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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW

**ON AMENDMENTS TO CERTAIN LAWS
CONCERNING THE STATUS
OF DEPUTIES OF THE VERKHOVNA RADA
OF THE AUTONOMOUS REPUBLIC OF CRIMEA
AND LOCAL COUNCILS
OF UKRAINE**

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*Adopted by the Verkhovna Rada of Ukraine
on 12 January 2007*

LAW OF UKRAINE

“On Amendments to Certain Laws of Ukraine concerning the Status of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea and Local Councils”

The Verkhovna Rada of Ukraine hereby resolves:

I. To amend the Law of Ukraine “On the Verkhovna Rada of the Autonomous Republic of Crimea” as follows:

1. In Article 6:

- add a new paragraph 7 as follows:

“7. Powers of deputy of the Verkhovna Rada of the Autonomous Republic of Crimea shall be terminated before the expiration of his/her term of office in case of his/her recall by the political party (election bloc of political parties) by whose relevant organisation’s election list he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea.”

Paragraphs 7-8 shall therefore become paragraphs 8-9.

- to replace paragraph 9 with a new paragraph as follows:

“In case of pre-term termination of powers of deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, the replacement of the deputy whose powers were terminated shall be carried out in accordance with the Law of Ukraine “On Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, of Local Councils and of Village, Settlement, and City Heads.”

2. To replace Article 7 with a new article as follows:

“Article 7. Grounds for recall of deputy of the Verkhovna Rada of the Autonomous Republic of Crimea

The deputy of the Verkhovna Rada of the Autonomous Republic of Crimea can be recalled by voters and relevant political party (election bloc of political parties) by whose relevant organisation’s election list he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea.

The following shall be the grounds for recall by voters of the deputy whom they have elected:

- 1) violation by the deputy of the Constitution and laws of Ukraine, other legislative acts of Ukraine, the Constitution and legal normative acts of the Autonomous Republic of Crimea;
- 2) improper performance of deputy’s duties, defined by this Law and other laws of Ukraine;
- 3) use of the deputy’s mandate in personal and selfish ends, systematic infringement of ethical and moral norms.

The ground for the recall by relevant political party (election bloc of political parties) by whose relevant organisation’s election list person was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea shall be failure of the deputy who was elected by the election list of the relevant organisation of the political party (election bloc of political parties) in

the multiple-mandate constituency, whose boundaries coincide with the boundaries of the Autonomous Republic of Crimea, to join the faction of the local organisation of the relevant political party (election bloc of political parties) or exit of the deputy from such faction upon his personal request, or transfer of the deputy to another faction, or other grounds as established by the highest managing body of the political party (election bloc of political parties), by whose election list he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea.

In case of the failure of the deputy who was elected by the election list of the relevant organisation of the political party (election bloc of political parties) in the multiple-mandate constituency, whose boundaries coincide with the boundaries of the Autonomous Republic of Crimea, to join the faction of the local organisation of the relevant political party (election bloc of political parties) or exit of the deputy from such faction upon his/her personal request, or transfer of the deputy to another faction, or other grounds as established by the highest managing body of the political party (election bloc of political parties), by whose election list he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, the powers of this deputy shall be terminated before the expiration of his/her term office by the decision of the highest managing body of the political party (election bloc of political parties), by whose election list he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea.

The highest managing body of the political party (election bloc of political parties) shall make a decision on the recall and pre-term termination of powers of the deputy of the Verkhovna Rada of the Autonomous Republic of Crimea if the deputy did not submit a request to the Verkhovna Rada of the Autonomous Republic of Crimea on his/her inclusion in the faction of the relevant local organisation of the political party (election bloc of political parties), by whose election lists he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, or if the deputy left the faction (submitted a personal request on the exit from the faction or transferred to another faction), or if he/she is recalled on other grounds established by this managing body.

The powers of the deputy Verkhovna Rada of the Autonomous Republic of Crimea shall be considered as terminated before the expiration of the term of office from the moment of making of relevant decision by the highest managing body of the political party (election bloc of political parties), by whose election lists he/she was elected a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea.

The highest managing body of the political party (election bloc of political parties), upon whose decision according to this Law the powers of the deputy were terminated before the expiration of his/her term of office, shall immediately publish this decision in printed mass media outlet and shall inform the territorial election commission by forwarding thereto of the said decision.”

3. To add in the Law the following new Article 15-1:

“Article 15-1. Deputies’ factions

1. Deputies’ factions of the Verkhovna Rada of the Autonomous Republic of Crimea shall be formed on party basis by deputies of the Verkhovna Rada of the Autonomous Republic of Crimea who were elected by the election list of the relevant organisation of the political party (election bloc of political parties).

2. The procedure of entering to and exiting from the deputies’ faction of the Verkhovna Rada of the Autonomous Republic of Crimea shall be determined by decision of the highest managing body of the political party (election bloc of political parties), by whose election list the deputy was elected.

3. Deputy of the Verkhovna Rada of the Autonomous Republic of Crimea can be a member of only one deputies' faction. After relevant materials on the creation of a deputies' faction have been drawn up, the person presiding over the plenary sitting of the Verkhovna Rada of the Autonomous Republic of Crimea shall inform deputies of the Verkhovna Rada of the Autonomous Republic of Crimea about the registration of such deputies' faction and number of its members.

4. The failure of the deputy who was elected by the election list of the relevant organisation of the political party (election bloc of political parties) in the multiple-mandate constituency, whose boundaries coincide with the boundaries of the Autonomous Republic of Crimea, to join the faction of the local organisation of the relevant political party (election bloc of political parties) or exit of the deputy from such faction upon his/her personal request, or transfer of the deputy to another faction shall be the ground for the pre-term termination of powers of such deputy according to the procedure defined by this Law.

5. Other issues of creation and activity of deputies' faction shall be determined by the Rules of Procedure of the Verkhovna Rada of the Autonomous Republic of Crimea.”

II. To amend the Law of Ukraine “On the Status of Deputies of Local Councils” as follows:

1. In Article 5:

- to add in paragraph 1 of Article 5 a new subparagraph 2 as follows:

“2) recall by the political party (election bloc of political parties), by whose relevant organisation's election list he/she was elected a deputy of the local council, in case when the deputy of the local council (except for village and settlement councils), who was elected by the election list of the relevant local organisation of the political party (election bloc of political parties) in multiple-mandate constituency whose boundaries coincide with the boundaries of the relevant council, failed to join the deputies' faction of the relevant local organisation of the political party (election bloc of political parties) or when he/she left such deputies' faction by filing a personal request, or when he/she transferred to another deputies' faction, or on other grounds established by the highest managing body of the political party (election bloc of political parties), by whose relevant organisation's election list he/she was elected a deputy of the local council;”

Subparagraphs 2-7 shall therefore become subparagraphs 3-8.

- to add in Article 5 the following paragraphs 4-6:

“4. If the deputy of the local council (except for village and settlement councils), who was elected by the election list of the relevant local organisation of the political party (election bloc of political parties) in multiple-mandate constituency whose boundaries coincide with the boundaries of the relevant council, failed to join the deputies' faction of the relevant local organisation of the political party (election bloc of political parties) or if he/she left such deputies' faction by filing a personal request, or if he/she transferred to another deputies' faction, or in case of recall on other grounds established by the highest managing body of the political party (election bloc of political parties), by whose election list he/she was elected a deputy of the local council, his/her powers shall be terminated before the expiration of the term of office upon decision of the highest managing body of the political party (election bloc of political parties).

5. The highest managing body of the political party (election bloc of political parties) shall make a decision on the recall and pre-term termination of powers of the deputy of the local council (except for deputies of village and settlement councils) if the deputy did not submit a request to the local council on his/her inclusion in the faction of the relevant local organisation of

the political party (election bloc of political parties), by whose election list he/she was elected a deputy, or if the deputy left the faction (submitted a personal request on the exit from the faction or transferred to another faction), or if the deputy is recalled on other grounds established by the highest managing body the political party (election bloc of political parties).

The powers of the deputy of the local council (except for deputies of village and settlement councils) shall be considered as terminated before the expiration of the term of office from the moment of making of relevant decision by the highest managing body of the political party (election bloc of political parties), by whose election lists he/she was elected a deputy.

6. The highest managing body of the political party (election bloc of political parties), upon whose decision according to this Law the powers of the deputy were terminated before the expiration of his/her term of office, shall immediately publish this decision in printed mass media outlet and shall inform the territorial election commission by forwarding thereto of the said decision.”

- to replace paragraph 4 of Article 5 with a new paragraph which shall become paragraph 7 and read as follows:

“7. In case of pre-term termination of powers of the deputy of the local council, elections or replacement of the deputy whose powers were terminated shall be carried out in accordance with the Law of Ukraine “On Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, of Local Councils and of Village, Settlement, and City Heads.”

2. To replace Article 27 with a new Article as follows:

“Article 27. Deputies’ factions

1. Deputies’ faction of local councils shall be formed on the party basis by deputies of local councils (except for deputies of village and settlement councils), who were elected by election lists of relevant local organisations of the political party (election bloc of political parties).

2. Deputies of village and settlement councils on the basis of common views or party membership can unite in deputies’ factions. Deputies of village and settlement councils who are not members of parties can also be members of deputies’ faction if they support its political programme.

3. The procedure of entering into factions and exiting from them shall be determined by decision of the highest managing body of the political party (election bloc of political parties), by whose election list deputies were elected to the local council.

4. Deputy of the local council can be a member of only one faction. After relevant materials on the creation of a deputies’ faction have been drawn up, the person presiding over the plenary sitting of the local council shall inform deputies of the local council about the registration of such deputies’ faction and number of its members.

5. The failure of the deputy of the local council (except for deputies of village and settlement councils), who was elected by the election list of the relevant organisation of the political party (election bloc of political parties) in the multiple-mandate constituency, whose boundaries coincide with the boundaries of the relevant council, to join the faction of the local organisation of the relevant political party (election bloc of political parties) or exit of the deputy from such faction upon his personal request, or transfer of the deputy to another faction shall be the ground for the pre-term termination of powers of such deputy according to the procedure defined by this Law.

6. Other issues of creation and activity of deputies' factions shall be determined by the rules of procedure of the local council."

3. In Article 37:

- in subparagraph 3 of paragraph 1, after the words "his/her election programme", to add the words "as well as of the programme of the political party (election bloc of political parties), by whose relevant organisation's election list he/she was elected a deputy of the local council".

III. To amend the Law of Ukraine "On Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, of Local Councils and of Village, Settlement, and City Heads" as follows:

1. In Article 23:

- add a new subparagraph 5 in paragraph 1 as follows:

"5) if the relevant territorial commission fails to execute provisions of paragraph 2 of Article 78 of this Law, upon submission of the highest managing body of the political party (election bloc of political parties) [the CEC] shall recognise as elected and register the candidate who is next in the election list of the relevant organisation of the political party (election bloc of political parties) instead of the deputy whose powers were terminated before expiration of his/her term of office upon decision of the highest managing body of the political party (election bloc of political parties), and shall issue a temporary certificate of the deputy of the relevant council;"

Subparagraph 5 shall therefore become subparagraph 6.

2. In Article 78:

- to add a new paragraph 2 as follows:

"2. In case of pre-term termination of powers of deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, deputy of local council (except for the deputy of village, settlement council) upon decision of the highest managing body of the political party (election bloc of political parties), whose relevant organisation's election list he/she was elected a deputy, relevant territorial election commission in urgent manner, but not later than within three days after the receipt of the decision of the highest managing body of the of the political party (election bloc of political parties), shall recognise as elected and register the candidate who was next in the election list of the relevant organisation of the political party (election bloc of political parties), and shall issue him/her a temporary certificate of the deputy of the relevant council."

Paragraphs 2-5 shall therefore become paragraphs 3-6.

IV. To amend the Law of Ukraine "On the Central Election Commission" as follows:

1. In Article 21:

- to add in paragraph 1 a new subparagraph 8 as follows:

"8) if the relevant territorial commission fails to execute provisions of paragraph 2 of Article 78 of the Law of Ukraine "On Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, of Local Councils and of Village, Settlement, and City Heads", upon submission of the highest managing body of the political party (election bloc of political parties) [the CEC] shall recognise as elected and register the candidate who is next in the election list of the relevant organisation of the political party (election bloc of political parties) instead of the

deputy whose powers were terminated before expiration of his/her term of office upon decision of the highest managing body of the political party (election bloc of political parties), and shall issue a temporary certificate of the deputy of the relevant council”

Subparagraph 8 shall therefore become subparagraph 9.

V. Final provisions

1. This Law shall come into effect from the day of its publication and its force shall extend to deputies of local councils (except for deputies of village and settlement councils), who were elected on 26 March 2006 according to the Law of Ukraine Ukraine “On Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, of Local Councils and of Village, Settlement, and City Heads” of 6 April 2004 No. 1667-IV.

2. Until the legislation is brought in compliance with this Law, laws and other legal normative acts shall be applied in part which is not in contradiction with this Law.

3. The Cabinet of Minister of Ukraine, within three months from entrance into force of this Law, shall:

- bring its legal normative acts in compliance with this Law;
- ensure review and annulment by ministries and other central bodies of the executive power of their legal normative acts which contradict this Law.