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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

**REVISED DRAFT LAW
ON DEOLIGARCHIZATION**

REVISED DRAFT LAW OF GEORGIA ON DEOLIGARCHIZATION

Article 1. Purpose of the Law

The purpose of this Law is to prevent excessive influence of persons who wield significant economic and political weight in public life, overcome the conflict of interest caused by the merger of politicians, media and big business, prevent the increase of one's own capital with the use of political power, ensure Georgia's national security in economic, political and informational spheres and protect fundamental human rights, democracy and state sovereignty.

Article 2. Oligarch

1. For the purposes of this Law, a natural person who matches all the following criteria shall be regarded as an oligarch:

- a) participates in political life;
- b) exerts influence on media services;
- c) owns significant economic resource.

2. For the purposes of sub-paragraph "a" of paragraph 1 of this Article, a person shall be regarded as matching the criterion of participation in political life, if:

- a) He/she is the President of Georgia, member of the Parliament of Georgia, Prime Minister of Georgia, other member of the Government of Georgia, his/her First Deputy or Deputy, member of the highest representative body of the Autonomous Republic of Abkhazia or Ajara, member of the Government of the Autonomous Republic of Abkhazia or Ajara, his/her First Deputy or Deputy, State Representative¹, his/her First Deputy or Deputy, Chairperson of the municipal Assembly (Sakrebulo), his/her First Deputy or Deputy, Chairperson of the Commission of the Municipal Assembly (Sakrebulo), Chairperson of the faction of the Municipal Assembly (Sakrebulo), his/her deputy, mayor of the municipality, his/her First Deputy or Deputy or Vice-Mayor of the municipality;
- b) He/she is a person appointed/elected to the position by the legal act of the Parliament of Georgia, Government of Georgia, the highest representative body of Autonomous Republic of Abkhazia or Ajara, Government of Autonomous Republic of Abkhazia or Ajara or of a person determined by sub-paragraph "a" of this article;
- c) He/she holds the leadership position in the political party or is a member of its executive or supervisory body as determined by the Organic Law of Georgia "On Political Associations of Citizens";
- d) He/she is a natural person with declared electoral goal or a person considered by the founding document of the person with declared electoral goal as determined by the Organic Law of Georgia "On Political Associations of Citizens", if the declared electoral goal of the mentioned person is confirmed by the respective legal act of the legal entity under public law – the Anti-Corruption Bureau (hereinafter, "Anti-Corruption Bureau");
- e) He/she is a donor and/or a person considered by the founding document of a donor as determined by the Organic Law of Georgia "On Political Associations of Citizens", if the total amount of donations determined by the Organic Law of Georgia "On Political Associations of Citizens" made during 1 year by him/her or by the donor whose founding document considers him/her, exceeds GEL 30 000;

¹ i.e. State Representative in territorial units of Georgia.

f) He/she and/or a person whose founding document considers him/her has disbursed electoral campaign expenditures that exceeded GEL 30 000 as determined by the Organic Law of Georgia “Election Code of Georgia” during the last general elections or by-elections;
g) There is other apparent evidence that confirms his/her participation in the political life of Georgia during last one year.

3. For the purposes of sub-paragraph “b” of paragraph 1 of this Article, a person shall be regarded as matching the criterion of exerting influence on media services, if:

a) He/she is an owner/co-owner of the share in the provider of audiovisual media service or radio broadcaster as determined by the Law of Georgia “On Broadcasting”;

b) He/she indirectly owns a share in the provider of audiovisual media service or radio broadcaster as determined by the Law of Georgia “On Broadcasting”. For the purpose of this sub-paragraph, indirect ownership of a share by a natural person in the provider of audiovisual media service or radio broadcaster as determined by the Law of Georgia “On Broadcasting” refers to a situation when demonstration of the will of the mentioned natural person is necessary to strike a valid contract regarding alienation of this share by means provided in private law;

c) There is other apparent evidence confirming that he/she has exerted influence on media service in Georgia during the last one year.

4. For the purposes of sub-paragraph “c” of paragraph 1 of this Article, a natural person shall be regarded as matching the criterion of owning significant economic resource if a total value of property that he/she has a right to own and/or owns indirectly, exceeds the subsistence minimum determined by the Georgian legislation by 1000000 times as of January 1 of the respective year. For the purposes of this sub-paragraph, indirect ownership of a property by a natural person refers to a situation when demonstration of the will of the mentioned natural person is necessary to strike a valid contract regarding alienation of this property by means provided in private law.

Article 3. Recognizing a Person as an Oligarch

1. If nothing else is determined by this Law, formal administrative procedures apply in accordance with the General Administrative Code of Georgia to decide on the issue of recognizing a person as an oligarch.

2. The Anti-Corruption Bureau decides on recognizing a person as an oligarch based on comprehensive, full and objective consideration of appropriate circumstances and evidence within the time needed for the decision to be taken on this issue.

3. The Anti-Corruption Bureau shall start the procedure of recognizing a person as an oligarch on its own initiative or based on the referral of the member of the Government of Georgia, permanent member of the National Security Council of Georgia, National Bank of Georgia, State Security Service of Georgia or the legal entity under public law – National Commission of Communications of Georgia.

4. In order to decide on the issue of recognizing a person as an oligarch, the Anti-Corruption Bureau is authorized to collect necessary information and documents, including personal data, from Georgia’s public institution, foreign state body, legal entity, other organizational entity, and may also ask questions to the natural person who own the mentioned information or document. The natural person has a right to refuse to participate in such questioning. Collecting the mentioned information and document shall not be allowed if it does not contribute to deciding on the issue of recognizing a person as an oligarch. Personal data processing shall take place in accordance with the Law of Georgia on “Personal Data Protection” and other respective Georgian legislative acts. This paragraph shall not apply to state secrets recognized by the rule adopted by Georgian legislation.

5. A person shall have a right to be represented by his/her representative and make use of his/her assistance during the procedure of a person’s recognition as an oligarch.

6. The Anti-Corruption Bureau shall inform this person or his/her representative (hereinafter, "side") on holding a session during which the issue of recognizing this person as an oligarch will be discussed, no later than one month before the mentioned session will take place. A nonappearance of the side on this session with excusable cause shall be the basis for postponing the session. Such a notification on excusable cause shall be submitted to the Anti-Corruption Bureau in writing. The Anti-Corruption Bureau shall decide on the issue of recognizing the nonappearance justified based on a rational and objective evaluation. The side shall have a right to submit written clarification and relevant information and evidence regarding the issue under consideration to the Anti-Corruption Bureau. If the side appears on the mentioned session, the Anti-Corruption Bureau, on the request of the side, shall hear his/her oral clarification regarding the issue under consideration.
7. The session of the Anti-Corruption Bureau during which the issue of recognizing a person as an oligarch is being discussed, shall generally be open and public. Information on holding this session shall be published on the website of the Anti-Corruption Bureau no later than 3 calendar days before the session takes place. If holding the mentioned session openly/publicly may harm Georgia's state interests or cause excessive harm to legal interests of a person, the Anti-Corruption Bureau on its own initiative or by motivated request of the side shall make a justified decision to fully or partially close this session. Only the side and persons determined by the Head of the Anti-Corruption Bureau shall have a right to attend the closed session.
8. After finishing the consideration of the issue of recognizing a person as an oligarch, the Anti-Corruption Bureau shall make a justified decision on recognizing a person as an oligarch (if this person satisfies the condition for a natural person to be recognized as an oligarch determined by this law) or not recognizing a person as an oligarch (if this person does not satisfy the condition for a natural person to be recognized as an oligarch determined by this law). This decision is an individual administrative act and, according to the rule determined by law, may be appealed to the Court one month after the side officially receives the act. The mentioned decision shall enter into force:
 - a) One month after the side officially receives the act according to the rule determined by law, if not appealed to the Court;
 - b) If appealed to the Court and the Court deemed it lawful, after the respective decision of the Court enters into legal force.
9. The decision of the Court of the First Instance determined by paragraph 8 of this article, may be appealed to the Court of Appeals by the way of cassation. Respective decision of the Court of Appeals is final and shall not be appealed.

Article 4. Registry of Oligarchs

1. A decision of the Anti-Corruption Bureau that has entered into force recognizing a person as an oligarch shall constitute the basis for the inclusion of this person in the Registry of Oligarchs (hereinafter, "Registry").
2. The Registry is an information and communication system designed to make public and process information about oligarchs and persons who, in accordance with this law, submit Declaration of Contact with oligarch (hereinafter, the "Declaration of Contact"). The Registry aims to ensure public availability of relevant information about oligarchs and mentioned persons.
3. The regulations related to the Registry (including the rules of its formation and maintenance) shall be approved by the Anti-Corruption Bureau. Formation and maintenance of the Registry shall be provided by the Anti-Corruption Bureau. Public availability of the Registry, free access to the information added to the Registry (including with the possibility of viewing, copying, and printing) as well as organizing data in the Registry in the electronic format that allows its automated processing by electronic means (machine reading) for reuse purpose, shall be provided on the official website of the Anti-Corruption Bureau.

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

- a) A resolution part of the decision of the Anti-Corruption Bureau recognizing the person as an oligarch;
- b) Last name and first name of a person recognized as oligarch;
- c) Declaration of Contact;
- d) Note explaining that a person's recognition as an oligarch and adding him/her to the Registry does not automatically prove that this person is guilty or other type of offender.

5. Information determined by the paragraph 4 of this article shall be added to the Registry after the decision of the Anti-Corruption Bureau recognizing a person as an oligarch enters into force, within 3 calendar days after it enters into force.

Article 5. Legal Implications of Recognizing a Person as an Oligarch

1. A person recognized as an oligarch and included in the Registry shall be prohibited from being a buyer in the process of privatization of a privatization item. For the purposes of this paragraph, the mentioned person participates in the process of privatization of a privatization item, if:

- a) He/she as a natural person participates in the privatization process of a privatization item;
- b) The commercial entity whose share is owned/co-owned by a mentioned person, participates as a buyer in the process of privatization of a privatization item;
- c) The commercial entity whose share is indirectly owned by the mentioned person participates as a buyer in the privatization process of a privatization item. For the purpose of this sub-paragraph, indirect ownership of a share in a commercial entity by a person recognized as oligarch and included in the Registry, refers to the situation when the demonstration of the will of the mentioned person is necessary to strike a valid contract regarding alienation of this share by means provided in private law.

2. In case of communication with a person recognized as oligarch and included in the Registry, natural persons determined in sub-paragraphs "a"- "d" of paragraph 2 of Article 2, shall be required to submit Declarations of Contacts, except for the cases determined by this paragraph. For the purpose of this paragraph, the communication with a person recognized as oligarch and included in the Registry refers to a personal meeting and conversation as well as communication via telephone or other means of electronic communication. A natural person determined in sub-paragraphs "a"- "d" of paragraph 2 of the Article 2 of this Law, shall not submit Declaration of Contact, if:

- a) He/she is a spouse, a relative of direct ascending or descending line, a stepchild, a sister, a brother, a relative of direct ascending line of the spouse, a sister of the spouse, a brother of the spouse of a person recognized as an oligarch and included in the Registry, and/or a person permanently living with a person included in the Registry;
- b) Communication with a person recognized as an oligarch and included in the Registry has taken place during the public event or a gathering of at least 50 persons.

3. Respective person shall submit the Declaration of Contact on the webpage of the Anti-Corruption Bureau electronically, no later than one week following the communication with a person recognized as oligarch and included in the Registry. The form of the Declaration of Contact shall be defined by the Head of the Anti-Corruption Bureau.

4. The Declaration of Contact shall contain the following information:

- a) the identity of a person submitting the Declaration of Contact;
- b) the identity of a person recognized as an oligarch and included in the Registry with whom communication has occurred;
- c) Information on whether the communication has taken place via personal meeting and conversation, telephone or any other means of electronic communication;
- d) Date and location of a meeting or conversation if the communication has taken place via personal meeting or conversation;

e) Date of communication if the communication has taken place via telephone or other means of electronic communication;

f) Information on whether the communication included a conversation on a political issue related to Georgia without indicating the content of communication.

5. A person submitting a Declaration of Contact has a right to indicate the content of the communication in the Declaration of Contact in case of agreement with the person recognized as oligarch and included in the Registry with whom the communication has taken place.

Article 6. Removing a person from the Registry

1. The removal from the Registry of the person recognized as an oligarch and included in the Registry shall be decided in accordance with the rule determined by law on recognizing a person as an oligarch and including him/her in the Registry. This person shall also have a right to address the Anti-Corruption Bureau to remove him/her from the Registry by himself/herself that constitutes a basis for the beginning of the respective procedure. He/she shall use this right only once in a calendar year. The Anti-Corruption Bureau shall make a decision on removing a person recognized as an oligarch and included in the Registry, if found that this person does not any more satisfy any of the criteria determined by paragraph 1 of Article 2 of this Law.

2. In case of removal of a person recognized as an oligarch and included in the Registry from the Registry, the Anti-Corruption Bureau shall be required to delete all information previously published related to this person in accordance with this Law.

Article 7. Liability

1. Violation of the prohibition determined by the paragraph 1 of the Article 5 of this Law – will cause issuing a fine twice of the amount of money that had to be paid/or had been paid by the violator of the mentioned prohibition to buy respective privatization item.

2. The report on administrative offence determined by this article shall be prepared by the relevant authorized person from the legal entity under public law operating under the system of the Ministry of Economy and Sustainable Development of Georgia – National Agency of State Property. In case of the administrative offence, a legal proceeding is done in accordance to the Administrative Offences Code of Georgia and other relevant legislative acts.

3. The administrative penalty determined by this Article may be imposed on a person no later than 1 year from the date of committing respective administrative offense.

Article 8. Transitional provisions

Relevant authorities and officials shall ensure the adoption/issuance of subordinate laws necessary for the implementation of this law and the compliance of appropriate subordinate laws with this law by September 1, 2023.

Article 9. Final Provisions

1. This law, except for Articles 1-7 of this Law, shall enter into force upon its promulgation.

2. Articles 1-7 of this Law shall enter into force on September 1, 2023.

3. This law shall be declared null and void on September 1, 2033.

President of Georgia

Salome Zourabichvili

Tbilisi,
April ..., 2023