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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**LAW AMENDING AND SUPPLEMENTING
THE ELECTION CODE
OF GEORGIA
of July 2008**

Article 1**1. Paragraph "I" of Article 3 shall be formulated as follows:**

Election administration – the Central Election Commission of Georgia (CEC), High Election Commission of the Autonomous Republics, District Election Commissions (DEC) and Precinct Election Commissions (PEC).

2. Article 9

a) Paragraph 4 shall be formulated as follows:

4. The Central Election Commission is responsible for computer processing of the general list of voters and for placing its part intended for public inspection (last name, first name, date of birth, place of registration, for internally displaced person – also a place of actual residence) on the CEC website.

b) Subparagraph "D" of paragraph 5 shall be formulated as follows:

D. Based on information received from the Ministry of Defence, Ministry of Justice, Ministry of Internal Affairs, Special services of Foreign intelligence and State Security regarding both fixed-term and contractual servicemen within the Georgian Armed Forces and military compounds whose service conditions require their location at an address other than their permanent place of residence, which belongs to another populated locality and concurrently to another election district."

c) Paragraph 7 shall be formulated as follows:

7. A party/election bloc registered for elections, a monitoring organization specified by Article 68 of this Law, and voters, are entitled to consult a version of the list of voters designated for public inspection available at the Central, District and Precinct Election Commissions (voters have right to request only the data concerning them and their family members for inspection and to make changes thereto) and in case of any inaccuracy to request not later than 16 days prior to election day that proper amendments be made to the voters data and the list of voters. The inspection of data and the issue of a copy shall occur in accordance with the procedures determined by law.

d) Paragraph 11² shall be formulated as follows:

11². It is prohibited to make amendments to the voters' list within the last 10 days prior to Election Day, except for the cases described in subparagraph 11¹ of this article, whereas within the 13th to the 10th day before election day, amendments can be made only by a courts ruling.

3. Subparagraph "A" of Paragraph 5 of Article 18 shall be formulated as follows:

A. A person who does not have a certificate issued by the election administration (except members of Precinct Election Commission).

4. Paragraph 1 of the article 20 shall be formulated as follows:

1. The term of office of the CEC and DEC chair/member shall be 5 years. The term of office of the DEC member appointed by the CEC in accordance with paragraph 3 of article 32 after the elections starts from the moment of his/her appointment and lasts until the announcement of the final results of the elections.

5. Article 21

a) Paragraph 1 shall be formulated as follows:

1. The term of office of the CEC chair/member is terminated early by the resolution of the parliament of Georgia (except for members of the CEC appointed by the political parties defined under paragraph 28¹). The term of office of the DEC and PEC members is terminated early based on the decree of the upper level election commission (except for cases defined under paragraph 2¹ of this article and article 28¹).

b) Paragraph 2¹ shall be formulated as follows

2¹. In the cases defined under paragraph one of this article (except for paragraph first, subparagraph j of this article and article 28¹), the term of office of party appointed commission members is terminated early based on the decision of the court.

6. Paragraph 2 of the article 26 shall be formulated as follows:

2. The DEC and PECs are composed of 13 members, appointed/elected by the subjects defined under this law in accordance with the terms and rules defined under this law.

7. Paragraph 4 of the article 28 shall be formulated as follows:

4. After the pre-term termination of the office of the CEC member elected by the parliament, in order to elect its successor, the president of Georgia shall in the nearest session week re-nominate to the parliament of Georgia those candidates who received not less than the majority of the votes of the active MPs, or not later than 3 days shall announce a competition. The same rule applies in case if there is no such candidate.

8. Article 28¹

a) The title shall be formulated as follows:

The rule for appointing and terminating the term of office of the CEC members by parties

b) Paragraphs 3,4, and 5 shall be formulated as follows:

3. If the number of the parties envisaged by provision 2 of this Article is more than 7, one member is appointed by those 7 parties who get more funding. If several parties get equal funding, the priority goes to the party with the best results in the elections. If several parties in the election bloc get equal funding, the priority goes to the party at the top of the list of the bloc members.

4. If the number of the parties envisaged by provision 2 of this Article is less than 7, it should be filled to be 7 by the parties which had the next best results (based on the decreasing set of numbers of the received votes), which were independently taking part in elections or were united in an election block and were at the top of the list of block members (if the party named first refuses to appoint a commission member, the second party shall get this right, etc.). Although the condition must be established that they should have had received more than 3% of votes at elections. If even after that the number of parties appointing commission members is less than 7, all the parties mentioned in this provision according to their results have a right to additionally appoint one member of the commission in order to have 7 members.

5. In case of termination of funding from the state budget for a party or in case other party gets more funding the authority of the commission member appointed by that party shall be terminated and the representative of the party/parties getting more funding shall fill the number of members until 7. If there in so such party or party refuses to appoint the member the procedure established by paragraph 4 of this Article shall apply.

c) Paragraph 7 shall be added after paragraph 6 .

7. The CEC Chair shall in the nearest session submit the information on termination of the authority of the CEC member to the CEC.

9. Subparagraphs “L” and “M” of Paragraph 1 of Article 29 shall be formulated as follows:

L. Shall, by ordinance, appoint off-year elections, by-elections, interim-elections, second ballots, and second round of elections;

M. Shall, by own initiative or under the application/petition, in accordance with the procedures for considering election disputes established by this law, check the legitimacy of decisions and acts of election commissions, their officials and in case of any revealed violation shall invalidate or revise them by its decree; under a decree, shall make the decision on opening of parcels received from the respective precinct election commissions and on the recounting of ballot papers/special envelopes/registers of voters.

10. Paragraph S¹ shall be added to the Article 29

S¹. Shall by ordinance define those DEC's where video observation and recording, so called video cameras shall be used.

11. Subparagraph “K” shall be added to Paragraph 2 of Article 30.

K. Besides the powers prescribed by the law, CEC Chair assigns a head of CEC structural entity to fulfill administrative and financial functions for a determined period of time, on the basis of the ordinance of CEC Chair.

12. Paragraph 1¹ shall be added to Article 31¹:

1¹. 5 members and Chair of High Election Commission of the Autonomous Republic of Abkhazia and Adjara, by nomination of the Head of the Government of the corresponding republic, is elected by a Supreme Council. 7 members are appointed by political parties determined in Article 28¹. Party's decision on appointing members of High Election Commission (HEC) of the Autonomous Republics of Abkhazia and Adjara shall be presented at HEC within 7 days after elections are set. If authorized parties do not appoint election commission members within the deadline established by this paragraph, it should be filled to be 7 by the parties which had the next best results (based on the decreasing set of numbers of the received votes), which were independently taking part in elections or were united in an election bloc and were at the top of the list of bloc members (if the party named first refuses to appoint a commission member, the second party shall get this right, etc.). Although the condition must be established that they should have had received more than 3% of votes at elections. If even after that the number of parties appointing commission members is less than 7, all the parties mentioned in this provision according to their results have a right to additionally appoint one member of the commission in order to have 7 members.

13. Article 32 shall be formulated as follows:

1. District election commissions shall be created by the majority of the full CEC.
2. Five member of the DEC shall be elected by the majority of the full CEC for the term of five years.
3. After appointment of the elections, 7 members of the DEC shall be appointed by the political parties defined under article 28¹ of this law, one member shall be elected by the CEC by the majority of the full members, until the term of the announcement of the final election results.
4. The decision of the party on appointment of the DEC member shall be submitted to the CEC within the 7 calendar days after appointment of the elections. If authorized parties do not appoint election commission members within the deadline established by this paragraph, the CEC is entitled to fill the number of DEC members to 13 since the next day after the deadline is missed, in accordance with the procedures established by law.
5. The leading persons in the DEC are elected by the DEC among its members, by the majority of full composition.
6. The DEC has the right to hire supportive and technical personnel after appointment of the elections until the end of the elections, within the limits defined by the ordinance of the CEC.

14. Paragraph 2 of Article 33 shall be formulated as follows:

2. In case of early termination of the terms of office of a member of district election commission elected by CEC his/her substitute shall be elected by CEC within 15 days (after appointment of the elections day – within 7 days). The same rule is applied in case of early termination of the authorities of district election commission officials. This information shall be published according to the rule set forth in this law.

15. Paragraph 2¹ shall be added to Article 33:

- 2¹. The authority of the one DEC member appointed by the CEC in accordance with the article 32, paragraph 2 and of those members appointed by the parties defined under article 28 1 shall be terminated upon the announcement of the final results of the elections.

16. Paragraph 3 of Article 46 shall be formulated as follows:

3. Funds received by an election subject must be deposited to the account of the election campaign fund, which is opened at the National Bank of Georgia or a commercial bank, or its relevant branch office, (during presidential elections, interim parliamentary elections, and elections of local self-government representative body-sakrebulo from the date of submission of application by the registered party) within 5 days of registration of the election subject at the relevant election commission. The account is opened only in the national currency.

17. Paragraph 6¹ shall be added to Article 48.

- 6¹. After an election bloc registers at CEC and opens election bloc campaign account, all subjects in this bloc shall cease using their own accounts for election campaign funds and rely only on bloc's election funds. When reporting on accounts opened for their election campaign funds, as prescribed in Paragraph 6 of Article 48 of the Organic Law of Georgia "Election Code of Georgia," election subjects which form election blocs are also obliged to

present a statement from a relevant bank certifying that financial operations on the accounts for their election campaign have stopped.

Election subjects majoritarian candidates of which participate in the second round of elections shall additionally present information prescribed in Paragraph 6 of Article 48 to election commission within 1 month after the final results of second round of elections are announced. Those election subjects which, based on preliminary results, collect necessary votes as determined by the Election Code of Georgia, shall additionally present information prescribed in Paragraph 6 of Article 48 to election commission I within 8 days after election day. For election subjects majoritarian candidates of which participate in the second round of elections the 20-day long deadline for closing election campaign fund as determined by Paragraph 9 of Article 48 will be counted from the day of summing results of the second round in election districts.

18. Subparagraph “E” shall be added to the Article 50, paragraph 3:

E. In order to prevent and react on the violations during the election process video surveillance and recording equipment, so called video camera might be used. The footage of video camera does not constitute the public information defined under the General Administrative Code of Georgia.

19. Paragraph 10¹ and 11¹ shall be added to the Article 51:

10¹. Before forming the delivery-acceptance act defined under paragraph 10 of this article and after checking the appropriateness of the ballot paper requisites, the parties signing the act shall count the number of the ballot papers and enter the data in the delivery - acceptance act., afterwards the ballot papers are sealed again, which is testified by the signature of the parties.

11¹. In case the ballot papers belong to another DEC or they do not correspond to the indicated number, have printing or other kinds of defects the CEC should be informed on that immediately.

20. Article 63:

a) Paragraph 1 shall be formulated as follows:

1. Based on the summary protocols of the PEC, the DEC in consideration of the findings of adjudication of violations of the Election Law, shall, no later than the 10th day after election day, consolidate the voting results for the elections for the Parliament of Georgia, Presidential Elections and the elections for Tbilisi city Sakrebulo, determine the results for the elections for the Parliament of Georgia and local self-government and form the summary protocols of the voting and election results held in the election district and hand these protocol over the CEC no later than the following day.”

b) Subparagraph “L” of Paragraph 2 shall be formulated as follows:

“L. The number of the election precinct results of which were declared void, the total number of voters in the precinct and the ground for finding the polling void.”

c) Subparagraph “N” shall be formulated as follows:

“N. Date and time of forming the protocol.

21. Paragraph 5 shall be added to the Article 67:

5. Persons who have authority of being at polling station can request the recordings of the video cameras placed in the commission. Exact time of violation and request for video recordings shall be indicated in the relevant application/complaint. A person can request only

15-minute video record with concrete indication of time and violation. The relevant commission will not consider the application/complaint on video recordings if the application/complaint is not submitted in accordance with the rule established by this paragraph. The complainant/appellant shall have the possibility to get acquainted with the recording, only while considering the complaint/appeal in the DEC, or in the court.

22. Paragraph 5 of Article 77 shall be formulated as follows:

5. The decision of the CEC can be appealed at the Tbilisi City Court within 1 calendar day after the decision is made. The court has 2 days period for considering a complaint. Tbilisi City Court's decision, which makes decision within 1 calendar day after the complaint is filed, can be appealed at the appellation court within 1 calendar day. Appellation court's decision is final and cannot be appealed.

23. Paragraph 13 shall be added to article 77:

13. While conducting elections which fall under the competence of the HEC of the autonomous republic, the timelines and rules for appealing the violation of the election legislation shall be defined under the legislation of the autonomous republic.

24. Paragraphs 2 and 7 of Article 95 shall be formulated as follows:

a) Paragraph 2

2. The application shall be enclosed with the party's registration certificate and charter or notarized, certified copies of those documents, and a document proving that a party has a representative at the parliament (if party has a representative)

b) Paragraph 7

7. In the case specified by Subparagraph (a) of Paragraph 1 of this Article, the CEC shall, no later than the next day after providing the conclusion mentioned in Paragraph 6 of this Article:

a) Pass the party and its representative through election registration, if the filed application and enclosed documents meet the requirements of this Law;

b) Notify, in writing, the party representative of the non-compliance of the application and enclosed documents, with the provisions of this Law (indicating the areas of non-compliance) if such non-compliance exists, the party shall, within 3 days, correct the non-compliance in the application and documents.

25. Paragraphs 25 and 26 shall be added to Article 95:

25. For the purpose of participating in interim elections for the Parliament of Georgia a party/election bloc which was registered at the CEC for last parliamentary elections, shall address the CEC with a statement signed by its leader(s) after interim elections are set, but no later than 57 days prior to election day.

26. A party which does not have an election registration shall submit a statement to the CEC signed by its leader(s) no later than 57 days prior to election day in order to participate in interim parliamentary elections. After submitting a statement (in case the party has no representative at the parliament), a party shall receive a sample list of supporters. A party which does not have a representative at the parliament is obliged to present at least the list of 30 000 voters willing to support the party in participating in parliamentary elections, no later than 50 days prior to election day. The list is checked in accordance with the rules and terms established by this law.

26. Subparagraph “D” of Paragraph 1 of Article 95² shall be formulated as follows:

d) Before the end of Parliamentary Elections, If the party has left or been withdrawn from the election bloc after the expiration of the period for nomination of the party list by the bloc.

27. Subparagraph “E” of Paragraph 11 of Article 96 shall be removed.

28. Paragraph 3 of Article 98 shall be formulated as follows:

3. The data corrected as specified in subparagraph “b” of paragraph 2 of this Article shall be verified and the question of election registration shall be resolved within 5 days after the submission thereof, but no later than the 20th day prior to Election Day. Provided the corrected data complies with the requirements of this Law, the CEC shall register the party list or the part of such a list which complies with the requirements prescribed hereunder (if the number of candidates in this part is not less than the established minimum) and shall issue, within the same period, the ordinance on dismissal of applications submitted by other candidates (such ordinance to specify the reason for dismissal of the application and the provisions of this Law which caused the dismissal of the application). If the number of other candidates in the party list, which complies with the requirements of this Law, proves to be less than the established minimum, neither the party list nor the candidates nominated by the party/election bloc shall be registered and the CEC shall, within the period specified above, issue an ordinance on dismissal for registration of the party list (ordinance shall specify the reasons for such dismissal and the regulations specified hereunder, the noncompliance of which resulted in such dismissal). The representative of the party shall be immediately notified on the ordinance specified under this paragraph; the ordinance shall be given to the party immediately upon the request.

29. Paragraph 3¹ shall be added to Article 98:

3¹. The issue of registering/not registering of a majoritarian candidate nominated in an election district is decided by a corresponding DEC in accordance with the procedures and terms established by Paragraph 2 and 3 of this Article. Party/Election Bloc has right to submit registration documents of a majoritarian candidate to the CEC within the deadlines established by this law. CEC immediately transfers these documents to a corresponding DEC.

30. Paragraph 4 of Article 98 shall be formulated as follows:

4. No candidate standing for Parliament shall be registered, and the registration of any registered candidate shall be cancelled by ordinance issued to that effect by the CEC (in cases determined by subparagraphs “A,” “B,” “C,” “D,” and “E” of this Paragraph), or by court decision (in case determined by subparagraph “F” of this Paragraph), if the applications and documents submitted to the relevant election commission fail to comply with all the requirements provided hereunder, or other provisions of this Law are violated, in particular:

- a) If the data specified in the applications and documents are incomplete or incorrect;
- b) If the candidate included in the party list is a member of any other party participating in the elections;
- c) If the candidate is included in more than one party list and there is, or was, the consent of such candidate for inclusion thereof in one or more lists simultaneously;
- d) If the candidate included in the party list is nominated for a majoritarian election district by any other party or an election bloc; [21.03.08. N6013]

- e) If, during the period of the elections for the Parliament of Georgia, another elections are held and there is, or was, the consent of such candidate for simultaneous participation in both elections as a candidate;
- f) If the requirements established under paragraph 9 of Article 73 and/or Article 76 hereof are violated.

31. Paragraph 14 of Article 105 shall be formulated as follows:

14. Where the election has been declared invalid in an election precinct, the CEC appoints the second ballot in this precinct, in cases where the difference between the votes of the candidates who have the best results is less than the total number of voters in this election precinct. In this case, if the results of the second ballot are cancelled, the results of the elections are summed up without taking this precinct into account.

32. Article 107¹ shall be formulated as follows:

1. No later the 7th day after the Election Day the candidates for MPs which according to the preliminary election results have become MPs in majoritarian election districts and through the party/election bloc lists, shall pass a drug test and a certificate attesting that the candidate for an MP is not a drug addict or is a drug consumer shall be formed.

2. If a person elected as an MP does not submit the drug test certificate to the CEC or refuses to pass the drug test in the given timeframes, the parliament adopts a decision not to recognize the authority of this MP.

3. An institution authorized to conduct a drug test is obliged to submit a drug test certificate and the list of elected MPs who passed a drug test to the CEC no later than 14 days after the elections.

4. If a person specified in paragraph 2 of this article was elected as MP from a majoritarian election district, the CEC shall pass a decree invalidating the results of the relevant DEC and appoints by-elections in accordance with the timelines defined under paragraph 5 of the article 106. If a person was elected as MP through a party/election bloc list, then CEC shall determine his or her successor with accordance to paragraph 7 and 7¹ of Article 106.

5. The drug test specified in this article shall be provided only after the date of the elections by a commission of a duly authorized institution. Such institution shall be selected jointly by the CEC and the Ministry of Labor, Health and Social Affairs of Georgia at least 30 days prior to the date of each general election. The right to provide such test shall be granted by ordinance of the CEC.

33. Paragraph 5 of Article 129 shall be formulated as follows:

5. The authority of those election commission members, who do not have the certificate of the election administration official, shall be terminate if they do not pass the certification or refuse to pass it until 1 January 2009.

31. Article 129⁶ shall be removed.

32. Article 129⁸ shall be removed.

Article 2

- 1. This law, except for paragraph 3 of Article 1 shall be enacted upon its publication
- 2. Paragraph 3 of Article 1 of this law shall be enacted from January 1, 2009.