members of the Commission must have higher education in law and at least one — in economics.
3. A person who has been convicted of a crime, irrespective of whether the conviction has been expunged or cancelled, whose criminal prosecution has been terminated on non-acquittal grounds, who is currently subject to criminal prosecution, has a disease — provided for by the list established by the Government — hindering his or her appointment as a judge, may not be appointed as a member of the Commission.
4. The same person may not be appointed as a member of the Commission for more than two consecutive terms.
5. A member of the Commission shall serve in office until attaining the age of 65."

Article 2. Articles 11-15 of the Law shall be repealed.

Article 3. In Article 18 of the Law:

- (1) in the title, the words "and imposed termination" shall be replaced with the words ", imposed termination and suspension";
- (2) part 1 shall be deleted;
- (3) point 1 of part 2 shall be amended to read as follows:

"(1) the term of his or her powers has expired;";
- (4) part 2 shall be supplemented with new points 1.1, 1.2 and 1.3 which read as follows:

"(1.1) he or she has attained the age of holding office;

(1.2) he or she has submitted a letter of resignation as prescribed by the Constitutional Law "Rules of Procedure of the National Assembly";

(1.3) he or she has been deprived of the right to hold a certain position as prescribed by law;";
- (5) part 3 shall be deleted;
- (6) in part 4, the words "shall be early terminated by the Commission" shall be replaced with the words "shall, based on the opinion of the Commission, be imposingly terminated, as prescribed by the Constitutional Law 'Rules of Procedure of the National Assembly'";
- (7) new parts 4.1 and 4.2 shall be added, which read as follows:

"4.1. The Chairperson of the Commission or the member of the Commission, substituting him or her as prescribed by part 2 of Article 22 of this Law, shall forward the opinion — provided for by part 4 of this Article — to the Chairperson of the National Assembly, within three working days following the day of its adoption.

4.2. The powers of a member of the Commission shall be suspended in case the opinion — provided for by part 4 of this Article — is adopted.”;

(8) part 5 shall be amended to read as follows:

"5. When submitting a letter of resignation to the National Assembly, the member of the Commission shall immediately inform the Chairperson of the Commission, as well as the body or official upon the recommendation whereof he or she has been appointed as member of the Commission. In other cases provided for by part 2 of this Article, the Chairperson of the Commission or the member of the Commission, substituting him or her as prescribed by part 2 of Article 22 of this Law shall inform — within a period of three days after the automatic termination of the powers of the member of the Commission, as well as the imposed termination of the powers of a member of the Commission — the Chairperson of the National Assembly, as well as the body having the competence to nominate a candidate for that position, concurrently submitting the requirements prescribed by Article 10 of this Law, necessary for the candidate."

Article 4. *The Law shall be supplemented with new Article 18.1, which reads as follows:*

"Article 18.1. Automatic termination and imposed termination of powers of the Chairperson of the Commission

1. Powers of the Chairperson of the Commission shall be automatically terminated, where:
 - (1) his or her powers as a member of the Commission have been automatically terminated or imposingly terminated;
 - (2) he or she has resigned from the position of the Chairperson of the Commission.
2. Failure by the Chairperson of the Commission to fulfil his or her duties shall serve as a ground for imposed termination of the powers thereof, based on the decision adopted by at least two thirds of votes of the total number of members of the Commission".

Article 5. In Article 21 of the Law:

- (1) part 1 shall be supplemented with a new sentence which reads as follows:

"Sessions of the Commission shall be presided over by the Chairperson of the Commission or the member of the Commission, substituting him or her as prescribed by part 2 of Article 22 of this Law.";

- (2) part 17 shall be supplemented with a new sentence which reads as follows:

"The minutes shall be signed by all members of the Commission attending the session.";

- (3) a new part 19 shall be added, which reads as follows:

"19. The Chairperson of the Commission shall forward the opinions provided for by part 1 of Article 153, as well as point 1 of part 1 of Article 157 of the Constitutional Law "Rules of Procedure of the National Assembly" to the Chairperson of the National Assembly within three working days following the day of their adoption."

Article 6. In Article 22 of the Law:

- (1) the words "decisions, opinions and minutes of sessions" in point 2 of part 1 shall be replaced with the words "decisions and opinions";
- (2) part 2 shall be amended to read as follows:

"2. In case of leave or secondment, the Chairperson of the Commission shall appoint one of the members of the Commission as a substitute thereof. In case of failure to appoint a substitute, as well as in cases of temporary incapacity, automatic or imposed termination of powers of the Chairperson of the Commission, the eldest member of the Commission shall substitute the Chairperson of the Commission.";

- (3) part 3 shall be supplemented with new point 4 which reads as follows:

"(4) sign the minutes of sessions of the Commission."

Article 7. Part 1 of Article 23 of the Law shall be supplemented with new points 5, 6 and 7 which read as follows:

- "(5) conducting monitoring over implementation of anti-corruption programmes and actions developed thereby and submitting recommendations thereon to the competent bodies;
- (6) submitting advisory opinions — not subject to publication — on the integrity of persons to be appointed to state positions in the cases and as prescribed by the Law "On public service";
- (7) submitting advisory opinions — not subject to publication — on the integrity of judges and judge candidates in the cases and as prescribed by the Constitutional Law "Judicial Code of the Republic of Armenia".

Article 8. Part 1 of Article 24 of the Law shall be supplemented with new points 19, 20 and 21 which read as follows:

- "(19) prepare reports on the monitoring over implementation of anti-corruption programmes and their implementation action plans (including sector-specific action plans) developed thereby, submit recommendations thereon to the competent bodies;
- (20) conduct studies with respect to the integrity of persons to be appointed to state positions, their involvement in corruption-related transactions, and by the results thereof, submit advisory opinions in the cases and as prescribed by the Law "On public service";
- (21) submit advisory opinions on the integrity of judges and judge candidates, and their involvement in corruption-related transactions in the cases and as prescribed by the Constitutional Law "Judicial Code of the Republic of Armenia".

Article 9. In part 5 of Article 42 of the Law:

- (1) part 1 shall be amended to read as follows:

"1. This Law shall enter into force on the day of appointing by the National Assembly of the majority of the total number of members of the first composition of the Commission, except for Articles 9, 10, points 6 and 7 of part 1 of Article 23, as well as points 20, 21 of part 1 and part 1.1 of Article 24, which shall enter into force within the time limits prescribed by parts 2 and 2.1 of this Article.";

- (2) in part 2, the words "9-15" shall be replaced with the words "9 and 10";

- (3) new part 2.1 shall be added, which reads as follows:

"2.1. Points 6 and 7 of part 1 of Article 23, as well as points 20, 21 of part 1 and part 1.1 of Article 24 of this Law shall enter into force upon entry into force of the relevant amendments to the Law "On public service" and the Constitutional Law "Judicial Code of the Republic of Armenia".

- (4) parts 3,4,5 will be amended to read as follows:

"3. The first composition of the Commission shall be formed under the following procedure: no later than before 30 November 2019 the National Assembly shall, as prescribed by the Constitutional Law "Rules of Procedure of the National Assembly", appoint the five members of the Commission with the following terms of office:

- (1) two members of the Commission — six years each;
- (2) two members of the Commission — four years;
- (3) member of the Commission — three years;

4. The right to nominate one candidate each for the position of a member of the Commission referred to in point 1 of part 3 of this Article shall be reserved to the Government and the ruling faction of the National Assembly, for the positions referred to in point 2 — the opposition faction of the National Assembly, whereas for the position referred to in point 3 — the Supreme Judicial Council. The fulfilment of the requirement prescribed by part 2 of Article 10 of this Law shall be ensured by the Government and the ruling faction of the National Assembly. Following the appointment of all members of the first composition of the Commission, the Commission shall, within a period of one week, elect from among its composition the Chairperson of the Commission for the term of powers of a member of the Commission. Before election of the Chairperson of the Commission, the powers of the Chairperson of the Commission shall be exercised by the eldest member of the Commission.
5. Upon entry into force of this Law, Chapter 8 of Law HO-172-N of 26 May 2011 "On public service" shall be repealed."

Article 10. This Law shall enter into force on the tenth day following the day of its official promulgation.