

## BGI Law Brief

July-August 2023

### Government adopts the Rules on Reporting and Registration of Labor Migrants

On 8 August 2023, the Government (the “GoG”) issued Resolution N291 on the Approval of the Procedure for Submitting a Report on the Activities Carried Out in the Field of Labor Migration by a Certified Intermediary Company and of the Procedure for Registering a Labor Immigrant Employed by a Local Employer in Georgia in the Unified Database of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia (“MOH”) (“**Resolution N291**”).

Under the Resolution N291, the labor emigrants, as well as the labor immigrants are subject to mandatory reporting to the MOH, via the designated portal: [labourmigration.moh.gov.ge](http://labourmigration.moh.gov.ge). Notably, the local employers have the reporting obligation in case of labor immigrants, while in case of labor emigrants, this obligation vests with the relevant intermediary companies.

The Resolution N291 lists the details subject to reporting.

With respect to the labor immigrants, the following information shall be reported: the employer details, the reporting person’s personal data, the employee’s name, personal number and passport information, also, Georgian personal number (if available), date of birth, gender, citizenship, country of origin, position held by the labor immigrant and the qualification requirements specified for such position, profession and experience/qualification of the employed labor immigrant, as well as the contract information.

The Resolution N291 entered into force on 1 September 2023.

### Parliament adopts the Law on Voluntary Private Pension

On 28 June 2023, the Parliament adopted the Law on Voluntary Private Pension (the “VPP Law”), which shall substitute the existing 1998 Law on the Provision of Non-state Pensions and Non-state Pensions Insurance. The VPP Law is based on the EU Directive 2016/2341 on the Activities and Supervision of Institutions for Occupational

Retirement Provision dated 14 December 2016. The VPP Law is applicable to the following:

1. A pension company based in Georgia, which is licensed by a supervisory authority in accordance with the law and established as an independent company by an employer, employers' union, employees' union or a professional organization;
2. Georgia-based asset management companies and insurers that carry out activities related to voluntary private pension;
3. Pension schemes registered by pension companies, asset management companies and insurers based in Georgia, as well as foreign pension schemes offered in Georgia, in compliance with the VPP Law;
4. To other individuals and legal persons involved in activities related to investment, management, storage, administration, accounting and registration of pension schemes and the assets of pension companies.

The VPP Law shall become fully effective as of 1 January 2025.

### New Law on Radiation Protection, Nuclear Safety and Security

On 16 June 2023, Parliament adopted the Law on Radiation Protection, Nuclear Safety and Security, which is a revised version of the existing Law on Nuclear and Radiation Safety. The new bill was passed as a result of the 2017 assessment of the existing law conducted by the GoG together with the International Atomic Energy Agency (the “IAEA”), which established that only 40% of the contents under the existing law was in compliance with the IAEA standards, with the 40% being partially compliant and the 20% absolutely non-compliant.

The new law introduces, *inter alia*, the differentiated approach, which implies that instead of licensing, the nuclear and radiation activities associated with less risk of radiation, shall be subject to a simplified regulatory system – registration. Further, under the new law, persons applying for the nuclear and radiation activity license for the purpose of operating a nuclear and radiation facility have an obligation to ensure the availability of appropriate financial resources necessary to cover the costs of safe

decommissioning of the facility, including the management costs of the generated radioactive waste.

Most parts of the new law become effective in October 2023 (fully entering into force from January 2026).

### **New Law on Water Resources Management**

On 30 June 2023, the Parliament adopted the Law on Water Resources Management, which shall eventually substitute the 1997 Law on Water. The new law was adopted in accordance with the following EU acts:

- Water Framework Directive 2000/60/EC dated 23 October 2000;
- Flood Risks Assessment and Management Directive 2007/60/EC dated 23 October 2007;
- Urban Wastewater Treatment Directive 91/271/EEC dated 21 May 1991;
- Directive 98/83/EC on the Quality of Water Intended for Human Consumption dated 3 November 1998;
- Directive 91/676/EEC on the Protection of Waters Against Pollution Caused by Nitrates from Agricultural Sources dated 12 December 1991.

The new law provides for the integrated management of the water resources, the primary principles of which are: a) complex protection and sustainable use of water resources at national, regional and local levels, by way of cooperation with water users; and b) regulation of water resources by means of the river basin management mechanism.

Under the new law, any surface water bodies, underground water, and coastal waters shall be assigned to a specific river basin or basin area and shall be managed in accordance with the management plan approved by the GoG. The management plan shall be approved by the GoG for a period of 6 years and shall be subject to revision every 6 years. Additionally, every 6 years, the National Environmental Agency shall carry out a preliminary flood risk assessment for all river basins and identify areas where there is a potential significant flood risk.

The law provides for the list of various acts to be adopted by the relevant bodies to complete the required regulatory framework.

While the law is formally in force, all the operative provisions of the law shall take effect from 1 September 2026 (at which point the 1997 Law on Water shall be repealed) and shall become fully effective on 1 January 2030.

### **Amendments to the Law on Copyright**

On 3 July 2023, the Parliament adopted amendments to the Law on Copyright and Related Rights. The amendments were initiated as a result of the USAID Report dated 17 October 2022, which outlined various flaws in the existing version of the law. The key issue covered by the amendments is the collective management system of copyright and related rights. In particular, the amendment aims at:

- eliminating the ambiguity related to the creation of a collective management organizations (“**Organizations**”);
- resolving the issue related to the subject of how many Organizations shall exist;
- defining clear and explicit criteria for the accreditation of Organizations;
- ensuring the transparency of the activities of the Organizations;
- determining the rights and obligations of the holders and users of the copyright and related rights in the rights management process, as well as the rights and obligations of the Organizations.

In this respect, Chapter X (Articles 63 et seqq.) was substantially amended, introducing the new regulations with respect accreditation of the Organizations, transparency of their activities, implementation of state control, the principles of fair distribution of royalties and establishment of the related rates. One of the key principles introduced under the amendments is that each right or category of rights should be managed by one Organization only.

The amendments are effective from 1 September 2023.

### **Tightening the Rules of Control of Medical and Pharmaceutical Activities**

On 31 July 2023, the GoG issued the Resolution N278 on the Approval of the Procedure, Rules and Conditions for the Implementation of Control in the Field of Medical and Pharmaceutical Activities (“**Resolution N278**”). Under this Resolution, LEPL Agency for Regulation of Medical and Pharmaceutical Activities (“**Agency**”) under the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs shall be authorized to:

- Enter the premises of the persons subject to state control (medical and/or pharmaceutical institutions and/or independent medical practitioners and/or other medical personnel)

at any time of the day or night without prior notification;

- Demand inspection, securing, sealing and/or seizing of any materials, items, substances, documents, as well as the premises or any part thereof, as may be reasonably necessary for the implementation of the control;
- Measure, photograph, videotape, make records, extracts, request copies of the documents;
- Issue an electronic administrative fine;
- Issue an enforcement writ in accordance with the Law on Enforcement Proceedings;
- Use the assistance of the relevant interpreter, and/or expert/specialist;
- Implement other measures stipulated by the legislation of Georgia.

The Agency shall operate by the principles of protection of the rights of the persons subject to control, as well as the stakeholders, the principles of transparency, good faith, preference of prevention in the process of exposing violations and cooperation with the respective government bodies and other entities/persons. The related changes have also been reflected in the Code of Administrative Offenses and the Law on Healthcare.

Resolution N278 is in force as of 1 August 2023.

### **NBG adopts the Guidelines for the Use of Cloud Outsourcing Services by Financial Organizations**

On 1 August 2023, the President of the National Bank (the “NBG”) issued the Order N195/04 on the Approval of the Guidelines for the Use of Cloud Outsourcing Services by Financial Organizations (the “**Guidelines**”). The purpose of the Guidelines is to assist financial organizations in identifying, managing, and monitoring the risks and challenges associated with cloud outsourcing services, including making outsourcing decisions, selecting cloud service providers, monitoring cloud outsourcing activities, and implementing a strategy of withdrawal from the outsourcing services. The requirements provided for in the Guidelines are applicable to all commercial banks and microbanks operating in Georgia, willing to use or already using the outsourcing services. Under the Guidelines, the cloud outsourcing service strategy of the financial organization should be in line with the financial organization's business strategy, internal policies, procedures and processes, *inter alia*, with regards to information technology, information security and operational risks. The Guidelines set out, *inter alia*, the contents to be covered in the outsourcing contract. Further, the Guidelines establish that the financial organizations are obliged

to notify the NBG about the planned cloud outsourcing service of a critical and/or important function of the financial organization. The notification shall be made within a reasonable time, but not less than 14 calendar days prior to the planned outsourcing.

The Guidelines are in force as of 2 August 2023.

### **Microbanks’ Cyber Security Management Framework adopted by the NBG**

On 30 June 2023, the President of the NBG issued the Order N165/04 on the Approval of the Cyber Security Management Framework of Microbanks (the “**Order N165/04**”). Under the Order N165/04, every microbank shall maintain the cyber security management framework, which shall cover the following primary aspects:

- Risk identification;
- Protection
- Discovery
- Response
- Recovery

Annexed to the Order N165/04 is the Guide for the Audit of Information Systems and Cybersecurity Management Framework in Microbanks. Microbanks have the obligation to annually conduct the audit of the information systems and cybersecurity management framework. Microbanks are obliged to ensure that the audit is carried out by an audit team that is operationally independent from the microbank and has the relevant methodology, with respect to which the NBG shall be notified in advance. No later than 1 month after completion of the audit, the audit report, as well as the action plan shall be submitted to the NBG, which is authorized to request additional documentation as well.

Order N165/04 is in force as of 4 July 2023.

### **NBG adopts Procedures for the Dispute Resolution Committee**

On 26 July 2023, the Council of the NGB issued the Resolution N2 on the Approval of the Procedure for the Activity of the Dispute Resolution Committee of NBG (“**Resolution N2**”). The Resolution N2 determines the procedures for consideration and resolution of complaints by the Dispute Resolution Committee of the NBG (“**Committee**”), as well as other issues related to the Committee’s activities. The committee is an independent body under the NBG, which, considers the disputes arising from the legal relationships between the payment service providers and customers, as regulated by the Law on the NBG,

the Law on Payment System and Payment Services, as well as the subordinate normative acts adopted on their basis. The Committee is competent to consider disputes not exceeding GEL 50,000, or its equivalent in the foreign currency (otherwise, the dispute has to be submitted to the courts). The Resolution N2 sets out the requirements with regards to the application, the respective timeframes, the right of the Committee to request additional information, to schedule an oral hearing, to suspend the proceedings, *etc.*

Resolution N2 is in force as of 1 August 2023.

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*For questions or inquiries please contact:*

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