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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

DRAFT LAW
ON DEOLIGARCHISATION

THE LAW OF GEORGIA ON DEOLIGARCHISATION

This Law defines legal and organisational grounds for the functioning of a system to prevent threats to national security associated with excessive influence by persons who wield significant economic and political weight in public life (oligarchs), the content and procedure for application of enforcement measures to such persons.

The purpose of this Law is to overcome the conflict of interest caused by the merger of politicians, media, and big business, preventing the use of political power to increase one's own capital, ensure Georgia's national security in economic, political, and informational spheres and protect constitutional rights of a citizen, democracy and state sovereignty.

Article 1. Terms and Definitions

1. In this Law, the following terms shall have the following meanings:

- a) beneficiary — a natural person who, solely or jointly with other persons, directly or indirectly owns the authorised capital or voting rights in a legal person, or exerts influence on the management or business of a legal person through affiliated persons' A natural person who exerts decisive influence by exercising the right to control, own, use or dispose of all or any assets, the right to receive income from the legal person's business, the right of decisive influence on forming the membership of, on voting outcome in governing bodies, and to enter into transactions that allow for the basic conditions of the legal person's economic activity to be determined, and for binding decisions, which have a decisive influence on the legal person's business, to be adopted;
- b) mass medium — any of the following entities: printed mass medium, Internet mass medium, news agency, broadcaster;
- c) Internet mass medium — a mass medium that regularly distributes information in text, audiovisual, or in other forms electronically (digitally) on the Internet through a website under a permanent name as an individualising feature;
- d) mass medium controller — a person who is able to exert a decisive influence on the mass medium's management or business directly or indirectly (by exercising the rights of a beneficiary or through other person); A person who can exert such influence on the basis of a contract or otherwise, including through financing.
- e) affiliated person — a person who directly or indirectly owns an interest or voting right in a business entity, as well as another person recognised as an affiliated person in accordance with the rules established by the Tax Code of Georgia;
- f) representative of the person included in the Register of Persons Who Wield Significant Economic and Political Weight in Public Life (Oligarchs) (hereinafter - the oligarch's representative) — a natural person who holds meetings (conversations), communicates by telephone or by electronic communication facilities with civil servants on behalf of and/or in the interests of the person included in the Register of Persons Who Wield Significant Economic and Political Weight in Public Life (Oligarchs);
- g) civil servant — the person listed in Article 8.5 of this Law

2. Other terms used in this Law shall have the following meaning:

- a) "broadcaster" -is defined in accordance with the Law of Georgia on "Broadcasting";
- b) "printed mass medium" — is defined by the Law of Georgia;
- c) "news agency" — is defined by the Law of Georgia;
- d) the term "ultimate beneficial owner" is used as defined by the Law of Georgia "On Facilitation of Prevention of Money Laundering and Financing of Terrorism".

Article 2. Person Wielding Significant Economic and Political Weight in Public Life (Oligarch)

1. For the purposes of this Law, a natural person who simultaneously matches at least three of the following criteria shall be regarded as a person who wields significant economic and political weight in public life (oligarch):

- a) is involved in political life;
- b) exerts significant influence on mass media;
- c) is the ultimate beneficial owner of a business entity that, after the enactment of this Law, occupies a monopoly (dominant) position in the market according to the Law of Georgia on "On Competition", and maintains or strengthens such position within one consecutive year;
- d) the confirmed value of the person's assets and those of the business entities in which he/she is a beneficiary exceeds 1 million subsistence minimums established for ablebodied persons as of January 1 of the respective year.

2. The value of the assets referred to in part 1 (d) of this Article shall be calculated as the aggregate value of the assets of the person and of the business entities in which he/she is a beneficiary. Assets owned by the person in mass media shall not be included in the calculation of the value of the above assets.

Article 3. Involvement in Political Life

A person shall be regarded as matching the criterion of involvement in political life under Article 2, paragraph 1 (a) of this Law if he/she:

- a) is the President of Georgia, Chairman of the Parliament of Georgia, First Deputy or Deputy Chairman of the Parliament of Georgia, any other member of the Parliament of Georgia, Prime Minister of Georgia, First Vice Prime Minister of Georgia, Vice Prime Minister of Georgia, Minister, his/her First Deputy or Deputy, head of another central executive authority that is not included in the structure of the Cabinet of Ministers of Georgia, Head of the Security Service of Georgia, Prosecutor General of Georgia, Governor of the National Bank of Georgia, head of a standing ancillary authority created by Prime Minister of Georgia, his/her First Deputy or Deputy;
- b) is a family member or a close person of the person referred to in paragraph (a) of this Article under the Law of Georgia on Prevention of Corruption or his/her affiliated person;
- c) holds a position in the governing bodies of a political party;
- d) financed the activities of a political party, political campaigning, or holding of rallies or demonstrations with political demand.

Note. Performing at least one of the following actions shall be understood as financing the activities of a political party, political campaigning, or holding of rallies or demonstrations with political demands: Making a donation or donations to support a political party; paying money, performing work, providing goods or services for the benefit of participants in political campaigning, rallies or demonstrations with political demands or of their family members; supplying of premises, equipment, campaign materials or otherwise providing organisational and technical support for political campaigning, rallies or demonstrations with political demands; paying for pre-election campaigning in the meaning ascribed by the organic Law of Georgia On Electoral Code of Georgia, for referendum campaigning in the meaning ascribed by the Law of Georgia, for political advertising in the meaning ascribed by the Law of Georgia on Advertising; performing actions, as referred to in this note, by affiliated persons of a person who matches the criterion of involvement in political life and/or by legal persons in which such person is an ultimate beneficial owner.

Article 4. Significant Influence on Mass Media

A person shall be regarded as matching the criterion of significant influence on mass media under Article 2, paragraph 1 (b) of this Law if he/she:

- a) is an owner (founder) of a mass medium/mass media or a beneficiary of the owner (founder) of a mass medium/mass media;
- b) is a controller of the owner (founder) of a mass medium/mass media;
- c) was an owner (founder) of a mass medium/mass media or a beneficiary or controller of the owner (founder) of a mass medium/mass media as at the effective date of this Law, but lost this status before the enactment of this Law, as a result of which an affiliated person or a person who lacks impeccable business reputation in the meaning ascribed by Article 10 of this Law became the owner (founder), beneficiary or controller of the owner (founder) of such medium

Article 5. Recognising the Person as Wielding Significant Economic and Political Weight in Public Life (Oligarch)

1. A decision to recognise the person as wielding significant economic and political weight in public life (oligarch) shall be adopted by the Government of Georgia on the basis of a submission from the Cabinet of Ministers of Georgia, member of the National Security Council of Georgia, National Bank of Georgia, LEPL — National Competition Agency of Georgia.
2. The decision referred to in part one of this Article shall be published on the website of the Government of Georgia and enter into force immediately after its promulgation.
3. At least 10 business days before the date of the meeting of the Government of Georgia, at which a submission is to be considered for recognising the person as wielding significant economic and political weight in public life (oligarch), the administration of the Government of Georgia shall forward to such person, at the place of his/her registration, a notification of such meeting, setting out in respect of such person the criteria stipulated by Article 2, paragraph 1 of this Law. The notification stipulated by this part shall be published on the official website of the Government of Georgia after being forwarded.
4. The person who has received the notification referred to in part three of this Article or has read it on the official website of the Government of Georgia shall have the right to submit to the Government of Georgia in writing his/her personal clarifications and other documents in this connection at least five business days before the date of the meeting of the Government of Georgia, at which the recognition of him/her as a person wielding significant economic and political weight in public life (oligarch) is discussed. At the request of the person his/her personal oral explanations shall be heard at the meeting of the Government of Georgia.
5. Failure by the person to receive the notification referred to in part three of this Article, failure to submit in writing any personal clarifications or other documents related to his/her recognition as a person wielding significant economic and political weight in public life (oligarch), refusal of the person to provide her/his oral explanations at the meeting of the Government of Georgia or failure to attend such meeting, including for valid reasons, shall not constitute grounds for postponement or non-consideration by the Government of Georgia of the meeting for recognising him/her as wielding significant economic and political weight in public life (oligarch).

Article 6. Register of Persons Who Wield Significant Economic and Political Weight in Public Life (Oligarchs)

1. A decision by the Government of Georgia to recognise the person as wielding significant economic and political weight in public life (oligarch) shall constitute the basis for the inclusion of such persons in the Register of Persons Who Wield Significant Economic and Political Weight in Public Life (Oligarchs) (hereinafter, the "Register").

2. The Register is an information and communication system designed to make public and to process information about persons who wield significant economic and political weight in public life (oligarchs) and persons who submit declarations of contacts with persons who wield significant economic and political weight in public life (oligarchs), or their representatives (hereinafter, the "Declaration of Contacts"). The Register aims to ensure access to information about such persons and application of enforcement measures to them.

3. The Regulations on the Register, the procedure for its formation and maintenance shall be approved by the Government of Georgia. Formation and maintenance of the Register shall be supported by the Government of Georgia. Free and gratis access to the Register information shall be provided on the official website of the Georgian Government with the possibility of its viewing, copying, and printing out, as well as in the form of a data set (electronic document) organised in a format that allows its automated processing by electronic means (machine reading) for reuse purposes.

4. The following information shall be included in the Register:

- a) a decision of the Government of Georgia to recognise the person as wielding significant economic and political weight in public life (oligarch), and justification for such decision according to Article 2 of this Law;
- b) last name, first name, and patronymic (if any) of the person who wields significant economic and political weight in public life (oligarch);
- c) Declarations of Contacts;
- d) decision of the Government of Georgia to strike the person off the Register, and the circumstances that substantiate adoption of such a decision;
- e) the list of legal persons whose ultimate beneficial owner is the person wielding significant economic and political weight in public life (oligarch);
- f) the list of persons, as defined by Article 3, paragraph 1 (a) of this Law, donations to the election funds of which or to the election funds of political parties that had nominated such persons were made over the past three years by a person who wields significant economic and political weight in public life (oligarch).

5. The information stipulated by part four of this Article shall be entered into the Register within three calendar days from the relevant decision coming into force and shall be forwarded, within the same period, to the person against whom such decision has been adopted.

Article 7. Legal Implications From Recognising the Person as Wielding Significant Economic and Political Weight in Public Life (Oligarch)

1. A person who wields significant economic and political weight in public life (oligarch) and is included in the Register shall be prohibited from:

- a) making donations in the form of their own funds, the performance of work, provision of goods, services or cash, the performance of work, provision of goods, services by the affiliated persons and/or by the legal persons, in which such person is the ultimate beneficial owner, in support of political parties according to the Law of Georgia On Political Associations of Citizens; making donations to the election funds of candidates (other than to their own election fund), political parties during the electoral process in accordance with the Electoral Code of Georgia;
- b) being a buyer (buyer's beneficiary) in the process of privatisation of large-scale privatisation items;

c) financing any political campaigning, or holding of rallies or demonstrations with political demands.

2. Upon inclusion in the Register, the person recognised as wielding significant economic and political weight in public life (oligarch) shall be required to submit a declaration of the official's property status in a manner prescribed by the Law of Georgia on Prevention of Corruption.

Article 8. Declaration of Contacts With Persons Who Wield Significant Economic and Political Weight in Public Life (Oligarchs) or Their Representatives

1. In the event of a contract between the public servant and a person included in the Register or his/her representative, such public servant shall be required to file the Declaration of Contacts.

2. For the purposes of this Article, contact with a person included in the Register or with his/her representative shall mean a meeting and conversation (including online), communication, irrespective of the content thereof, by telephone or by electronic communication facilities, other than activities referred to in part three of this Article. Persons included in the Register and their representatives shall be required, prior to the meeting (conversation), communication by telephone or by electronic communication facilities, to notify public servants of the fact that they or the persons they represent are included in the Register.

3. The Declaration of Contacts is not filed where such contact occurred in the course of participation of a public servant and the person included in the Register or his/her representative in:

- a) official events, the progress of which is broadcast live on the radio, television, or the Internet in a mode accessible to mass reception;
- b) a court session;
- c) official events (conferences) initiated by government authorities of Georgia, provided that information about them, containing the full list of participants and the subject of discussion, is posted on the official website of the respective government authority.

4. The Declaration of Contacts shall be filed on or before the day following the contact with the person included in the Register or with his/her representatives by filling in an electronic form on the official website of the Government of Georgia. The form of the Declaration of Contacts is defined by the Regulation on the Register.

5. The obligation to submit the Declaration of Contacts applies to:

- a) the President of Georgia, Chairman of the Government of Georgia, his/her First Deputy or Deputy, Prime Minister of Georgia, First Vice Prime Minister of Georgia, Vice Prime Minister of Georgia, Minister, his/her First Deputy or Deputy, Head of the Security Service of Georgia, his/her First Deputy or Deputy, Prosecutor General of Georgia, his/her First Deputy or Deputy, President of the National Bank of Georgia and Vice-President of the National Bank of Georgia;
- b) judges;
- c) head of a standing ancillary authority created by the Prime Minister of Georgia, his/her First Deputy or Deputy;
- d) the Chairman and members of LEPL - National Council of Television and Radio Broadcasting of Georgia, Chairman of LEPL - National Competition Agency of Georgia, an employee of the Division of Detection and Prevention of Abuse of Dominant Position of the same agency, Chairman and other members of the Board for consideration of complaints about violations of laws and regulations in the field of public procurement, Head of Accounting, Reporting and Audit Supervision Service, Chairman and members of the Central Election Commission of Georgia, Heads and other members of other state collegial authorities, Chairman and members of the High Council of Justice;
- e) the Secretary of the National Security Council of Georgia;
- f) Chairman of the LEPL - the National State Property Agency, his/her first deputy or deputy, the Director of the Anti-corruption Agency (Department) of the State Security Service of Georgia,

his/her deputy, the Head of the Corruption Prosecution Department of the General Prosecutor's Office of Georgia, his/her deputy, the Head of the Special Investigation Service, his/her first deputy or deputy;

g) Public Defender of Georgia;

h) civil servants in Category A and B civil service positions;

i) heads of local state administrations, their first deputy or deputy;

j) servicemen of the military formations, who have been awarded high military officer ranks;

k) senior superiors of law enforcement authorities and employees of other agencies, who have been awarded high special ranks.

l) Parliamentary Secretary of the President of Georgia, his/her deputy, advisor to the President of Georgia, employee of the Secretariat of the President of Georgia, employee of the administration of the President of Georgia, employee of the office of the National Security Council, employee of the office of the Chairman of the Parliament of Georgia, employee of the secretariat of the first deputy or deputy chairman of the Parliament of Georgia, parliamentary faction, parliamentary political group cabinet member, head of the cabinet of the Parliament of Georgia, head of the administration of the Government of Georgia, head of the cabinet of Ministers, assistant to the member of the Parliament of Georgia, assistant to the judge, employee of the legal service of another body of the Georgian government. The provisions of this paragraph shall apply to the persons concerned regardless of whether they hold such positions on a pro bono basis or the respective positions are included in the staffing table of a government authority.

m) senior executives of state-owned enterprises, where more than 50 percent of shares (interest) in their authorised capital is held by the State.

6. Violation of the obligation to file the Declaration of Contacts shall constitute grounds for holding a person politically and/or disciplinarily liable. A failure by a person included in the Register or by his/her representative to notify of the fact that he/she or the person he/she represents is included in the Register shall not exempt the public servant from liability for failure to file the Declaration of Contacts.

7. The Declaration of Contacts must contain information about:

a) the person filing the Declaration of Contacts;

b) the person included in the Register, his/her representative with whom a contact occurred;

c) the date and place of the meeting (conversation), communication by telephone or by electronic communication facilities, its summary.

Article 9. The decision to remove the person who wields significant economic and political weight in public life (oligarch) from the Register

1. A decision to remove the person who wields significant economic and political weight in public life (oligarch) from the Register shall be adopted by the Government of Georgia where it is established that the person does not match simultaneously at least two criteria stipulated by Article 2 (a) of this Law. The person shall not be deemed as not exerting significant influence on mass media if the status of a beneficiary (controller) of the respective mass medium has passed from the person included in the Register to an affiliated person or a person who lacks impeccable business reputation in the meaning ascribed by Article 10 of this Law

2. A person to whom the status of a beneficiary (controller), beneficiary (controller) of the owner (founder) of a mass medium (hereinafter, the "buyer") has passed after coming into force of this Law may not be recognised as a person who wields significant economic and political weight in public life (oligarch) if he/she formally matches the criteria set out in Article 2 of this Law, and where:

a) such match has occurred, after coming into force of this Law, as a result of acquiring the status of the owner (founder), the beneficiary (controller) of the owner (founder) of the mass medium;

b) the buyer has an impeccable business reputation.

3. A decision to remove the person who wields significant economic and political weight in public life (oligarch) from the Register shall be adopted in the manner stipulated by Article 5 of this Law for the adoption of a decision to recognise the person as wielding significant economic and political weight in public life (oligarch).

4. A decision to remove the person who wields significant economic and political weight in public life (oligarch) from the Register may also be adopted by the Government of Georgia on the basis of an application from the person included in the Register and submission by him/her of the documents and information evidencing that no match exists with the criteria stipulated by Article 2 (a) of this Law.

Article 10. Impeccable Business Reputation

1. A buyer shall be deemed as having an impeccable business reputation if he/she matches none of the criteria set out in part two of this Article.

2. Criteria of a flawed business reputation of a natural person, which are associated with the observance of the law and public order, include:

a) having a conviction that has been neither canceled nor cleared in the manner prescribed by law;

b) imposition by Georgia, foreign states (other than states carrying out armed aggression against Georgia), intergovernmental associations or international organisations of sanctions against the person — while the sanctions are in force and three years after they have been lifted or expired;

c) inclusion of the person in the list of persons associated with terrorist activities or subjected to international sanctions — while the person is on the list and ten years after having been struck off the list;

d) deprivation of the right to occupy certain positions or to engage in certain activities under a court decision — while the sentence is in force;

e) inadequate discharge by the person of obligations to pay taxes, fees or make other mandatory payments where the total unpaid amount is equal to or exceeds 100 minimum monthly wages established by the laws and regulations of Georgia for the period during which the violation was committed, or an equivalent thereof in foreign currency — while the violation continues and three years after it has ceased;

f) acquisition of (intention to acquire) a mass medium at a price that is significantly lower than the market price, or with the funds whose origin is not corroborated by documentary evidence;

g) substantial and/or systematic violations by the person of the requirements of the laws and regulations on mass media, banking, financial, currency, tax laws and regulations, laws and regulations on financial monitoring, laws, and regulations on securities, joint-stock companies, and the stock market.

3. The procedure for checking the business reputation of a buyer (potential buyer) of a mass medium shall be approved by the National Communications Commission of Georgia.

Article 11. Transitional provisions

1. It shall be established that the persons who are required to file the Declaration of Contacts under this Law shall file such a declaration within 14 in respect of a meeting (conversation), communication by telephone, or by electronic communication facilities, which took place between the date of this Law coming into force and the date of enactment thereof.

2. Relevant authorities and officials must ensure the adoption/issuance of subordinate laws necessary for the implementation of this law and the compliance of appropriate subordinate laws with this law within 3 months from the enactment of this law.

Article 12. Final Provisions

1. This law, except for Articles 1-10 and paragraph 1 of Article 11 of this law, shall come into force immediately after its promulgation.
2. Articles 1-10 and the first paragraph of Article 11 of this law shall enter into force on June 1, 2023.
3. This law shall be declared invalid as of June 1, 2033.

President of Georgia

Salome Zurabishvili

Tbilisi,
... November, 2022