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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT LAW OF GEORGIA ON MAKING AMENDMENTS
AND ADDITIONS TO THE LAW OF GEORGIA
ON THE CAPITAL OF GEORGIA – TBILISI
Version of 8 September 2005**

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Article 1. The following amendments and additions shall be made to the Law of Georgia on the Capital of Georgia – Tbilisi (Georgian Parliament News, 1998, #11-12):

1. In paragraph 2 of article 1, the words “by self-government and state government bodies” shall be replaced with the words: “by self-government bodies.”
2. The title of article 4 shall be reworded as follows: “legal basis for exercising self-governance in the city of Tbilisi”.
3. In paragraph 1 of article 4, the words “self-government and government” shall be replaced with the words: “self-government.”
4. In paragraph 2 of article 4, the words “of the Tbilisi City Council” shall be added with the words: “and of the executive body – Municipality (Mayor’s Office)”.
5. Paragraph 3 of article 4 shall be stricken out.
6. Paragraph 4 of article 4 shall be formulated as follows:

“4. The Tbilisi City Municipality (government of Tbilisi, *gamgeobas* (local governments) of its districts and the Township of Tskneti) shall constitute the system of self-governance bodies to carry out the executive-administrative functions of the Tbilisi self-government.”
7. Article 5 shall be reworded as follows:

“Article 5. Major Principles of Exercising Self-Governance in the City of Tbilisi

1. Major principles of exercising self-governance in the City of Tbilisi shall be as follows:
 - a) the right of the Tbilisi population to elect, as established by law, the representatives for exercising local self-governance;
 - b) independence of the local self-government bodies in taking decisions on the matters of local importance;
 - c) protection of legitimate rights and freedoms of the citizens of Georgia;
 - d) respect for the law and publicity of the Tbilisi City Self-Government Bodies;

- e) independence of the local self-government bodies in exercising the functions established by law;
 - f) unity of the general national and local interests.
2. The governance bodies of the city of Tbilisi shall act according to the principle of the delimitation of powers”
8. In paragraphs 2 and 3 of article 6, the words “self-governance and governance” shall be replaced with the word “self-governance”;
9. In paragraph 2 of article 7, the words “self-governance and governance” shall be replaced with the word “self-governance”;
11. In paragraph 1 of article 8, the words: “of the Tbilisi city self-governance and governance bodies” shall be replaced with the words: “other of the Tbilisi city self-governance bodies”.
12. The title of chapter 2 shall be worded as follows: “representative body of the Tbilisi City self-government”.
13. Article 11 shall be formulated as follows:
- “ Article 11. Tbilisi City *Sakrebulo* (Council)
- 1. The Tbilisi City Council (hereinafter referred to as *Sakrebulo*) shall be the representative body of the Tbilisi city self-governance, to be formed by the 25 members elected in the relevant local electoral districts (*rayons*) through the first pass the post electoral rule (majoritarian system) and the 12 persons, elected in Tbilisi through the proportional electoral system.
 - 2. The regulations for electing the *Sakrebulo* shall be established by the organic law of Georgia - “Election Code of Georgia”.
14. In article 12:
- a) sub-paragraphs ‘i’, ‘j’ and ‘p’ of paragraph 1 shall be worded as follows:
 - “i) control over the activities of the Tbilisi Mayor and other city government officials; hearing and assessing the reports of the Mayor”;
 - j) electing the Tbilisi Mayor;
 - p) based on the referral of the Mayor, granting the special status to the city districts or localities; establishment of the cultural-historical, green, industrial, trade and other special zones; giving the names thereof, establishing and changing their boundaries;”
 - b) Strike out sub-paragraph “k” from paragraph 1.

c) Strike out sub-paragraph “a.e” (*letter # 30 in Georgian alphabet*) from paragraph 1.

d) Strike out paragraph 2.

e) paragraph 3 shall be worded as follows:

“3. *Sakrebulo* shall have the special competence to pass a no- confidence vote against the City Mayor, by majority of all its members and under the procedure established by paragraph 22¹ of this Law.

15. sub-paragraph “a” of paragraph 3, article 14 shall be formulated as follows:

“a) on the submission of the Tbilisi City Mayor”

16. Paragraph 2 of article 16 shall be reworded as follows:

“2. The *Sakrebulo* members, commissions and factions, the Tbilisi City Mayor, as well as no less than 3000 voters, by signing the relevant Petition, shall have the right to initiate legal acts.”

17. Paragraph 2 of article 20 shall be formulated as follows:

“2. The *Sakrebulo* member shall have the right: to avail himself of any information (according to the regulations established by Georgian legislation) that is necessary for exercising his/her competencies; to attend, with a deliberative vote, the sessions of Tbilisi city government, its districts and township of Tskneti local-government, put questions to the bodies accountable before *Sakrebulo*, to the Tbilisi mayor, Gangebeli (head of the local government) of the districts (including the township of Tskneti), other members of the Tbilisi City Government and receive an adequate answer thereof. The relevant bodies and officials, shall be obliged to produce a written response to the question put by the *Sakrebulo* member. The competences, activity regulations and guarantees of the *Sakrebulo* member and of an elected official shall be determined by the Law of Georgia on the Status of the Member of Local Representative Body – *Sakrebulo*” and other by-laws.”

18. Article 21 shall be added with the paragraphs “c” and “d” as formulated bellow:

“c) If *Sakrebulo* has not approved the budget twice successively;

d) immediately upon the acknowledgment of the authority of the newly elected *Sakrebulo* (council) after the off-year elections;

19. In article 22:

a) paragraph 1 shall be worded as follows:

“1. The Mayor of the Tbilisi City (hereinafter the Mayor) shall be the highest official of Tbilisi and the head of the city government. The Mayor shall be elected from the members of the Tbilisi City Council for the term that of the *Sakrebulo*s’ term of office. No less than 1/3 of the *Sakrebulo* members shall have the right to nominate a candidate for Mayorship. The Mayor shall be considered elected if supported by the majority of all members of the *Sakrebulo*.”

b) Paragraph 2 shall be worded as follows:

“any citizen of Georgia, above 25 years of age, can be elected a Tbilisi City Mayor”

c) In paragraph 3:

c.a) sub-paragraph “b” shall be formulated as follows:

“b) shall appoint and dismiss members of the city government, chief of the staff of the Mayor’s Office and Chiefs of the City Services.”

c.b) strike out sub-paragraphs “c” and “f”;

c.c) sub-paragraph “j” shall be reworded as follows:

“j) shall sign the contracts and agreements entered into by the government, represent the City of Tbilisi and act on its behalf for the official purposes; carry out other representative functions.”

c.d) sub-paragraph “p”, “q”, “r” and “s”, as formulated below, shall be added to the sub-paragraph “o”:

“p) shall lead and manage the Government’s activities, distribute functions among his/her deputies; chair the governmental meetings; in view of the government activities, shall develop and submit to *Sakrebulo* draft legal acts of the Tbilisi City *Sakrebulo*.

q) shall submit draft budget of the capital city and the budget execution report to *Sakrebulo*.

r) shall sign government decisions / resolutions;

s) submit to *Sakrebulo* socio-economic development programs of the capital city.”

d) Paragraph 5 shall be formulated as follows:

“5. The Mayor shall relinquish his powers and shall be responsible (may be here should be “accountable”- translator’s remark) before the Tbilisi population and the Council. The Mayor shall be obliged to present his/her report before the Council annually. Upon the request of the 1/3 of the *Sakrebulo* members, the Mayor shall be obliged to present an off-year report.

20. Article 22¹ shall be added to the Law as follows:

“Article 22¹. **Early Termination of the City Mayor’s Term of Office**

1. The *Sakrebulo* shall have the right to pass a vote of no-confidence against the City Mayor by the majority of all its members.

2. *Sakrebulo*, by 1/3 of all its members, shall have the right to raise the issue of putting no-confidence vote against the Mayor. The no-confidence issue shall not be raised against the Mayor within the first 3 months after his/her election in the office and within 3 months prior to the expiration of the *Sakrebulo* term of office. The issue of no-confidence against the Mayor shall be put on the agenda as the out of turn item and the voting on this issue shall be conducted no earlier than 1 month and no later than 2 months after the issue had been raised.

3. No less than 1/3 of the *Sakrebulo* members shall be entitled to nominate a new candidate for the Mayorship during the period from raising the no-confidence issue until the voting.

4. If several candidates have been nominated for the Mayorship, they shall be put to voting together and the candidate, having received majority of all members' votes, shall be considered elected.

5. The vote of no-confidence shall be considered passed if *Sakrebulo* elects a new Mayor.

6. If a new candidate for Mayorship has not been nominated within 1 month after raising the no-confidence issue or if a new Mayor is not elected within the same timeframes, the issue of no-confidence shall not be raised against the Mayor within the six months after the day, when the no-confidence issue was raised.

6. If the term of the Mayors office is terminated on the grounds other than the vote of no-confidence, the *Sakrebulo* shall elect a new Mayor within 1 month.”

21. Article 23 shall be worded as follows:

“Article 23. City Government

1. The Government of the Tbilisi city, hereinafter referred to as the Government, is a deliberative body that shall, within the competencies defined by law, ensure execution of *Sakrebulo* and Mayor's decisions, drawing up and implementation of the capital's budget and socio-economic development programs.
2. The Government of Tbilisi shall consist of: the Mayor, Deputy Mayors and Chiefs of the Tbilisi City Services. *Gamgebelis* (heads of local government) of the Tbilisi districts and township of Tskneti, shall, in their official capacity, be members of the Government.

22. Strike out article 24.

23. Article 25 shall be formulated as follows:

“Article 25. Deputy Mayors

1. The Mayor shall have the first deputy (a Vice-Mayor) and Deputies.
2. Deputy Mayors shall, in view of the distribution of functions, lead and manage the areas falling under their respective competencies; prepare and submit to the Mayor proposals on the measures taken in respective areas; organize and exercise control over the implementation of the *Sakrebulo*, Mayor and Government decisions.”

24. In article 26

a) paragraph 3 shall be formulated as follows:

“3. Activities of a City Service shall be managed by the Chief of the Service. He/she shall take decisions on the issues falling under his/her competencies, based on the decisions of the Mayor, *Sakrebulo* and the Government and shall issue individual legal act – an Ordinance to ensure implementation thereof.

b) Paragraph 4 shall be formulated as follows:

“4. Chief of the City Service shall be accountable and responsible before the Mayor.”

25. Article 27 shall be formulated as follows:

“Article 27. Office (Apparatus)

1. *Sakrebulo* Office and the Mayor’s Office shall be in charge of providing organizational support to the activities of *Sakrebulo* and Government. Chief of the *Sakrebulo* Office shall be appointed and dismissed by *Sakrebulo*. Chief of the Mayor’s Office shall be appointed and dismissed by the Mayor.
2. The *Sakrebulo* Office staff – advisors and technical staff – shall be appointed and dismissed by the Chief of Staff of *Sakrebulo*.
3. The Mayor’s Office staff - advisors and technical staff – shall be appointed and dismissed by the Mayor based on the submission of the Chief of the Mayor’s Office..

26. In article 28:

a) paragraph 3 shall be formulated as follows:

“3. The procedure for drawing up, adoption, publication, operation, recording and systematization of the individual legal acts of Tbilisi City self-government bodies and officials – *Sakrebulo* decision, Mayor and *Gamgebelis*’ ordinances, orders of the Chief of the City Service – shall be established by this Law, Rules of Procedure of the Tbilisi City *Sakrebulo*, Municipality Statute and other acts.”

b) Paragraph 5 shall be formulated as follows:

“5. Normative acts (by-laws) of *Sakrebulo*, Mayor, Government and *Gamgebeli* shall be put into effect upon publication thereof according to the established regulation.”

27. Article 29 shall be formulated as follows:

“Article 29. Tbilisi District (Township of Tskneti) *Gamgeoba*

1. *Gamgeoba* of the Tbilisi district (Township of Tskneti) (hereinafter referred to as the *Gamgeoba*) shall consist of *Gamgebeli*, his/her Deputies and Chiefs of the District Services.
2. Competencies and rules of activities of the *Gamgeoba* shall be determined by the Tbilisi Municipality Statute.

28. in Article 30:

a) paragraph 2 shall be formulated as follows:

“2. District *Gamgebeli* (including the *Gamgebeli* of the township of Tskneti) shall be appointed on and dismissed from the position by the City Mayor.”

b) Paragraph 5 shall be formulated as follows:

“*Gamgebeli* (including the *Gamgebeli* of the township of Tskneti) shall have the right to resign. The District *Gamgebeli* shall relinquish his/her powers and be responsible before the City Mayor.”

29. Paragraph 6 of article 41 shall be formulated as follows:

“6. The Tbilisi City Budget shall have a Reserve Fund to be used for unforeseen (accidental) costs. The report on the spending of the Reserve Fund shall form a part of the Municipality Report on the Budget Execution.”

30. Article 42 shall be added with paragraph 1¹ as formulated bellow:

“ 1¹. Tbilisi Mayor shall submit before the *Sakrebulo* the Draft Budget of the capital. The *Sakrebulo* shall not have the right to make amendments to the draft without the Mayor’s consent.

31. In article 47:

a) sub-paragraph “c” of paragraph 1 shall be formulated as follows:

“c) consider and approve Mayor’s and *Gamgebeli*’s Reports on the Budget Execution.”

b) paragraph 3 shall be formulated as follows:

“3. *Sakrebulo* shall have the right to amend the Budget based on the Mayor’s submission. Amendments to the Reserve Fund within the limits of “spare funds” shall be made according to the regulations provided by the legal acts of the Tbilisi City Self-Government Authorities.”

Article 2

1. This Law shall be put into effect after its adoption, immediately upon the recognition of the newly elected Tbilisi *Sakrebulo*’s authorities.
2. After the adoption of this Law, 37 members of the Tbilisi *Sakrebulo* shall be elected through the first elections, of which, 25 members shall be elected in local electoral districts through the majoritarian (first pass the post) electoral rule and 12 members – through the proportional electoral system in Tbilisi.
3. Immediately, upon the approval of the new *Sakrebulo* Statute, the Presidential *Decree on Approving the Statute and the Structure of the Mayor’s Office of Tbilisi – Capital of Georgia*, shall be considered null and void.

President of Georgia

Mikheil Saakashvili