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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

- (1) DRAFT ORGANIC LAW ON THE AMENDMENTS TO THE ORGANIC LAW ON COMMON COURTS**
- (2) DRAFT AMENDMENT IN THE RULES OF PROCEDURE OF THE PARLIAMENT**
- (3) LAW ON AMENDMENT TO THE LAW ON CONFLICT OF INTEREST AND CORRUPTION IN PUBLIC INSTITUTIONS**

Draft

Organic Law of Georgia
On the Amendments to the “Organic Law on Common Courts of Georgia”

Article 1. The following changes shall be made to the Organic Law of Georgia on Common Courts (Legislative herald #41, 08.12.2009; Article 300)

1. A) Paragraph 4 of Article 34 shall be removed
- B) Paragraphs 7 and 8 with the following wording shall be added after paragraph 6 of Article 34:

“7. A citizen of Georgia of 30 years of age who has a higher legal education with at least a master’s or equal academic degree/higher education diploma, professional working experience that is relevant for the high status of a justice provided for in paragraph 8 of this Article and has the command of the state language shall be nominated by the High Council of Justice of Georgia to the Parliament of Georgia to be elected as a Chief Justice or the justice of the Supreme Court.

8. The following person shall be considered to have professional working experience relevant for the high status of the Supreme Court justice:

 - a) Acting judge who has no less than 5 years of professional working experience
 - b) Former judge who has no less than 5 years of professional working experience and no more than 10 years had passed since the termination of status of a judge;
 - c) specialist of distinguished qualification in the field of law, who has no less than 5 years of professional working experience and has passed judicial qualification examination.

2. Articles 34¹ and 34² shall be added to the law:

“Article 34¹. The rule of selection of a candidate to be nominated to the Parliament of Georgia to be elected on the position of a justice of the Supreme Court

1. The High Council of Justice of Georgia, in accordance with the procedure established by this law, initiates the procedure of selection of a candidate of a judge of the Supreme Court to be nominated to the Parliament of Georgia within 1 month period from the date when a vacancy of a judge of the Supreme Court of Georgia is available. The HCOJ announces the initiation of the selection procedure through the official publishing entity of Georgia.
2. The persons determined in paragraphs 7 and 8 of Article 34 are entitled to participate in the selection procedure.
3. The HCOJ establishes a form of application and a list of enclosed documents necessary to be presented by a person participating in the selection procedure. The submitted application shall include consent of the person for the HCOJ to collect/check information (including his/her personal data) according to the rule established by Article 35² of this law.
4. The applications for the vacancy can be submitted within 4 weeks since the initiation of the procedure. The judicial qualification examination shall be conducted no earlier than 21 and no later than 25 days since the initiation of the selection procedure for those persons determined in paragraph 8, sub-paragraph “c” of Article 34, who have not passed the judicial qualification examination or the results of the examination are no more valid.
5. Within 5 working days since the date of expiration of submission of vacancy applications, the High Council of Justice shall review the applications and enclosed documents of persons participating in the selection procedure. Upon finishing the review process, the list of applicants, their bios and the decision of the HCOJ with regard to compliance of the applicants with the requirements established by legislation shall be published on the webpage of the HCOJ.

6. The decision of the HCOJ determined in paragraph 5 of this Article shall be appealed within 2 working days since the publication of the decision by a person participating in the selection procedure to the Qualification Chamber of the Supreme Court of Georgia if the HCOJ considers the age, education and professional working experience of this person incompatible with requirements established by legislation.. The Qualification Chamber shall review the application and make a decision within 2 working days.
7. After the expiration of terms of review and appeal determined in paragraph 6 of this Article, the HCOJ within 5 working days shall conduct a secret ballot based on procedure established by the Council regarding the move of the persons participating in the selection procedure to another stage. At the session of the HCOJ, each member of the HCOJ shall circle the names of candidates that do not exceed the number of vacancy announcements. The ballots shall be placed in the sealed box. The ballot box shall be open in presence of the HCOJ members upon the finishing of the voting procedure. The ballot counting is done by members of the HCOJ. If a HCOJ member circles more candidates than existing vacancies, the ballot will be considered void. At the end of the voting process, relevant protocol shall be made, signed by the HCOJ secretary. If the selection process is announced for 1 or 2 candidates of the Supreme Court Justice, participants of the selection procedure who have the best results based on the voting, exceeding the vacancy announcement by 3 times in number, shall move to next stage of the selection.. If the selection process is announced for no less than 3 vacancies of the Supreme Court Justice, participants of the selection process who have the best results based on the voting, exceeding the vacancy announcement by 2,5 time in number, shall move to next stage of the selection (number of candidates who will be moved to the next stage will be rounded up to the full number). If there is a tie vote, preference will be given to the candidate who has longer years of professional working experience. A list of persons moving to the next stage of the selection process shall be published on a webpage of the High Council of Justice. If a number of participants in the selection process is lower or equal to the quota of persons to be moved to the next stage, these participants shall move to the next stage without a voting process. If a member of the HCOJ is a candidate for the Supreme Court Justice, he/she shall not have a right to voting provided for in this paragraph.
8. A hearing of the candidates shall commence no earlier than 10 and no later than 20 working days since the publishing on the HCOJ's webpage a list of persons referred to in paragraph 7 who moved to the next stage,. The hearing shall be public.
9. No later than 5 working days before the commencement of the hearing, each member of the Council shall be provided with information on the candidate obtained in accordance with the procedure established by this law.
10. Candidates will be heard individually during the hearing. The Council members have a right to ask questions to each candidate.
11. After the completion of the hearing of the candidates, the members of the HCOJ until the earliest session of the HCOJ shall assess a candidate without prior judicial experience with the grades in accordance to paragraph 16 of Article 35¹ of this law, and a candidate with judicial experience - in accordance with paragraph 8 of Article 36⁴.
12. After completing the hearings, at the earliest HCOJ session, the HCOJ shall conduct a secret vote for candidates, in accordance to paragraph 7 of this article, in order to reduce a number of participants down to the number of announced vacancies to be nominated to the Parliament of Georgia for election to the Supreme Court Justice positions. Candidates having the best results and matching the vacancy announcements in

number, shall move to next stage. If there is a tie vote, preference shall be given to the candidate who has longer years of professional working experience. If a member of the HCOJ is a candidate for the Supreme Court Justice, he/she shall not have a right to voting provided for in this paragraph. Names of persons who moved to next stage shall be published on the HCOJ's webpage.

13. After publishing the names of candidates in accordance with rule established by Paragraph 12 of this law, the vote shall be held on the nomination to the Parliament of Georgia of a candidate for the Supreme Court Justice. The candidate voted by the HCOJ for nomination to the Parliament of Georgia for the position of the Supreme Court Justice shall be considered elected, if the candidate receives at least 2/3 of votes of all Council members, on a secret vote of the Council's open session. If the HCOJ is unable to nominate to the Parliament of Georgia the number of candidates that matches the number of vacancies, the Council shall conduct a secret vote, in accordance with paragraph 7 of this article, with the goal of reducing a list of candidates who moved to the next stage in accordance with the selection process outlined in paragraph 7, down to the number of vacancies of candidates for nomination to the Parliament of Georgia for the positions of the Supreme Court Justice. Candidates having the best results and matching the vacancy announcements in number, shall move to next stage. If there is a tie vote, preference will be given to the candidate who has longer years of professional working experience. From these candidates, those who receive at least 2/3 votes of HCOJ members during a secret vote shall be submitted to the Parliament of Georgia. A council member, who is a candidate, shall not vote for himself/herself. If a member of the HCOJ is a candidate for the Supreme Court Justice, he/she shall not be entitled to vote for his/her candidature to be nominated to the Parliament of Georgia. The decision of the HCOJ on the candidates to be nominated to the Parliament of Georgia for election on the position of the Supreme Court Justice is published on the HCOJ's webpage.
14. HCOJ members shall apply criteria provided for in Paragraph 1 and 3-14 of Article 35¹ of this law during the selection of candidates for nomination to the Parliament of Georgia for election on positions of the Supreme Court Justice.
15. If the HCOJ member has a different opinion on the nominated candidate for election to the Supreme Court, he/she is entitled to address the Parliament of Georgia in writing. Such dissenting opinion shall be conveyed to each Member of Parliament. In addition, each member of the Parliament shall be provided with information about the grades of each candidate assigned to him/her in accordance with paragraph 11 of this Article.
16. If the Parliament does not elect the candidate to the Supreme Court, in order to fill the vacancy, the HCOJ will conduct a secret vote within two weeks, in accordance with paragraph 7 of this article, on the remaining candidates in the list published in accordance with rule established by Paragraph 12 of this article, with the goal of reducing a list of candidates down to the number of remaining vacancies of candidates for nomination to the Parliament of Georgia for the Supreme Court positions. Candidates having the best results, matching the remaining open vacancies in number, shall move to the next stage. If there is a tie vote, a preference will be given to the candidate who has longer years of professional working experience. From these candidates, those who receive at least 2/3 votes of the HCOJ members during a secret vote shall be considered nominated. Decision of the HCOJ on the candidates to be nominated to the Parliament of Georgia for election to Supreme Court is published on the HCOJ's webpage. The procedure established by this paragraph shall be used only once.

17. If a vacancy for the position of a Supreme Court justice is not filled by the rule established in this article, new selection procedure shall be initiated in 1 month.
18. A candidate for the position of a Supreme Court justice who does not receive the required number of votes in the Parliament, shall be nominated only twice during the terms of office of the same convocation of Parliament.
19. A candidate nominated in accordance with Paragraph 13 of this Article has to submit to the High Council of Justice a Note confirming the submission of Asset Declaration Form and a Note on Drug Examination issued in accordance to the Georgian legislation, within 7 working days since the publication of relevant information on the HCOJ's webpage. These notes are conveyed to the Parliament of Georgia upon receipt.
20. The High Council of Justice shall approve a standard recommendation form and a special questionnaire to be used for collecting information on candidates to be nominated to the Parliament of Georgia for the election on the positions of a Supreme Court Justice.

Article 34². Background Checks of Candidates to be Nominated to the Parliament for the Position of Supreme Court Justice

1. A respective structural unit of the High Council of Justice established in Paragraph 5 of Article 36⁴, begins collection of reliable information in accordance with the procedure established by this law for the purposes of objective and thorough evaluation of candidates who are shortlisted according to the procedure established in Paragraph 7, Article 34¹ of this law upon publication of the short list on the website of the High Council of Justice.
2. While conducting background checks of the candidates to be nominated to the Parliament of Georgia for the position of a Supreme Court Justice, the relevant structural unit of the High Council of Justice thoroughly examines their professional reputation and activities, verifies accuracy of the submitted information, as well as the information on their past criminal/disciplinary prosecution and/or administrative proceedings against the candidates.
3. The information about candidates to be nominated to the Parliament of Georgia for the position of Supreme Court Justice collected under this Article is used by members of the High Council of Justice solely for evaluating the candidates. A member of the High Council of Justice is authorized to consider the information on candidates while making voting decision in relation to candidates to be nominated to the Parliament of Georgia for the position of Supreme Court justice.
4. The data of a candidate to be nominated to the Parliament of Georgia for the position of Supreme Court justice that have been collected as a result of background check, are confidential and may not be disclosed in any form.
5. Under this Article, while conducting background check of a candidate to be nominated to the Parliament of Georgia for the position of a Supreme Court justice, the relevant structural unit of the High Council of Justice is authorized to contact the recommenders of the candidate, his/her former employers and colleagues, the administration and academic staff of the appropriate education institutions, as well as the agencies that may retain the information about any previous convictions of the candidate, his/her administrative and disciplinary disputes and violations. To obtain this information, the authorized structural unit of the High Council of Justice shall submit the candidate's written permission for collecting/verifying his/her personal data to the appropriate person.
6. To acquire information about the candidates to be nominated to the Parliament of Georgia for the position of Supreme Court justice, the authorized structural unit of the High Council of Justice of Georgia shall use a standard recommendation form and a special questionnaire. The authorized structural unit of the High Council of Justice may, as an exception, contact an information provider with follow-up questions, and/or communicate with an information

provider orally. The information obtained orally must be formalized in writing and signed by the information provider.

7. Any action and/or communication performed to acquire information about a candidate to be nominated to the Parliament of Georgia for the position of Supreme Court Justice shall be reflected in a general summary protocol.
8. Information about a candidate to be nominated to the Parliament of Georgia for the position of Supreme Court justice acquired in violation of the procedure established by this Article shall not be considered while making the respective decision.
9. After results of the background check of candidates to be nominated to the Parliament of Georgia for the position of Supreme Court justice are submitted to the members of the High Council of Justice, the High Council of Justice shall inform candidates about completion of the background check and ensure individual candidates' access to information available at the High Council of Justice. After results of the background check become available, the candidate shall have the right to apply in writing within 2 days' term to the High Council of Justice, in order to submit additional information and/or challenge results of the background check according to the relevant rule. The candidate shall also be entitled to accessing this information any time after the voting is completed. Sources of information are confidential. The candidate shall acquaint himself/herself with this information in a place designated for this purpose by the High Council of Justice.
10. The information about a candidate to be nominated to the Parliament of Georgia for the position of a Supreme Court justice shall be retained for at least three years in a sealed form in a secured place allocated by the High Council of Justice.

3. Article 36:

a) Paragraph 1 to be formulated as follows:

„1. The Parliament of Georgia shall elect the Chief Justice by the majority of its full composition from the Supreme Court Justices upon nomination by the High Council of Justice. The Chief Justice is elected for 10 years, but not for more than his/her term of office in the capacity of Supreme Court justice. The same person cannot be elected as the Chief Justice twice.”

b) Paragraph 3 to be deleted.

Article 2.

1. After this law is entered into force the candidacies nominated to the Parliament of Georgia for the position of Supreme Court justice are considered withdrawn.
2. The procedure of nomination of candidates to the Parliament of Georgia for the position a Supreme Court justice shall start no later than one month after this law is entered into force.

Article 3. This Law shall enter into force upon publication.

President of Georgia

Salome Zurabishvili

Draft

Rules of Procedure of the Parliament of Georgia On Amendment in the Rules of Procedure of the Parliament of Georgia

Article 1. Amendment in Article 205 of the Rules of Procedure of the Parliament of Georgia (Legislative Herald of Georgia (www.matsne.gov.ge), 14.12.2018, Registration Code: 010190030.06.001.016054) shall be made:

a) 1st Paragraph shall be formulated as follows:

„1. The Bureau of Parliament shall define the Committee/Committees determining the issue of selection, consent on appointment of the officials defined under Article 204 of the Rules of Procedure of the Parliament of Georgia. The Committee determining the issue of the selection of officials defined by Article 2."e" of the Rules of Procedure of the Parliament of Georgia shall be Legal Issues Committee.“

b) 2nd Paragraph shall be formulated as follows:

„2. The Committee stipulated under this Article shall determine the compliance of the presented official with the requirements defined by the Constitution of Georgia and/or another Law. For this purpose, the candidate is obliged to provide the Committee with the necessary information. In its turn, the Committee is entitled to seek/verify the information necessary for the candidacy of the relevant official, including information on his/her biography, work experience and professional knowledge. For the purpose of assisting the identification of compliance of the candidates of the Chairman and Judges of the Supreme Court of Georgia with the requirements of Constitution of Georgia and/or other Law the Legal Issues Committee creates a working group defined under Article 46 of the Rules of Procedure.“

c) Paragraphs 2¹ and 2² with the following content shall be added after Paragraph 2:

„2¹. The Legal Issues Committee creates a working group defined under Article 46 of the Rules of Procedure within three days after submission of the nomination of candidates for Judges of the Supreme Court of Georgia by the Bureau of Parliament.

2². The Legal Issues Committee ensures to send the nomination with the attached materials to all the members of the Committee in no later than 1 week from the submission of the nomination of candidates for Judges of the Supreme Court of Georgia by the Bureau of Parliament.“

d) Paragraphs 3¹ and 3² of the following content shall be added after Paragraph 3:

„3¹. For the purpose of determining the compliance of the candidates of the Judges of the Supreme Court with the requirements of Georgian legislation the Legal Issues Committee shall listen to each candidate at the public hearing in no sooner than 1 week from sending the documents defined under Paragraph 22 of this Article to all the members of the Committee. After listening to each of the candidates the candidate shall answer the questions of the Committee members.

3². The procedure of hearing the candidates of the Judges of the Supreme Court of Georgia at public hearing of the Legal Issues Committee shall be defined by the Chairman of the Committee in coordination with the Committee.“

e) 6th Paragraph shall be formulated as follows:

„6. Before the vote, the Chairman of the Plenary Session shall inform the Parliament about the list of candidates and their written consent. After completion of the discussion at the plenary session, each candidate of the member of CEC, judge of the Constitutional Court of Georgia, judge of the Supreme Court of Georgia, Public defender and State Inspector shall be voted separately“.

**Chairman of the Parliament of Georgia
Kobakhidze**

Irakli

Draft

Law of Georgia
On Amendment to the Law of Georgia on Conflict of Interest and Corruption in
Public Institutions

Article 1. Paragraph 5² with the following content shall be added to Article 14 of the Law of Georgia on Conflict of Interest and Corruption in Public Institutions (Herald of the Parliament №44, 11.11.1997, page 86):

„5² Candidate nominated in accordance with Article 341.13 of the Law of Georgia on Common Courts for the position of Judge of Supreme Court of Georgia, shall submit the asset declaration of public official within 7 days after publishing relevant information on the website of the High Council of Justice of Georgia. “

Article 2. This law shall enter into the legal force upon publication.

President of Georgia

Salome Zurabishvili