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TO: MR. HORACIO BONEO
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FAX: 212-963-2979

FROM: LIVIU BOTA
HEAD OF MISSION

Liviu Bota

DATE: 9 DECEMBER 1994

SUBJECT: ELECTORAL LAW OF TAJIKISTAN

1. AS PER YOUR REQUEST, ATTACHED, PLEASE FIND, A COPY OF THE PARLIAMENTARY-ELECTORAL LAW OF TAJIKISTAN. *DATE?*

2. ALSO ATTACHED IS A SUMMARY OF MS. MUSAYEVA'S SPEECH REGARDING THE DRAFT ELECTORAL LAW, PRESENTED AT THE XXI SESSION OF THE SUPREME SOVIET OF TAJIKISTAN.

3. PLEASE NOTE THAT AS A RESULT OF TECHNICAL PROBLEMS WITH OUR COMMUNICATIONS EQUIPMENT, WE WERE NOT ABLE TO RESPOND TO YOUR REQUEST EARLIER.

BEST REGARDS.

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OF THE REPUBLIC OF TAJIKISTAN
ON ELECTION OF PEOPLE'S DEPUTIES TO THE MAJLISI OLI
OF THE REPUBLIC OF TAJIKISTAN

1. GENERAL POINTS.

ARTICLE 1. The Essential Principles of Electing People's Deputies to the Majlisi Oli

The Majlisi Oli consists of 181 People's Deputies including 9 ~~representatives from the People's Republic of Tajikistan~~ ~~mandate electoral district for the term of five years.~~

The election of People's Deputies to the Majlisi Oli shall be conducted on the basis of universal, equal and direct voting rights by a ballot.

ARTICLE 2. UNIVERSAL VOTING RIGHTS

The election of People's Deputies to the Majlisi Oli shall be considered universal. The citizens of the Republic of Tajikistan who shall have attained the age of eighteen years at the time of election not depending on their social and property status, nationality, race, sex, language, education, religion, political convictions have the right to vote.

Those citizens of the Republic of Tajikistan who have attained the age of twenty five at the time of election have the right to be elected to a People's Deputy of the Majlisi Oli.

Those who are recognized to be incapable by court or kept in prison by a court verdict shall not have the right to participate in election.

A citizen of the Republic of Tajikistan shall not be a Deputy in more than two representative structures of power at the same time.

ARTICLE 3. EQUAL VOTING RIGHTS

The voters participate in election on an equal basis and each of them possesses one vote.

ARTICLE 4. DIRECT VOTING RIGHTS

People's Deputies shall be elected to the Majlisi Oli directly by the citizens of the Republic of Tajikistan.

ARTICLE 5. BALLOT

The voting in the election of People's Deputies to the Majlisi Oli shall be conducted by a ballot. Any control over the will of voters is prohibited.

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ARTICLE 6. PUBLICITY IN ARRANGING AND CONDUCTING ELECTION OF PEOPLE'S DEPUTIES TO THE MAJLISI OLI

The preparation and conduct of election of People's Deputies shall be done by electoral commissions openly and in public.

The electoral commissions shall inform the population of their work, formation of electoral districts and polling stations, staff, destination and working hours of electoral commissions, voting lists, list of political parties participating in the election, biographic data of nominated candidates to Deputies, results of voting and election.

One representative /observer/ of political parties, governmental bodies, workers and public organizations who nominated the candidates to People's Deputies, trustees, Press, TV, Radio, foreign observers, international organizations may participate in the meetings of the electoral commissions, during voting and counting the votes at the polling stations. Their credentials shall be confirmed by certain documents. Political parties, governmental organs, labour bodies who nominated their candidates in People's Deputies shall inform these representatives to the district electoral commission not later than five days before election.

Interference of the above-mentioned representatives and observers into the process of voting and the activities of the electoral commissions is prohibited. They shall have the right to put the questions and demand their discussion, to draw the attention of the members of the commission and those who are present to the violations of the present Law.

Mass Media of the Republic of Tajikistan shall cover the process of preparation and the conduct of the election.

ARTICLE 7. FINANCING ELECTIONS

Expenses related to the preparation and the conduct of election of People's Deputies to the Majlisi Oli are covered by the Central Commission on Elections and Referenda from one fund created by the state, enterprises, public and other organizations, political parties and citizens of Tajikistan, in order to provide equal conditions for each candidate to People's Deputies. Financing or other material support of candidates to People's Deputies at the expense of other sources shall be prohibited.

State organs, enterprises, institutions, organizations shall place necessary free premises and equipment at the disposal of electoral commissions for preparation and conduct of elections.

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ARTICLE 8. ESTABLISHMENT OF POLLING DISTRICTS.

For electing People's Deputies there are 181 territorial polling districts. One people's deputy is elected from each polling district to the Majlisi Oli of the Republic of Tajikistan.

Polling districts on election of People's Deputies to the Majlisi Oli shall be established by the Central Commission on elections and referenda at the proposal of the Chairman of Gorno-Badakhshan autonomous oblast, oblasts, Dushanbe, regions of republican subordination. Borders upon electoral districts are determined taking into consideration administrative-territorial division of Gorno-Badakhshan oblast, oblasts, Dushanbe, regions of republican subordination.

Polling districts shall be established on the territory of the Republic of Tajikistan with approximately equal number of voters. The establishment of polling districts covering the territories of two bordering rayons and cities shall not be acceptable. The average number of voters for one polling district for each election shall be established by the Majlisi Oli of the Republic of Tajikistan. The average number of voters for polling districts of Gorno-Badakhshan autonomous oblast shall be established by the Majlisi of People's Deputies of Gorno-Badakhshan autonomous oblast.

The lists of polling districts indicating their borders, number of voters and location of the district polling commissions shall be published by the Central Commission on elections and referenda not later than ten days after the time the elections are defined.

ARTICLE 9. ORDER AND NORMS OF ESTABLISHMENT OF POLLING STATIONS.

Polling stations shall be established taking into consideration borders of regions, cities, districts in cities with the purpose of creation maximum conveniences for the voters. The borders of the polling stations shall not cross the borders of the polling districts.

Polling stations can be formed at the Representations of the Republic of Tajikistan in foreign states, sanatoriums, rest-houses, hospitals and other in-patient medical establishments, citizen's locations situated in remote and hard to reach populated areas which are included to the polling stations accordingly to their location.

The question of designation of the polling station, which is located outside Tajikistan, for the polling District shall be decided by the Central Commission on elections and referenda.

The polling stations shall be established by the District Electoral commissions at the request of chairmen of cities and regions.

At the Representations of the Republic of Tajikistan in foreign states polling stations shall be established by the Central Commission on elections and referenda at the request of the Ministry of Foreign Affairs of the Republic of Tajikistan. The polling stations shall be set up not later than on the thirtyth day after the time elections are defined. The same time limits

shall be set for the Representations of the Republic of Tajikistan in foreign states and in remote settlements and hard to reach populated areas as well, in exceptional cases, not later than ten days before the election. ten days before the elections.

The polling stations may be established if the number of voters is not less than 20 and no more than 3000.

The premises for the organisation of voting for each polling station is allocated by the chairman of the city, region.

District electoral commission shall notify the voters of the the borders of every polling station, location of the polling station and the premises for voting.

III. ELECTION COMMISSIONS.

ARTICLE 10. SYSTEM OF ELECTORAL COMMISSIONS.

For organizing and carrying out the elections of People's Deputies to the Majlisi Oli the following bodies shall be set up:

- Central Commissions on elections and referenda;
- District Electoral Commissions on elections of People's deputies to the Majlisi Oli;
- Polling Electoral Commissions.

ARTICLE 11. ESTABLISHMENT OF THE CENTRAL COMMISSION ON ELECTIONS AND CONDUCT OF THE REFERENDA.

The Central Commission on elections and conduct of the Referenda shall be established by the Majlisi Oli of the Republic of Tajikistan at the request of its Presidium in the course of three days after the time the elections are defined, and for the period of 5 years, and shall include a chairman and 14 members of the Commission.

Deputy chairman and a secretary of the commission shall be elected at the first meeting of the commissio among its members. The Central Commission on elections and conduct of referenda publishes an information about its staff, address and telephone numbers of the commission in the official press.

The Central Commission on elections and conduct of referendums has its bodies.

The expenses of upkeep of Central commission on elections and conduct of referendums and its bodies shall be financed from the republican budget.

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ARTICLE 12. MANDATE OF THE CENTRAL ELECTORAL COMMISSION

The Central Electoral Commission shall have the following functions:

1. To control enforcement of this Law, as well as its unaltered application throughout Tajikistan. To explain procedures for the proper appliance of this Law,
2. To establish, name and number polling Districts;
3. To establish the District Electoral Commissions and release information on their location;
4. To direct the work of the Central Electoral Commission; if necessary change their memberships; independently revoke decisions made by the District electoral Commissions on the election of the People's Deputies to the Majlisi Oli at the request of the Prosecutor General if they do not comply with the present Law;
5. To designate the polling stations which shall be set up outside the Republic of Tajikistan for the polling Districts;
6. To provide equal conditions for the candidates for participation in the election;
7. To allocate funds to the Electoral Commissions, control the provision of premises for the Electoral Commissions, as well as the availability of transportation and communication, and provide other logistical support;
8. To establish samples of ballot forms, lists of voters, protocols of the Electoral Commissions, other election related documents, samples of ballot boxes and seals of the Electoral Commissions; to define the rules for maintaining election related documents;
9. To hear the reports of Heads of Ministers, state committees of the Republic of Tajikistan, local bodies of the state power, representatives of the political parties and bodies of public associations on the questions relating to the election process;
10. To count the results of the election in the Republic, register the elected candidates, promulgate in the press the results of the election and a list of the elected People's Deputies to the Majlisi Oli;
11. To convey the documentation necessary for checking the eligibility of People's Deputies to the Mandate Commission of the Majlisi Oli;
12. To decide questions dealing with the organizations of run-off Elections of People's Deputies;
13. To fix the date for and to conduct the election of Peoples Deputies to the Majlisi Oli to replace those who have left;
14. To consider the applications and complaints about the decision and actions of the electoral Commissions, and makes its final decision on all those issues,
15. To provide the transmission of the documentation dealing with the conduct and organization of elections to the Archives;
16. To implement other functions in accordance with the present Law, and other laws of the Republic of Tajikistan.

ARTICLE 13. ESTABLISHMENT OF THE DISTRICT ELECTORAL COMMISSIONS

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District Electoral Commissions shall comprise a Chairman, Deputy Chairman, Secretary and at least 6 members of the commission, and be established by the Central Electoral Commission on Elections and Referenda not later than two months before the Election.

ARTICLE 14. FUNCTIONS OF THE DISTRICT ELECTORAL COMMISSION

District Electoral Commission on election of People's Deputies to the Majlisi Oli shall:

- 1) control the implementation of the present Law on the territory of the electoral district;
- 2) form polling stations, polling station commissions and coordinate their activities;
- 3) hear the information of the local executive authorities, heads of enterprises, establishments and organizations on the problems related to the preparations and the conduct of election;
- 4) distribute funding among the polling station commissions; control the provision of these commissions with premises, transportation and communication means; and consider other questions connected with logistical supply of the election;
- 5) observe the process of creation of the lists of voters and make them available to the public;
- 6) organize the nomination of candidates to be elected People's Deputies;
- 7) ensure equal conditions for the candidates to People's Deputies to participate in the election campaign;
- 8) accept relative documents from the political parties, representative organs of power and labour bodies who nominated their candidates to Deputies;
- 9) register the candidates and their authorized representatives, provide them with appropriate identification cards, arrange publishing of posters with biographic data of the candidates to People's Deputies;
- 10) arrange meetings of the candidates to People's Deputies with voters;
- 11) approve the text of ballots for the electoral district in accordance with the sample approved by the Central Commission on Election and Referenda and supply polling stations with them;
- 12) approve and transmit the results of elections in electoral district to the Central Commission on Elections and Referenda, issue an identification card to the elected deputy;

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- 13) organize new voting and election, as well as election of the deputies to replace those who have gone;
- 14) consider statements and complaints on the decisions and activities of the polling station commissions and take decisions on the matter;
- 15) implement other functions in accordance with the present Law and other legislative acts of the Republic of Tajikistan.

ARTICLE 15. FORMATION OF POLLING STATION COMMISSIONS

Polling Station Commission on election of the People's Deputies to the Majlisi Oli shall be formed by the district electoral commission not later than 45 days before the election and comprises 5-19 members, including a Chairman, Deputy Chairman, Secretary. If the commission includes 7 persons, then they elect a Chairman and Secretary.

In case of necessity the personnel of the commission can be enlarged or reduced.

The functions of the Chairman of the polling station commission at representations of the Republic of Tajikistan to foreign countries shall be carried out by the Head of the Office.

ARTICLE 16. FUNCTIONS OF THE POLLING STATION COMMISSIONS

The polling station commissions shall:

- 1) make the list of voters of the polling station;
- 2) introduce the list of voters and consider statements on mistakes and inaccuracies of the list and solve the question of inclusion of the changes into the list;
- 3) receive decisions of the voters in envelopes, who have no chance to vote on the voting day in the polling stations, and ensure the secrecy of voting;
- 4) inform inhabitants about location of the commission and its working time, as well as about the day and place of voting;
- 5) ensure preparations of the premises for voting, ballot boxes and other ballot equipment;
- 6) organize voting in the polling station on election day;
- 7) count votes provided at the polling station;
- 8) consider statements and complaints related to the preparations of the election and the organizing of the voting and take decisions on the matter;

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9) implement other functions in accordance with the present Law and other legislative acts of the Republic of Tajikistan.

ARTICLE 17. MEMBERSHIP OF THE ELECTORAL COMMISSIONS

Member of the electoral commission should be neutral and impartial while fulfilling his authorities.

Member of the commission may be released from his duties on his own application, as well as in case of losing his power.

The right to deprive the member of the commission of his power belongs to the border, formed by the commission, when he violated the requirements of the present Law or ignored his own duties constantly.

In case of necessity a new member of the electoral commission is appointed according to the order, fixed by the present Law.

Candidates for the People's Deputies of the Republic of Tajikistan can not be members of the electoral commissions. In case if a member of the electoral commission is nominated as a candidate for the People's Deputies, he shall be considered released from his duties of the member of the commission from the moment of his registration as a candidate for People's Deputies.

One person may be a member of one electoral commission only.

ARTICLE 18. ORGANIZATION OF THE WORK OF THE ELECTORAL COMMISSIONS

The meeting of the electoral commission shall be considered valid if two thirds of its members are present. The decisions of the commission shall be approved in open voting by the majority of people present. The members of the commission who disagree with the decision have the right to express their personal opinion, which should be attached to the protocol. If the votes are equally divided, the chairman's vote shall be decisive.

The decision of the electoral commission approved within the frame of its authority is obligatory and is to be implemented by subordinate electoral commissions as well as all state bodies, political parties, public associations, labour bodies, heads of enterprises, institutions and organizations.

The state structures and public associations, enterprises, institutions, officials shall be obliged to cooperate with the electoral commissions in implementation of their functions and authority to provide them with necessary information for their activities.

The electoral commissions have the right to appeal problems connected to the election to state bodies and public associations, enterprises, institutions, organizations and officials who must review it and provide an answer in three days.

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Chairman, Deputy Chairman, Secretary or other member of the commission by their decision can be released for the period of preparation and conduct of the election from their main duties while keeping their average salary, now funded from the amount allocated to the conduct of the election.

The district and polling station commissions shall stop their activity when the Majlisi Oli recognizes the authorities of People's Deputies in the corresponding electoral districts.

ARTICLE 19. CONSIDERATION OF COMPLAINTS ON DECISIONS MADE BY ELECTORAL COMMISSIONS

Decisions of electoral commissions can be appealed by the political parties, state organs, labour bodies, trustees, observers and voters to a higher commission or court within ten days after the decision is taken. Decisions of the Central Electoral Commission on Elections and Referenda can be appealed to the Supreme Court of the Republic of Tajikistan within ten days after the decision is taken. A complaint must be reviewed within three days after it is received and immediately if it is received six days before the election.

IY. CANDIDATES' NOMINATION AND REGISTRATION TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN

ARTICLE 20. NOMINATION OF THE ELECTIONS OF PEOPLE'S DEPUTIES TO THE MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

The elections of Deputies are appointed not later than eight-ten days before the term of authorities of People's Deputies to the Majlisi Oli of previous calling is expired.

Notification on the election day is published in mass media not later than three days after the elections are appointed.

ARTICLE 21. RIGHT OF CANDIDATES' NOMINATION TO PEOPLE'S DEPUTIES

Right to candidates' nomination to People's Deputies to the Majlisi Oli belongs to political parties, Majlisi of City, Region People's Deputies, labour bodies.

The political party shall have the right to nominate its candidate to People's Deputies to the Majlisi Oli on condition if it is registered in the Ministry of Justice of the Republic of Tajikistan in accordance with the order determined by the Law.

A citizen of the Republic of Tajikistan shall have the right to nominate his candidature as a candidate to People's Deputies through labour bodies in accordance with the order determined by Article 22 of the present Law.

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ARTICLE 22. PROCEDURE FOR CANDIDATES' NOMINATION TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN

Candidates' nomination to People's Deputies begins sixty days before and ends forty five days before elections.

Candidates nomination to People's Deputies to the Majlisi Oli is carried out by city, region organs of political parties at meetings or conferences, by representative structures of power - at the sessions of the Majlisi of People's Deputies of cities, regions/ except the Majlisi of People's Deputies of Dushanbe/, by labour bodies - at their meetings or conferences.

City, region bodies of political parties, the Majlisi of People's Deputies of cities, regions have the right to nominate only one candidate to People's Deputies in any of the districts situated on the territory of corresponding city, region. Labour body has the right to nominate one candidate to People's Deputies in the district, where it is situated.

Candidates to People's Deputies are nominated at meetings (conferences) of labour bodies numbering not less than 500 persons and situated on the territory of corresponding electoral district. In co-ordination with corresponding district electoral commission labour bodies, numbering less than 500 people and situated on the territory of one electoral district, nominate candidates to People's Deputies at joint meetings with other labour bodies, the total number of workers is to be not less than 500 people. The norms of representation are determined by the district electoral commission.

Meetings on nomination of candidates to People's Deputies are considered to be competent, if more than half of the total amount of members of labour bodies take part in it, and conferences, meetings of the representatives of labour bodies - not less than two thirds of delegates or representatives.

Conditions for discussing unlimited number of candidates to People's Deputies are created at plenums/conferences of city, region organs of political parties, sessions of the Majlisi of People's Deputies, at meetings, conferences of labour bodies. A citizen of the Republic of Tajikistan has the right to propose himself as a candidate to People's Deputies for discussion at the meeting or conference of labour body. Each participant of meeting has the right to introduce proposals about other candidates to deputies, take part in their discussion, support proposed candidates or introduce proposals of their declining. Resolution of nomination of candidate to People's Deputies is adopted by open voting or ballot. Order of voting and other procedure issues are determined by plenum of conference, session, meeting.

Order of selection and nomination of People's Deputies are determined by political parties, representative structures of

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power, labour bodies.

The decision about candidates' nomination to People's Deputies is adopted by vote majority of total number of members of plenum or delegates of conference of political party, total number of deputies of Majlisi of People's Deputies, total number of participants of meeting /conference/.

Protocols are made about nominating candidates to People's Deputies by political parties, representative structures of power and labour bodies, the forms of which are determined by the Central Electoral Commission.

Candidate to People's Deputies is informed of adopted resolution not later than a two weeks term.

ARTICLE 23. REQUIREMENTS UPON CANDIDATES TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN

President of the Republic of Tajikistan can not be at the same time a People's Deputy of the Republic of Tajikistan.

Members of Government, judges, Prosecutor-General and prosecutors, heads of Ministries, State Committees, organs, their deputies, as well as heads and officials of banks can not be at the same time People's Deputies to the Majlisi Oli, and when being nominated candidates to People's Deputies to the Majlisi Oli, in their applications shall show intention to release their posts in case of being elected People's Deputies.

Professional attendants of religious organizations and associations cannot be presented to registration.

ARTICLE 24. REGISTRATION OF CANDIDATES TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN.

Candidates to People's Deputies of the Republic of Tajikistan are registered by district electoral commissions on presentation of city, region bodies of political parties, representative structures of power, labour bodies, which have nominated candidates to People's Deputies.

Registration of candidates to People's Deputies begins forty five days and ends 20 days before the day of election.

Resolution of registration of candidates to People's Deputies is adopted when the following documents are available:

- decision of city, region organs of political party, region, city Majlisi of People's Deputies, labour bodies on nomination of

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candidates to People's Deputies;

- protocols of city, region organs of the political party (plenum, conference), session of the Majlisi of People's Deputies of cities and regions, meeting (conference) of labour bodies on nomination of candidates to People's Deputies, where the surname, first name, patronymic of the candidate to People's Deputies, year of birth, post (employment), place of office and residence, party-membership as well as name and number of the electoral district are to be indicated;
- applications of candidates to People's Deputies of consent to ballot on the given electoral district;
- applications on release from posts in case of being elected People's Deputies according to Article 23 of the present Law.

District Electoral Commission registers candidates to People's Deputies, nominated for election, with observation of the requirements of the present Law, protocol of which is presented to Central Commission on Elections and Referenda together with applications of candidates to deputies. Refusal in registration of candidates to People's Deputies may be appealed against within a three days term to the Central Commission on Elections and Referenda by political parties, representative structures of power, labour bodies, which have nominated the candidate to People's Deputies.

District electoral commission within seven days after registration of candidates to People's Deputies shall publish in press the information about registration indicating surname, first name, patronymic, year of birth, post (employment), party-membership, place of office and residence of each candidate to deputies.

A candidate to People's Deputies, registered in one electoral district, cannot be presented to registration in other electoral district, including the case of his withdrawal of candidature in electoral district, where he has been registered initially.

Each registered candidate to People's Deputies of the Republic of Tajikistan within three days after registration is handed a certificate by the district electoral commission.

ARTICLE 25. ABOLITION OF RESOLUTION ON CANDIDATES' NOMINATION TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN. WITHDRAWAL BY CANDIDATE OF HIS CANDIDATURE.

Organs of political parties, representative structures of power, labour bodies, having nominated a candidate to People's Deputies of the Republic of Tajikistan, have the right at any time before elections to abolish their resolution of nomination of candidate to deputies. Resolution on this issue is adopted in order,

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stipulated for nomination of candidates to deputies and presented to corresponding electoral commission. This person will be deprived of the status of a candidate to People's Deputies by the district electoral commission. A candidate to People's Deputies at any time before election may withdraw his candidature by addressing to corresponding electoral commission with such application.

Electoral commission, having registered a candidate to People's Deputies, notifies the Central Electoral Commission on Elections and Referenda, election district population, organs of political parties, representative structures of power, labour bodies, which have nominated the candidate to People's Deputies, about abolition of resolution about nomination of a candidate to deputies or withdrawal by a candidate of his candidature.

ARTICLE 26. ORDER OF NOMINATION OF CANDIDATES TO PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN INSTEAD OF THOSE QUITTED

In case if a candidate to People's Deputies of the Republic of Tajikistan quits after termination of a candidate to deputies registration term and no other candidates left in electoral district, district electoral commission addresses to organs of political parties, representative structures of power, labour bodies, with the proposal to nominate new candidates to People's Deputies. When a candidate to deputies quits less than fifteen days before election, election of a deputy from corresponding electoral district is conducted within a two months term after general elections.

Nomination of candidates to People's Deputies instead of those quitted is made in order, determined by the present Law.

ARTICLE 27. BALLOT PAPER

Ballot paper includes in alphabetic order all of registered candidates to People's Deputies of the Republic of Tajikistan indicating surname, first name, patronymic, post (employment), place of office and residence as well as the organs which have nominated the candidates to People's Deputies.

Ballot papers are published in state language and in language, which is used by the majority of population of the electoral district.

District electoral commissions shall deliver ballot papers to constituent electoral commissions not later than three days before elections. The issue and receiving of ballot papers are confirmed by the signatures of the chairman, deputy chairman or secretary of the corresponding district and polling station commission.

The premises where the ballot papers are stored shall be sealed and

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given over for guard by the organs of internal affairs.

Y. GUARANTEES FOR ACTIVITIES OF CANDIDATES TO PEOPLES DEPUTIES IN MAJLISI OLI.

ARTICLE 28. CANDIDATE TO PEOPLE'S DEPUTIES' RIGHT TO PARTICIPATE IN PRE-ELECTION CAMPAIGN

Candidates to People's Deputies since the moment of their registration take part in pre-election campaign on equal terms, have the right to take floor at pre-electoral and other meetings, sessions, conferences, in press, on television, radio.

State and public bodies, heads of enterprises, institutions, organs of social independent activity of population are obliged to render assistance to candidate to People's Deputies in arranging meetings with electors, in receiving necessary inquiry and informational materials.

ARTICLE 29. PRE-ELECTORAL PROGRAMME OF CANDIDATES TO PEOPLE'S DEPUTIES

A candidate to People's Deputies may take floor with programme of his future activity. The programme of a candidate to People's Deputies is not to contradict the Constitution and Laws of the Republic of Tajikistan. A candidate to People's Deputies in case of his election is responsible to electors for accomplishment of his pre-electoral programme.

ARTICLE 30. TRUSTEES OF THE CANDIDATE TO PEOPLE'S DEPUTIES

A candidate to People's Deputies may have up to five trustees, who assist him in conducting the electoral campaign, carry on agitation for electing him deputy, represent his interests in relations with state and public bodies, electors and also electoral commissions.

A candidate to People's Deputies determines the trustees using his own discretion and reports on them for registration to district electoral commission. The district electoral commission registers the trustees after registering candidates to People's Deputies and hands them certificates. Trustees can not be members of the relevant electoral commissions.

Trustees on request of candidate to People's Deputies may be released from accomplishing productional or official functions with preservation of average salary at the expense of means, allotted for conducting elections.

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Authorities of a trustee may be ceased at any time before elections by his application or proposal of a candidate to deputies, which is reported to the electoral commission.

ARTICLE 31. PRE-ELECTION AGITATION

Political parties, representative structures of power, labour bodies, which have nominated candidates to People's Deputies, their trustees, initiative groups enjoy the right of free agitation for their candidates; they are provided with equipped premises for meetings, mass media for carrying out pre-election agitation by electoral commissions.

Citizens of the Republic of Tajikistan, political parties, labour bodies are guaranteed possibility of free and all-sided discussion of political, business and personal qualities of candidates, and also the right of agitation for or against candidates at meetings, in press, over TV and radio.

Candidates to People's Deputies of the Republic of Tajikistan conduct meetings with their electors as at gatherings so in other convenient for electors form. Meetings of electors are organized by electoral commissions together with corresponding local executive authorities, labour bodies and organs of public associations.

Time and place of conducting meetings and gatherings are reported to electors not later than three days before their conducting.

Agitation on the day of election is not allowed.

Pre-election campaign is to be conducted in a framework of businesslike constructive discussion, excluding facts of disrespectful attitude to one or another candidate to deputies.

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ARTICLE 32. RELEASE OF CANDIDATE TO PEOPLE'S DEPUTIES FROM PRODUCTIONAL AND OFFICIAL FUNCTIONS FOR PARTICIPATION IN PRE-ELECTION CAMPAIGN.

Candidate to People's Deputies after registration is released from accomplishing productional or official functions with preservation of average salary at the expense of means, allotted for conducting election during time of conducting meetings with electors, speeches at pre-election gatherings, rallies, on TV and radio.

ARTICLE 33. THE RIGHT OF CANDIDATE TO PEOPLE'S DEPUTIES TO FREE TRAVEL.

Candidate to People's Deputies after registration has the right to free travel by all types of passenger transport (except taxi) within corresponding electoral district. Candidate to People's Deputies, residing out of the electoral district, exercises the same right to travel to electoral district and return to place of residence.

ARTICLE 34. IMMUNITY OF CANDIDATE TO PEOPLE'S DEPUTIES.

Candidate to People's Deputies can not be instituted criminal proceedings against, arrested or incurred to measures of administrative penalties, imposed in legal form, without of consent of the Central Commission on Elections and referenda.

VI. VOTING LISTS.

ARTICLE 35. VOTING LIST AND SUCCESSION OF ITS PREPARATION.

Voting list for election of People's Deputies to Majlisi Oli is prepared by each electoral district and signed by chairman and secretary of district electoral commission. The electoral commission can draw representatives of the public to participate in forming the voting list.

Organs of local executive authorities ensure registration of voters and hand district electoral commissions information about voters, residing on the corresponding territory, which is necessary for forming of voting lists.

Voting lists of military men, who stay in military units as well as members of their families and other voters, residing in military units, are made on the basis of data prepared by commander of military units. Military men who reside outside their military units are included into the lists according to the place of residence in accordance with the general practice.

Lists of voters on the polling-districts at the Representations of the Republic of Tajikistan in foreign countries, sanatoriums and resting-houses, hospitals and in other in-patient departments are made on the basis of data, prepared by the heads of above-mentioned institutions.

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Voters' surnames are pointed out voting lists in the order convenient for the organization of elections.

ARTICLE 36. ORDER OF INCLUDING CITIZENS TO THE LIST OF VOTERS.

To the list of voters should be included all citizens of the Republic of Tajikistan who had come of age 18 years old to the election's day and residing permanently or temporarily at the time of making a list on the territory of the given polling-district and who have a right to vote.

A voter can be included to the list of voters only in one polling-district.

Voters, residing on the territory of the given polling-district and for any reason missing in the list, can be included to the list by the decision of the district electoral commission.

ARTICLE 37. INFORMATION OF CITIZENS WITH THE VOTERS' LISTS AND THE RIGHT FOR APPEAL OF THE INACCURACIES IN A VOTERS' LIST.

Lists of voters should be presented with the purpose to acquaint all voters 15 days before the elections and in the polling-districts, formed in the Representations of the Republic of Tajikistan in foreign states, sanatoriums and resting houses, hospitals and other in-patient departments, in remote and hard to reach populated areas, - 2 days before the elections.

Citizens are provided with the opportunity to acquaint with the voters' list and check whether it is correct or not at the premises of the district electoral commission.

Every citizen is presented with the right to protest against the exclusion, wrong inclusion or missing in the list and inaccuracies in indication of data about a voter. Statement on errors and inaccuracies in the list should be considered by the district electoral commission and the commission is obliged not later than in two-days term, and the day before and the elections' day - to consider the statement at once, to insert necessary corrections into the list or to hand to the applicant a copy of a reasonable decision on refusal of his application. The decision of the election commission can be appealed in the court in established order. The decision of the district (city) People's court is final. In accordance with the decision of the court the corrections in the list of voters are made by the district electoral commission.

ARTICLE 38. ENSURING SUFFRAGE OF CITIZENS ON CHANGE OF RESIDENCE.

In the period after presenting the list of voters and until the elections' day a voter who has no possibility to be at his residence at the elections' day (departure to business-trip, being on treatment in the hospital and other similar reasons) has the right by presentation of his passport or another document,

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certifying himself, to demand a voting list at the district electoral commission, to come to a decision, regarding candidate of People's Deputies, and to pass to the district electoral commission sealed to the envelope voters' list. District electoral commission should make a corresponding note about it indicating a date. A stamp should be put on a sealed envelope in a voter's presence. The district electoral commission is responsible for the safe-keeping of the envelope. The Central commission on elections and referenda should make up a form of the voter's list.

VII. RULES OF VOTING & ROUND OFF THE ELECTIONS.

ARTICLE 39. TIME AND PLACE OF VOTING.

During the election of People's Deputies of the Republic of Tajikistan voting is conducted at the election's day from 6 a.m. till 8 p.m. local time. Concerning time and place of voting the district electoral commission informs voters not later than 10 days before the elections.

At the polling-stations, formed at the Representations of the Republic of Tajikistan in foreign states, sanatoriums, resting houses, hospitals and other in-patient departments, remote and hard to reach populated areas, the District electoral commission can declare a voting completed any time, if all voters, included into the list, had voted.

ARTICLE 40. ARRANGEMENT OF VOTING.

Voting is carrying out in special premises, where enough polling-booths or rooms for secret voting should be equiped, determined places of issue of ballot-papers and election boxes are installed. Election boxes are installed so that electors could pass through polling-booths or rooms for secret voting.

The district electoral commission is responsible for arrangement of voting, guarantee the secrecy of electors' will-expression, equipping of premises and maintenance of necessary order in it.

In the election's day before the beginning of voting election boxes are checked and sealed up by chairman of the district electoral commission in presence of all members of the commission as well as with participation of representatives/observers/candidates to People's Deputies, mass media, international observers.

Each elector votes personally; voting for other persons is not allowed. Ballot-papers are issued by corresponding electoral commission on the base of the electors' list of polling-district on presentation of passport or another document. Each voter should sign for receiving a ballot-paper just opposite his name in the voters' list.

ARTICLE 41. RULES OF VOTING.

Ballot-paper should be filled in by a voter in a polling-booth

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or in a room for a secret voting. While filling in the ballot-paper the presence of other persons (except the voter himself) is prohibited. Elector, unable to fill in ballot-papers independantly, has the right to invite to the polling-booth any other person using his own discretion, except persons who are members of the electoral commission.

A voter crosses out in a ballot paper surnames of candidates whom he votes against.

A voter puts a ballot-paper, which was filled in, to the election box.

In cases, when some of the voters are unable to vote in the premises for voting, at their request some of the members of the district electoral commission are charged with the task to organize voting at these voters' residence and in the list of voters should be done a note.

Voters, who hadn't been included to the voters' list for any reason, can be included to the annex of the voters' list on the base of a document, identifying him and his residence.

ARTICLE 42. COUNTING OF THE VOTES AT THE POLLING-DISTRICT.

After termination of voting and before opening of the election boxes sealed envelopes with voters' lists are put into the boxes in presence of all members of the electoral commission.

Before opening of the election boxes all unused ballot-papers are counted and liquidated by district electoral commission.

Election boxes are opened by district electoral commission in presence of all members after announcing by Chairman of commission termination of voting. Opening of election boxes before termination of voting is prohibited.

District electoral commission ascertains by a list of electors the total amount of electors at the polling-station and also a number of electors, having received ballot-papers.

Counting of the votes at the polling-district is carried out by the district electoral commission for each deputies' candidate separately. On the base of ballot-papers and voters' lists from election-boxes commission ascertains:

- total number of electors, having taken part in voting;
- a number of votes "for" and "against" each deputy's candidate;
- a number of ballot-papers, acknowledged invalid.

Votes are not counted according to surnames of citizens, additionally inserted by electors into ballot-papers and voters' lists.

Ballot-papers and voters' lists of unstated model and also ballot papers and lists containing more than one candidate are acknowledged invalid. Ballot-papers with all surnames of all candidates being crossed are considered invalid. Votes in this ballot-papers are considered as given "against" each candidate. If there is doubt in validity of a ballot-paper or a list the question can be solved by district electoral commission by means of voting.

The results of counting of votes are considered at the meeting of the district election commission and are put down on the

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protocol, which is signed by chairman, deputy chairman, secretary and members of the commission and are send to the corresponding district election commission in accordance with the rules established by the Central commission on elections and referenda.

ARTICLE 43. ASCERTAINMENT OF ELECTIONS' RESULTS BY ELECTORAL DISTRICT.

On the base of protocols of polling-district commission the district election commission determines:

- total number of voters in district;
- a number of voters who received ballot-papers and lists;
- a number of voters who did vote;
- a number of votes " for" and " against" each deputy's candidate;
- a number of ballot-papers and lists recognized invalid.

People's Deputies candidate of the Republic of Tajikistan who received more than half of votes at the elections is considered to be elected.

Elections are considered as not valid if less than half of the voters enrollment took part in it and in view of departure of all registered candidates as well.

Election's results in electoral district are ascertained at the meeting of district electoral commission and put down into protocol. Protocol is signed by chairman, deputy chairman, secretary and members of the commission and should be send to the Central commission on elections and referenda in a determined order.

Information on the election's results is published in press by corresponding district election commission within terms, determined by the Central commission on elections and referenda. In the report should be indicated a total number of citizens included to the voters' lists, a number of voters having participated in voting, a number of votes " for" and " against" each deputy's candidate, a number of invalid ballot-papers and lists, surname, first name, patronymic, party-membership, post title, place of office and residence of the elected deputy.

VIII. ORDER OF SUMMING UP & PUBLICATION OF RESULTS OF THE ELECTIONS OF THE PEOPLE'S DEPUTIES TO THE MAJLISI OLI.

ARTICLE 44. REGISTRATION OF PEOPLE'S DEPUTIES TO THE MAJLISI OLI.

Central commission on elections and referenda of the Republic of Tajikistan on the base of protocols of district electoral commissions registers the elected People's Deputies to the Majlisi Oli and informs Deputies about it.

Central commission on elections and referenda can consider the elections invalid and deprive People's Deputy of registration, if in the election procedure or during either poll of votes or

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ascertaining election's results, infringements of the present Law took place. Decision on consideration the elections invalid can be appealed to the Supreme Court of the Republic of Tajikistan within 10 days of the election's day.

In case, when the elections on some polling-stations by the decision of the Central commission on elections and referenda, are considered to be invalid, voting results on such polling-stations should be excluded from common elections' results, on condition that without these results the elections can be considered to be held in general.

Persons, having been elected the People's Deputies to the Majlisi Oli and specified in part 2 of the article 23 of the present Law, are bound to inform in written form the Central commission on elections and referenda on release of his duties, which are incompatible with the status of the People's Deputy of the Republic of Tajikistan.

ARTICLE 45. PUBLICATION OF RESULTS OF PEOPLE'S DEPUTIES' ELECTION TO THE MAJLISI OLI.

Information on election's results on the whole throughout the Republic and list of elected People's Deputies to the Majlisi Oli should be published by the Central commission on elections and referenda in press not later than within 10 days' term, in alphabetical order, indicating surname, first name, patronymic, date of birth, party-membership, post title, place of office and residence of a Deputy, numbers and names of polling-district.

ARTICLE 46. CERTIFICATE & BREASTPLATE OF THE PEOPLE'S DEPUTY OF THE REPUBLIC OF TAJIKISTAN.

District election commission hands each elected deputy certificate of his election after publication of the list of People's Deputies of the Republic of Tajikistan, registered by Central commission on elections and referenda in press.

After confirmation by Majlisi Oli of the Republic of Tajikistan the elected Deputies' authorities, previously handed certificates of their election are substituted for a certificate of the People's Deputy of the Republic of Tajikistan. Deputy is also handed breastplate "Vakili khalky Jumkhuri Tojikiston" ("People's Deputy of the Republic of Tajikistan").

IX. RE-VOTING, RECURRING ELECTION AND ELECTION OF PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN INSTEAD OF THOSE QUITTED.

ARTICLE 47. RE-VOTING.

If there were more than two candidates to People's Deputies and none of them was elected, district election commission takes resolution of conducting at district re-voting on two candidates to deputies, who received more votes than others. District election commission reports to Central commission on elections and referenda of this resolution and informs district electors. Re-voting at

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election district is conducted not later than within a fortnight's time with observation of the present Law's demands at the same constituency and on the same electors' lists.

Candidate to People's Deputy of the Republic of Tajikistan, who receives at re-voting majority of votes, is considered elected on condition that more than half of voters participated in the elections.

If one of candidates quits on any reason at re-voting, voting is conducted on one candidate. Thus, candidate to deputy needs to receive more than half of votes of all voting electors who participated in elections.

During re-voting district election commission may announce voting finished at any time, if all electors, included to the list, voted.

ARTICLE 48. RECURRING ELECTION.

If there were no more than two candidates to People's Deputies of the Republic of Tajikistan at election district and none of them was elected, or election was acknowledged not taken place or invalid, or re-voting couldn't ascertain elected deputy, Central commission on elections and referenda orders district election commission to conduct recurring election in election district. For this it may make resolution of necessity to conduct polls by district and constituent election commission in a new membership. Voting is conducted at the same election constituencies and on electors' lists, made for conducting of general election.

A person, nominated and registered as a candidate to People's Deputies to Majlisi Oli of the Republic of Tajikistan in time of conducting general elections, can't be nominated Deputies' candidate for recurring election in this district.

Recurring election is conducted not later than within two months' term after general election. Formation of election commissions, registration of candidates to deputies and other arrangements are held in the order, determined by the present Law.

ARTICLE 49. CONDUCTING ELECTION OF PEOPLE'S DEPUTIES OF THE REPUBLIC OF TAJIKISTAN INSTEAD OF THOSE QUITTED.

In case of acknowledgement by Majlisi Oli of the Republic of Tajikistan of authorities of some People's Deputies of the Republic of Tajikistan invalid, cessation of deputy's authorities ahead of time on other reasons, in corresponding electoral districts new election is conducted within a three months' term. Election is appointed by the Central commission on elections and referenda not later than two months before their conducting and arranged with demands of the present Law being observed. For this a district election commission is formed 50 days, constituent ones - a month before election, candidates' registration being finished a month before election.

In case of People's Deputies quit less than a year before expiration term of authority of the Majlisi Oli of the Republic of Tajikistan, election of new People's Deputy of the Republic of

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Tajikistan instead of quitted is not conducted.

**ARTICLE 50. RESPONSIBILITY FOR INFRINGEMENT OF LEGISLATION
ON ELECTIONS OF PEOPLE'S DEPUTIES.**

Persons, who by means of violence, deception, threat or some other means, prevent a citizen of the Republic of Tajikistan to carry out free right to elect and be elected People's Deputy, to conduct electoral propaganda, or also members of electoral commissions, officials of the state agencies and public associations, who had committed forgery of election document, counted votes known to be wrong, infringed the secrecy of voting or made other infringement of the present Law, should bear the responsibility determined by the Law. Persons, who had published or in a different way spread the information known to be false, which discredit honour and dignity of People's Deputy candidate, or who permitted insulting attitude to the members of district election commissions.

President
of the Republic of Tajikistan
E. RAKHMONOV

Dushanbe
01 December, 1994.

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SUMMARY OF MS. MUSAYEVA'S SPEECH ON
THE DRAFT LAW ON PARLIAMENTARY ELECTIONS
PRESENTED AT THE XXI SESSION
OF THE SUPREM SOVIET OF TAJIKISTAN

Rafika Musayeva, the Chairman of the Supreme Soviet Committee on State Structure, began her presentation of the Draft Law on the Elections to Majlisi Oli (Parliament) by saying that this document is called upon to solve the most immediate tasks of constitutional reforms, to form a new, higher-quality and a better representative organ of authority of the country, its parliament and through it, to lay the real organizational foundations for the further development of a legal democratic government, to achieve peace and consensus in the country.

The Committee on State Structure, Legislation and Human Rights last May was given the task of preparing a draft law on parliamentary elections by the Supreme Soviet of Tajikistan. Referring to the "input" of the CSCE in the preparation of the said draft law, Ms. Musayeva especially emphasised the responsibility with which they studied the proposals and the observations presented by CSCE Mission and at the same time, she thanked the Bureau of Democratic Institutions and Human Rights of the CSCE, its experts and the Head of the CSCE Mission in Dushanbe for their "honest desire to contribute to the development of democratic processes" in Tajikistan.

She went on to add that "in general, most of these proposals and observations presented by the CSCE Mission in their analysis of the draft law were taken into consideration. In part, the draft law takes into consideration the proposals of the CSCE Mission with regard to creating conditions for public control over the activities of electoral commissions; ensuring their independence; their pay structures; conducting elections based on the location of electoral districts (therefore, military electoral districts are already excluded); expanding political parties' opportunities to participate in the elections; ensuring real control by political parties, the mass media, election candidates and their entrusted staff over the conduct of every stage of the elections and in counting of results; giving all opportunities to candidates during the pre-election campaign and in counting the votes, including the opportunity to present to the Supreme Court violations of conditions and the order of elections and the defence of candidates' rights. All these amendments have allowed us to orientate the Draft Law towards fulfilling the requirements of international-legal theory of voters' rights."

Ms. Musayeva noted that the Draft Law consists of 9 parts. The first part outlines the essence of the main principles of parliamentary elections: universal, equal and direct voter's right, secret ballot, transparency of preparation and the conduct of elections. The Law establishes that representatives of political parties, organs of power and labour collectives who have nominated candidates, their entrusted staff

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and representatives of the mass media can be present in electoral districts at every stage of the elections. With the permission of the Chairman of the Electoral Commission, they can put forward questions and demand explanations, draw the attention of the members of the commission to election violations. The second part of the Law deals with the formation of electoral zones and districts. The third part deals with the activities of electoral commissions. The fourth part outlines the right of political parties, Majlisi people's deputies and labour collectives to nominate candidates. "In order to have the maximum possible rugulating of the nomination procedures and to avoid coalitional situations, the Lw establishes the opportunity to nominate Tajik citizens through labour colletives."

According to Ms. Musayeva, the Law introduces such guarantees as a preliminary familiarization of voters' lists by the public and the right of the voters to request corrections and changes to the lists. Parts 7, 8 and 9 of the Law deal with democratic mechanism of voting, counting of votes, publication of election results, the conduct of repeat votes, second round voting and the replacoment of doputioc. Ms. Musayeva added that "it is worth to note that these parts of the Law combine everything that is positive in world practice and with our national experience in conducting elections. Dear Deputies, you have in your hands a document that is logically structured, generalized, based on the brief but sufficiently lived-through practice of governing from a creative perepective and which has taken into consideration the true state of the current social-political situation in our country."