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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**GEORGIA**

**EXPLANATORY NOTE**

**ON THE DRAFT LAW**

**ON TRANSPARENCY OF FOREIGN INFLUENCE**

## Explanatory Note

### On the Draft Law of Georgia "On Transparency of Foreign Influence"

#### a) General information about the draft law:

##### A.a) Reason for adoption of the draft law:

##### A.a.a) Problem that the draft law aims to solve:

The purpose of the draft law is to ensure the transparency of foreign influence. Therefore, it is necessary to adopt a legislative act that defines the concept of an organization pursuing the interests of a foreign power and regulates the registration of relevant entities as an organization pursuing the interests of a foreign power and other issues related to the transparency of their activities. In addition, it is important that this legislative act serves only the purpose of informing, and it does not restrict the subjects registered as organizations pursuing the interests of a foreign power from carrying out their usual activities.

It should be noted that similar legislation and practice exists in such countries as, for example, the USA, Australia, Israel. In particular, the Foreign Agents Registration Act (FARA)<sup>1</sup> is in force in the USA; In 2018, Australia adopted the Foreign Influence Transparency Scheme Act (FITSA)<sup>2</sup>, modelled after the US law; In 2016, the Israeli Knesset made a similar amendment to the 2011 law on the obligation to disclose entities supported by a foreign political party.<sup>3</sup>

Thus, the presented draft law clarifies the concept of an organization pursuing the interests of a foreign power and, in order to ensure the transparency of foreign influence, regulates the registration of an entity as an organization pursuing the interests of a foreign power and other issues related to the transparency of the activities of an organization pursuing the interests of a foreign power.

##### A.a.b) The need to adopt a law to solve the existing problem:

The issue mentioned in subsection "a.a.a", based on its purpose and essence, requires the implementation of a legislative change.

##### A.b) Expected results of the draft law:

As a result of the adoption of the draft law, the issue mentioned in subsection "a.a.a" will be resolved.

##### A.c) The main essence of the bill:

The draft law regulates mainly the following issues:

- Definitions of the concepts of an organization pursuing the interests of a foreign power and a foreign power itself;
- The issue of a subject's registration as an organization pursuing the interests of a foreign power;
- The issue of ensuring the publicity of the application for registration as an organization pursuing the interests of a foreign power, other appropriate documents and the register of organizations pursuing the interests of a foreign power;

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<sup>1</sup> See <https://www.justice.gov/nsd-fara/fara-index-and-act>

<sup>2</sup> See <https://www.legislation.gov.au/Details/C2018A00063>

<sup>3</sup> See [https://www.nevo.co.il/law\\_html/law01/500\\_452.htm](https://www.nevo.co.il/law_html/law01/500_452.htm)  
<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlaws&lawid=2000650>  
[https://m.knesset.gov.il/en/news/pressreleases/pages/pr12164\\_pg.aspx](https://m.knesset.gov.il/en/news/pressreleases/pages/pr12164_pg.aspx)

- The issue of submitting an annual financial declaration by an entity registered as an organization pursuing the interests of a foreign power;
- The issue of cancelling the registration of an entity registered as an organization pursuing the interests of a foreign power;
- The issue of monitoring to identify the organization pursuing the interests of a foreign power or to check the fulfilment of the requirements defined by the draft law;
- The issue of imposing administrative responsibility in case of evading registration as an organization pursuing the interests of a foreign power or in case of non-fulfilment of the relevant requirements defined by the draft law.

**A.d) The connection of the draft law with the government program and the action plan in the relevant field, if any (in the case of the draft law initiated by the Government of Georgia):**

The draft law has not been initiated by the Government of Georgia.

**A.e) The principle of selection of the date of entry into force of the draft law, and in case of giving retroactive effect to the law - relevant justification regarding the above mentioned:**

The main part of the draft law will come into force on the 60th day after its publication, because, depending on the content of the norms of the draft law, it is necessary to have a certain preparatory period.

The first paragraph of Article 10 and Article 11 of the draft law shall enter into force immediately after publication, as they, based on their purpose and content, do not require a later date of entry into force.

According to the draft law, the relevant entity, which, according to the data (circumstances) of 2023, meets the criteria of the organization pursuing the interests of a foreign power established by the draft law, must apply in writing (in material form) for registration as an organization pursuing the interest of a foreign power to the Legal Entity of Public Law - National Agency of the Public Registry through the Legal Entity of Public Law - House of Justice, after which the relevant procedures established by the draft law shall be carried out. The existence of this norm is necessary because, in its absence, the obligation to register as an organization pursuing the interests of a foreign power would not apply to those entities that, according to the data (circumstances) of 2023, meet the criteria of an organization pursuing the interests of a foreign power established by the draft law.

**A.f) Reasons for expedited review of the draft law and relevant justification (if the initiator requests expedited review of the draft law):**

Consideration and adoption of the draft law in an expedited manner is not required.

**B) Assessment of the financial impact of the draft law in the medium term (the year of the enactment of the draft law and the following 3 years):**

**B.a) Source of funding for the necessary expenses related to the adoption of the draft law:**

Adoption of the draft law will not lead to the allocation of additional expenses from the state budget of Georgia. The costs arising from the draft law will be covered by the state budget of Georgia, from the assignments allocated to the Ministry of Justice of Georgia and the National Public Registry Agency – a legal entity under public law operating within the sphere of the Ministry of Justice of Georgia.

**B.b) Impact of the draft law on the revenue part of the republican autonomous and/or municipality budget of the state:**

The draft law provides for the issue of imposing a fine on the violator in cases of evading registration as an organization pursuing the interests of a foreign power or in cases of non-fulfilment of the relevant requirements defined by the draft law. The size of these fines will depend on how many times the above violations have been committed.

**b.c) Impact of the draft law on the expenditure part of the autonomous republic's republican and/or municipal budget of the state:**

The amount of expenses related to the implementation of the draft law of the Ministry of Justice of Georgia and the legal entity of public law operating in the sphere of governance of the Ministry of Justice of Georgia – the National Agency of Public Registry will depend on the number of instances of the corresponding proceedings and will be covered by the state budget of Georgia from the existing allocations determined for the Ministry of Justice of Georgia and the National Agency of Public Registry.

**B.d) New financial obligations of the state, referring to the direct financial obligations (domestic or foreign obligations) accepted by the state or the agency in its system under the influence of the draft law:**

The draft law does not envisage the state taking new financial obligations.

**B.e) Expected financial consequences of the draft law for the persons to whom the action of the draft law applies, indicating the nature and direction of the impact on the natural and legal persons on whom the actions determined by the draft law are expected to have a direct impact:**

The draft law provides for the issue of imposing a fine on the violator in cases of evading registration as an organization pursuing the interests of a foreign power or in cases of non-fulfilment of the relevant requirements defined by the draft law. The size of these fines will depend on how many times the above violations have been committed.

**B.f) Amount of tax, fee or other type of payment (cash contribution) established by the draft law in the relevant budget and the principle of determining the amount:**

The draft law provides for the issue of imposing a fine on the violator in cases of evading registration as an organization pursuing the interests of a foreign power or in case of non-fulfilment of the relevant requirements defined by the draft law. When determining the size of these fines, the issue of their preventive effect in relation to the commitment of relevant administrative offenses will be taken into consideration.

**B<sup>1</sup>) Assessment of the impact of the draft law on the legal status of children:**

The draft law does not affect the legal status of children.

**B<sup>2</sup>) Assessment of the expected impact of the draft law on the state of gender equality:**

The draft law has no expected impact on the state of gender equality.

**c) Relation of the draft law to international legal standards:****c.a) Relation of the draft law to the legislation of the European Union:**

The draft law does not contradict EU legislation.

**C.b) Relation of the draft law to the obligations related to Georgia's membership in international organizations:**

The draft law does not conflict with the obligations related to Georgia's membership in international organizations.

**C.c) Relation of the draft law to the bilateral and multilateral treaties and agreements of Georgia; in case of the existence a treaty/agreement that relates to the preparation of the draft law – its relevant article and/or part:**

The draft law does not contradict Georgia's bilateral and multilateral treaties and agreements. The preparation of the draft law is not related to such contracts/agreements.

**C.d) The legal act of the European Union (if any), harmonization with which is mandatory under "the agreement on the association between Georgia on the one hand and the European Union and European Atomic Energy Association and their member states" or from other bilateral and multilateral agreements signed by Georgia with the European Union:**

None.

**D) Consultations received during the preparation of the draft law:****D.a) State, non-state and/or international organization/institution, expert, or working group that participated in the development of the draft law, if any:**

None.

**D.b) Evaluation of the organization/institution, working group, expert participating in the development of the draft law regarding the draft law, if any:**

None.

**D.c) The experience of other countries in the field of implementation of laws similar to the draft law, a review of the experience that was used, for example, in the preparation of the draft law, if such a review was prepared:**

Legal regulation and practice similar to the legal regulation of the issue presented by the draft law exist in such countries as, for example, the USA, Australia, Israel. In particular, the Foreign Agents Registration Act (FARA)<sup>4</sup> is in force in the USA; In 2018, Australia adopted the Foreign Influence Transparency Scheme Act (FITSA)<sup>5</sup>, modelled after the US law; In 2016, the Israeli Knesset made a similar amendment to the 2011 law on the obligation to disclose entities supported by a foreign political party.<sup>6</sup>

**E) Author of the draft law:**

Parliamentary faction "Georgian Dream".

**F) Initiator of the draft law:**

Parliamentary faction "Georgian Dream".

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<sup>4</sup> See <https://www.justice.gov/nsd-fara/fara-index-and-act>

<sup>5</sup> See <https://www.legislation.gov.au/Details/C2018A00063>

<sup>6</sup> See [https://www.nevo.co.il/law\\_html/law01/500\\_452.htm](https://www.nevo.co.il/law_html/law01/500_452.htm)  
<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?t=lawlaws&st=lawlaws&lawid=2000650>  
[https://m.knesset.gov.il/en/news/pressreleases/pages/pr12164\\_pg.aspx](https://m.knesset.gov.il/en/news/pressreleases/pages/pr12164_pg.aspx)