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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT LAW**

**ON THE SUPPRESSION OF ACTIVITIES  
OF EXTREMIST PARTIES AND UNIONS**

**OF GEORGIA**

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**The Organic Law of Georgia on Prohibition of Activities of Extremist Organizations and Unions*****Article 1. Aim of the Law***

In accordance with the requirements of Article 26 of the Constitution of Georgia, the aim of this law is the prohibition of use of force in resolving political problems (in deciding the political tasks), protection of the constitutional order of Georgia from coup or forceful change, prevention of attempts of takeover of the power by use of force or attempts to maintain the power with force, as well as prevention of other manifestation of extremism.

***Article 2. Sphere of Operation of the Law***

This Law defines grounds and rules of prohibition of organisations and political unions.

***Article 3. Definition of the Terms Used in the Law***

Terms used in this Law have the following meaning:

- a) *an organization* – union, foundation, professional union, religious or other (non-commercial) union, as well as commercial organization, regardless of the fact of state registration;
- b) *a political union* – political union of citizens (a party, as defined by the Organic Law of Georgia on Political Unions of Citizens), as well as a union of citizens, aimed at political activities, but is not registered in accordance with the rules, defined by the Georgian legislation;
- c) *(an extremist organization (union))* - an organization, recognized as such by a decision entered into legal force of the Supreme Court of Georgia or the Constitutional Court of Georgia or a political union, which conducts extremist activities;
- c) *extremist activities (extremism)*:
  - d<sup>1</sup>) activity of an organization or a political union, connected with planning, organizing, preparing and conducting activities, aimed at obliterating or forcefully changing the constitutional order or the government of Georgia, undermining independence or territorial integrity of the country; creating illegal military groups; conducting terrorist (including international terrorist) activities; propagating war or violence, or facilitating national, regional, religious or social enmity; perpetrating acts of hooliganism and vandalism, creating massive disorders, with motive of ideological, political, racial, ethnical [national], religious abhorrence or hatred towards any social group;
  - d<sup>2</sup>) public call for implementation or conduction of such activities, as well as distribution of extremist literature;
  - d<sup>3</sup>) financing of such activities or any other support to their implementation.

- d) *a substitute organization (union) of a prohibited organization (union)* -- an organization, recognized as such by a decision entered into legal force of the Supreme Court of Georgia or the Constitutional Court of Georgia or a political union, which, regardless of the prohibition, maintains its organizational structure and continues functioning under fictitious name or altered form, while maintaining same essential goals, or an organization or a political union, organizational structures of which is actually used by a prohibited union;
- e) *extremist literature* - information on any hard media, which includes call for conduction of extremist activities or justifies necessity or urgency (need) of perpetration of such activities.

***Article 4. Prohibition of Extremist Activities. Bases for Prohibition of Organization or Political Union***

1. Extremist activities are impermissible in Georgia.
2. In case of creation of an organization, or a political union, which intends to conduct of extremist activities, or in case of revealing elements of extremist activities, such organization shall be held responsible pursuant to this and other laws of Georgia, regardless to its official registration status (regardless of the fact of state registration).

***Article 5. Warning of an Organization or a Political Union about Impermissibility of Conduction of Extremist Activities***

1. If there is enough and preliminarily confirmed information about preparation of improper activities, which include elements of extremism, and if there is not enough ground for prosecution under the Criminal Law, or elements of extremism are revealed in activities of an organization or a political union (or in activities of its regional or local branch or unit), the Security Service of Georgia shall issue written warning to such organization or political union about impermissibility and termination of extremist activities. The warning shall include ground of issuance of warning, indicating particular violations of the laws of Georgia. The warning shall also include a term (not less than two weeks), allowed for elimination of the mentioned violations.
2. If an organization or a political union does not eliminate violations, set forth in Paragraph 1 of this article, within the term set by the Security Service of Georgia, the Security Service of Georgia is authorized to request the Supreme Court of Georgia or the Constitutional Court of Georgia prohibition of such organization or political union.
3. The Security Service of Georgia is authorized, in accordance with the rules set forth in this Law, to request the Supreme Court of Georgia or the Constitutional Court of Georgia prohibition of an organization or a political union, without issuing the warning, as mentioned in para. 1 of this Article, if delay can be detrimental for the security of the state.

***Article 6. Rules of Prohibition of an Organization or a Political Union***

1. A decision on prohibition of an organization, or prohibition of an organization, which substitutes an extremist organization, is made by the Supreme Court of Georgia.
2. A decision on prohibition of a political union, or prohibition of a union, which substitutes an extremist union, is made by the Constitutional Court of Georgia.

3. Request to the Supreme Court of Georgia, or the Constitutional Court of Georgia, about prohibition of an organization or a political union, or prohibition of an organization (union), which substitutes an extremist organization (union), is made by the Security Service of Georgia.
4. A request for prohibition of an organization or a political union, shall indicate name of an organization or a political union and legal-organizational form, legal address (if such information is in possession), as well as facts of revealing elements of extremism in activities of this organization or political union; and be annexed by the charter and copy of the state registration document of this organization or political union.
5. A request for prohibition of an organization (union), which substitutes a prohibited organization (union) shall include information set forth in Paragraph 4 of this Article, if available, as well as facts, which prove that this organization (union) is actually substituting a prohibited organization.
6. While considering a request, the court shall examine whether there are elements of extremism in activities of an organization or a political union, or whether an organization or a political union is a substitute organization (union) to a prohibited organization (political union).
7. If the court finds circumstances, set forth in the previous paragraph, it makes one of the following decisions:
  - a) declaration of an organization or a political union as an extremist and its prohibition;
  - b) declaration of an organization or a political union as a substitute organization (union) of an extremist organization (political union) and its prohibition.
8. After making one of the decisions, set forth in Paragraph 7 of this Article, the court sets a term (not more than one month) during which all central, regional and local branches and structures of an extremist organization (union), or organization (union), substituting a prohibited organization (union), shall be dismissed and the right of such organization to establish a mass media source, shall be terminated. Such organization (union) shall be prohibited organizing and conducting summits, meetings, demonstrations, marches, pickets and other mass and public events, as well as participation in elections and referendums and use of mass media.
9. The property of an extremist organization (union), or prohibited organization (union) shall be transferred to the State Treasury. The decision on transfer of this property to the State Treasury is made by the court together with one of the decisions, set forth in Paragraph 7 of this Article.
10. Prohibition of a registered organization or political union is its liquidation as a legal entity, pursuant to the provisions of the Article 38 of the Civil Code of Georgia, to the extent that they do not contradict with this Law.
11. Active participation in activities of an extremist organization or union or organisation or its management an organization (union), substituting a prohibited organization (union), is subject of prosecution under the Criminal Code.
12. If the court concludes that circumstances, set forth in Paragraph 6 of this Article, are not found, it rejects a request, mentioned in Paragraph 3 of this article.

### ***Article 7. International Cooperation in the Field of Fight Against Extremism***

1. Activities on the Georgian territory of organizations and political unions of foreign states or of their structural units and branches, which are prohibited by international legal acts or by the acts of those states to which Georgia has concluded treaties in the field of fight against Extremism.

2. Decision on prohibition of organizations or political unions of foreign states is made by the Supreme Court of Georgia, in accordance with the rules, set forth in this law, on the basis of request of the Security Service of Georgia.
3. Prohibition of an organization or a union, as mentioned in Paragraph 2 of this Article, means:
  - a) termination of its state accreditation or registration, in accordance with the rules defined by the Georgian legislation;
  - b) prohibition of presence on the Georgian territory of its representatives (citizens of foreign states or stateless persons);
  - c) prohibition of its economic or any other type of activities on the Georgian territory;
  - d) prohibition of publication of its any material in the mass media under its name;
  - e) prohibition of distribution of its literature on the Georgian territory;
  - f) prohibition of organization and conduction of mass actions and public events by this organization, as well as prohibition of participation in any mass action or public event as its representative.
4. Within ten days after the date of entering into legal force of the decision of the Supreme Court of Georgia regarding prohibition of an organization or a union, as mentioned in Paragraph 1 of this Article, the Ministry of Foreign Affairs of Georgia shall notify the diplomatic representation or consular service of the concerned foreign country, the decision, reasons and consequences of its adoption.

***Article 8. Appeal of Decision of Termination of Functioning or Liquidation of an Organization, or Prohibition of an Organization or a Political Union***

1. A decision of the court on termination of functioning or liquidation of an organization, or prohibition of an organization (union), substituting a prohibited organization (political union), may be appealed in accordance with the rules, defined by the laws of Georgia.
2. If a decision of the court, mentioned in Paragraph 1 of this article, is annulled, the state shall reimburse the damage, caused to an organization or a political union, by termination of functioning, liquidation or prohibition.

***Article 9. Entering into Force***

This law shall enter into force on \_\_\_\_\_, 2003.

*President of Georgia*  
*Tbilisi*

*E. Shevardnadze*

Draft

**The Organic Law of Georgia on Amendments and Modifications to the Organic Law of Georgia on “Political Unions of the Citizens”**

Article 1. The following amendments and modifications shall be made into the Organic Law of Georgia on “Political Unions of the Citizens” (Messenger of the Parliament of Georgia, 1997, No 45)

1. Paragraph 2 of Article 5 shall read as follows:  
“2. Creation of a party, which conducts extremist or externally controlled activities, or intents conduction of such activities, is prohibited in Georgia”
2. Title of Chapter IV shall read as follows:  
“Chapter IV. Prohibition of a Party and Termination of its Functioning”.
3. Article 35 shall read as follows:  
“Article 35. A party may be prohibited only by decision of the Constitutional Court of Georgia, in cases and in accordance with the rules, set forth in the Organic Law of Georgia on “Prohibition of Activities of Extremist Organizations and Unions”.
3. Article 36 shall be excluded.
4. Paragraph 1 of Article 37 shall read as follows:  
“1. Functioning of a party may be terminated in result of reorganization (merger, accession, division) or self-liquidation”.
5. Article 38 shall be excluded.

Article 2. This law shall enter into force on \_\_\_\_\_, 2003.

*President of Georgia*  
*Tbilisi*

*E. Shevardnadze*

Draft

## **The Organic Law of Georgia on Amendment to the Criminal Code of Georgia**

Article 1. The Criminal Code of Georgia (Georgian Legal Messenger, 1999, No 41(48)) shall be amended with Article 315<sup>1</sup> of the following content:

“Article 315<sup>1</sup>. Management of an extremist organization (union) or active participation in its activities

1. Active participation in activities of an extremist union, as well as union, substituting a prohibited organization (union), -  
is subject to monetary penalty or detention for up to four months, or imprisonment for up to three years.
2. Organization or management of activities of an extremist union, as well as a prohibited organization (union), -  
is subject to monetary penalty or detention from four to six months, or imprisonment for up to six years.

Article 2. This law shall enter into force on \_\_\_\_\_, 2003

*President of Georgia*  
*Tbilisi*

*E. Shevardnadze*

Draft

**The Organic Law of Georgia on Amendments and Modifications to the Organic Law of Georgia on “Suspension and Prohibition of the Activities of Public Unions”**

Article 1. The following amendments and modifications shall be made to the Organic Law of Georgia on “Suspension and Prohibition of the Activities of Public Unions” (Messenger of the Parliament of Georgia, 1997, No 46)

1. The title of the Law shall be read as follows:  
“On the Suspension of Activities of Public Unions”.
2. Article 1 shall be read as follows:  
“This law determines the basis and rules of suspension of activities of a union, foundation, professional union and other public union”.
3. Article 2 shall be read as follows:  
“Suspension of activities of public unions may be made only by a decision of the court in cases determined by the law and under the rules established by the Georgian legislation”.
3. Article 4 shall be excluded.
4. Article 5 shall be read as follows:  
“A decision on suspension on activities of public union may be appealed under the rules determined by the Georgian legislation”.
5. Article 6 shall be excluded.

Article 2. This Law shall enter into force on \_\_\_\_\_, 2003.