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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

NOTE
by the Secretariat
concerning the Draft Law of the Republic of Armenia
on Political Parties
based on the comments by
Messrs Stoica and Vogel

The following observations refer to the draft law on political parties prepared by the People's Party of Armenia. They are based on the comments made on the original draft (CDL (2001) 30) by Mr Vogel substitute member for Sweden (CDL (2001) 45) and Mr Stoica (CDL (2001) 43), member of the Venice Commission for Romania. This note is not a draft consolidated opinion but a document merely presented to facilitate the discussion.

- 1) Membership: the Law adopts an extremely restrictive approach as to participation of foreign citizens and stateless persons in the activities of political parties. The requirement for a party to be present at least in 2/3 of the administrative-territorial units of the country is too restrictive and endangers the right to political activity and freedom of association (Art. 21).
- 2) Restrictions on activities of political parties in cases of emergency situation: the provision on this issue is not clear. There should be a number of guarantees foreseen by the Law on political parties and not only a reference to the Law on "Emergency situation"(Art. 9).
- 3) Founding procedure: the threshold for founding a party is very high. It creates a situation where the existence of small parties which do not operate nationwide is almost impossible. The proposed procedure might threaten the fundamental right of freedom of association (Art. 11 – 18).
- 4) Financing: public financing can be withdrawn after a decision of a competent State authority. The Law does not specify the authority entrusted with these powers and does not establish a mechanism for appealing against such decision (Art. 34).
- 5) Dissolution: the Law stipulates that if a party fails to submit a list of candidates for elections or does not have a sufficient number of supporters, it can be dissolved. This measure seems to be too restrictive. The loss of state financial support can be justified in the two above-mentioned cases, but a dissolution seems to be inadequate (Art. 5, 36.2, 40).
- 6) Mandate of party members elected to the Parliament: the Law provides that "in case of prohibition, dissolution, self-dissolution and reorganisation of a party, the credentials of the parliamentarians elected from the corresponding party list become invalid" (Art 43.2). This restriction is too absolute. The legitimacy of the mandate of a parliamentarian is based on the trust of the electorate rather than on the affiliation of a candidate to a political party.