



NGOs react to recent amendments to the Law on Public Service concerning employment of civil servants of local self-government bodies after 2014 elections

On February 5, 2014 Parliament adopted the new Local Self-Government Code as part of which amendments were made to the Law on Public Service as well. The amendments to the Law on Public Service contain a provision under which all civil servants employed at local self-government bodies, including those appointed through competition, shall be considered as serving ad interim after the scheduled 2014 local elections, following which competitions shall be announced for the vacated positions.

It is important that this provision was not included in the initially proposed package. As we were able to confirm, it was added to the draft law just before its third and final plenary hearing, which is why it did not merit public discussion. The fact that the public was not duly informed about the inclusion of the above provision furthermore proves that the process of discussion of the Self-Government Code and accompanying draft laws was flawed and incomplete. This is unacceptable, especially given the magnitude and importance of the reform. In addition, the inclusion of the above article in the law occurred in violation of the requirements of the Parliament Rules of Procedure. Notably, this norm belongs to the category of principles and should have, therefore, been reflected in the text of the document prior to holding the first hearing.

The adopted amendment itself contradicts the rights and principles guaranteed by the Constitution as well as the very law on Public Service. Article 13 of the law stipulates that the basic principles of the Public Service in Georgia are the stability of the service

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personnel and their economic, social, and legal protection. Public service employment issues are covered by article 29, paragraph 1, of the Georgian Constitution under which every citizen has the right to hold any public office, if he/she meets the requirements established by the law. The Constitutional Court of Georgia comments that in addition to the government's responsibility to impose reasonable and non-discriminatory regulations for appointing a person in the public service, the above rule also includes the civil servants' right to be protected from any arbitrary dismissal from office.

The adopted amendment is all the more discouraging in the light of the impending local government elections and raises legitimate suspicions about intentions of mobilizing civil servants for party campaigns. Work and behavior of civil servants employed at local self-government bodies should not be connected with the electoral cycle. Subsequently, we believe that the above change can hurt the trust towards the electoral process: Enactment of this norm ahead of local elections will create the sense of instability among civil servants; moreover, the likelihood that they will act in favor of the ruling party in the pre-election campaigns in order to preserve their jobs is very high. Concerns arise, at the same time, as to whether the amendment incorporated in the Law on Public Service can outweigh the positive moves proposed through the self-government reform.

The amended law will enter into force from the day of the official announcement of the results of the 2014 Local Elections. We believe that the above provision should not be retained or enforced and, therefore, urge the authorities - Parliament and the Government - to take all necessary measures to prevent enactment of this provision. If our appeal is not heeded, we shall not refrain from appealing to the Constitutional Court to request the invalidation of the noted amendment to the law on Public Service.

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