

BGI Law Brief

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Implementation of the Electricity Market Model Concept Postponed for Another Year

On 29 June 2023, the Government issued the Resolution No. 239 on the Amendment of the Concept of the Electricity Market Model (originally adopted on 16 April 2020). Most importantly, under the current amendment, the implementation of the day-ahead and intraday energy markets in Georgia has been postponed till 1 July 2024.

New Law on Personal Data Protection Adopted

On 14 June 2023, the Parliament adopted the new Law on Personal Data Protection. The law was adopted for the purpose of further harmonization of the existing regulation with the EU standards. The new law regulates the processing of personal data by automatic, semi-automatic and non-automatic means.

The new law, *inter alia*, introduces restrictions with respect to direct marketing thus protecting the interests of the consumer. Also, renewed regulations are introduced for the usage of video surveillance and audio recording. Furthermore, the new law introduces the concept of a Personal Data Protection Officer. More precisely, it establishes that public institutions (except for religious and political organizations), insurance companies, commercial banks, microfinance organizations, credit bureaus, electronic communication companies, airlines, medical institutions, also persons processing the data of a large number of individuals or carrying out systematic and large-scale monitoring of their behavior, are obliged to appoint or designate a personal data protection officer – a person responsible for the management of personal data protection issues. The law also provides for the administrative fines for the violation of its provisions.

The new law shall gradually enter into force from 1 March 2024 through 1 January 2025.

Amendment to the Civil Procedure Code

On 30 June 2023, the Parliament adopted amendments to the Civil Procedure Code (the “CPC”), removing the Article 186.1.h (declared ineffective by the Constitutional Court on 3 February 2023) and adopting Articles 186.1¹ and 186.1², as well as the amended other articles related to admissibility of

claims. The removed article established that the court would not admit a claim, if it did not meet the formal requirements determined under the Article 178 of the CPC. Under the current amendment, this rule has changed. In particular, in case the formal requirements determined under Article 178 are not met, the court:

- a) shall admit the claim if the said violation is not material. The violation is not considered material, if it can be remedied by giving the plaintiff a court order that does not affect the delivery of copies of the claim and its annexes to the defendant. In this case, the court shall give specific instructions to the plaintiff to remedy the defects at the time of admitting the claim or during the preparatory stage of the proceedings. The plaintiff will have 10 days to comply with the court’s instructions; or
- b) shall issue a reasoned ruling on the refusal to admit the claim, if the said violation is material. Notably, if the plaintiff re-files the same lawsuit addressing all issues identified by the court in its refusal ruling, the court cannot deny admissibility for any ground not listed in the original ruling (unless these grounds arose after such ruling).

This amendment is effective as of 30 June 2023.

Amendments to the Organic Law of Georgia on Common Courts

On 13 June 2023, the Parliament adopted amendments to the Organic Law of Georgia on Common Courts. Under the amendments, non-redacted rulings/decisions on the public cases can be obtained from the courts in accordance with the general rules for obtaining public information. The redacted versions of the such documents shall be uploaded to the relevant website upon becoming effective.

Additionally, the amendment deals with the topic of eligibility of the candidates for the position of a judge, as well as the process of their election. The amendment, *inter alia*, establishes that should any of the members of the high council of justice be found to be prejudiced, discriminative or to have exceeded

his/her authority in the process of selection of the candidates for the position of the judge at a supreme court, all results of the interviews held for the said position with the participation of such member shall be annulled. The relevant candidates shall be reevaluated without the participation of the said member of the high council of justice.

Furthermore, under the amendment, the procedure for appointing a person to the vacant position of a district or appellate court judge was changed. In particular, it is established that the high council of justice shall appoint a person to the vacant position of a judge of the district or appellate court in the manner established for the selection of a candidate to be submitted to the parliament for election to the position of a supreme court judge.

The amendment is effective as of 27 June 2023, except for the part dealing with the access to non-redacted rulings/decisions, which shall come into force on 1 January 2024.

Law on Industrial Emissions Adopted

On 29 June 2023, the Parliament adopted the Law on Industrial Emissions. The purpose of this law is to prevent or, where prevention is practically impossible, to reduce and control the emissions into the ambient air, water and soil resulting from the industrial activities, as well as to prevent the generation of waste. The law provides for the procedure regarding the issuance of an integrated environmental permit for the implementation of pollution-causing industrial activities, the conditions for the issuance of such permit and the mechanism for the monitoring and control of the fulfillment of such conditions. Under Annex I, the law lists the activities subject to the integrated environmental permit, which, *inter alia*, includes: oil and gas processing, coal gasification or liquefaction, production and processing of metals, etc. The law provides for the documentation required for the application to obtain the integrated environmental permit. The state fee for the permit is a non-refundable GEL 5,000.

This law shall enter into force on 1 September 2026.

Law on Electronic Commerce Adopted

On 13 June 2023, the Parliament adopted the Law on Electronic Commerce. For the purposes of this law, "electronic commerce" means the provision of information society services (*i.e.*, provision of services for remuneration, at a distance, by means of electronic equipment at the individual request of a recipient of such services). The purpose of this law is the promotion of the proper functioning of the

internal market by ensuring the free movement of information society services, protection of the rights of consumers in the process of electronic commerce, determination of the rights and duties of intermediate service providers, and the protection of the latter from the imposition of general monitoring obligation. This law has a limited scope and does not apply to various activities, such as: representation and protection of the party's interests in court; matters envisaged by the Tax Code and the Customs Code; notary activities, TV and radio broadcasting services, the fields regulated by the National Bank (the "NBG"), *etc.*

The law shall fully enter into force in January 2024.

Law on Sharing of Physical Infrastructure Used for the Purposes of Telecommunication

On 31 May 2023, the Parliament adopted the Law on the Sharing of Physical Infrastructure Used for the Purposes of Telecommunication Infrastructure and Telecommunication. The purpose of this law is to facilitate the development of high-speed, broadband network infrastructure within the territory of Georgia by providing access to telecommunication infrastructure and physical infrastructure used for telecommunication purposes. The law does not apply to state networks of electronic communication and special electronic communication networks, as well as to the physical infrastructure owned and/or used by state agencies, institutions and/or legal entities under public law performing the functions and tasks of defense, as well as state, public and/or civil security, except where these entities allow authorized persons to access the said infrastructure. For the purposes of accessing and utilization of the above infrastructure, the law establishes the principles of competition, openness, accessibility, equality, non-discrimination, efficiency, transparency, and technological neutrality.

The law is partially effective from 30 June 2023 and shall fully come into force as of 1 July 2024.

Seafarers' Employment Law

On 31 May 2023, the Parliament adopted the Law on Seafarers' Employment. The law defines the rules of employment and activity of seafarers on a ship sailing under the Georgian flag engaged in commercial activities. The law also establishes the unified standards and rules for the employment of seafarers with Georgian citizenship by a person carrying out crewing activities/ship owner on a ship sailing under any flag.

The law does not apply to the ships, that are:

- a) exclusively engaged in inland navigation;
- b) sail in the shallow waters or in the zone of application of harbor rules;
- c) are engaged in fishing;
- d) are built from wood, using the traditional method;
- e) are owned by state, if not used for commercial purposes.

The law covers various topics related to the employment of seafarers, *inter alia*, the minimal age of employment, healthcare, remuneration, vacation, *etc.* The law establishes the requirement of securing the financial guarantees of shipowner's liability, which is an important remedy for the protection of seafarers' employment rights. The law envisages administrative fines for the violation of its provisions.

Operative provisions of the law shall come into force on 1 July 2024.

NBG issues the Regulation on Capital Adequacy Requirements for Microbanks

On 21 June 2023, the President of the NBG issued the Order N111/04 on Approval of the Regulation on Capital Adequacy Requirements for Microbanks (the "**Order N111/04**"). According to the Order N111/04, the regulatory capital of a microbank shall consist of the sum of the following elements:

- Tier 1 Capital (which consists of Primary Tier 1 Capital (CET1) and Additional Tier 1 Capital (AT1)); and
- Tier 2 Capital (liquidation capital).

Under the Order N111/04, the microbanks are required to comply with the following minimum capital requirements:

- Primary Tier 1 (CET1) Capital Ratio shall be higher than or equal to 4.5%;
- Tier 1 Capital Ratio shall be higher than or equal to 6%;
- Regulatory Capital Ratio shall be higher than or equal to 8%.

The Order N111/04 is effective as of 1 July 2023.

Rule on Registration, Deregistration and Regulation of the Virtual Asset Service Providers Adopted by the NBG

On 13 June 2023, the President of the NBG issued the Order N94/04 on Approval of the Rule on Registration, Deregistration and Regulation of Virtual Asset Service Providers (the "**Order N94/04**"). Under the new regulation, virtual asset service providers (the "**VASPs**") will be subject to a mandatory registration requirement. Persons seeking to apply

for registration as an VASP will have to submit to the NBG an application and the documents required for assessment of the applicant, its business model, beneficial owners and officers. The NBG will process each application for registration upon receiving the conforming application and issue the relevant decision within 60 days. The review process can be extended further by up to 60 days.

The Order N94/04 establishes operational requirements for VASPs as well as fit and proper requirements for ultimate beneficial owners and administrators of VASPs, including the requirement to seek an approval of the regulator prior to the occurrence of a change of control in an VASP. The Order N94/04 also specifies circumstances under which the registration of an VASP may be revoked by the NBG including *inter alia* the failure of an VASP to implement the requirements for combatting the money laundering and terrorist financing. Additionally, the Order N94/04 prohibits the provision of virtual asset services through an agent, as well as lending of virtual assets to individuals.

The Order N94/04 is effective as of 1 July 2023, except for certain requirements concerning the video surveillance of self-service kiosks, which shall come into force on 1 January 2024.

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For questions or inquiries please contact:

Sandro Bibilashvili, Partner
sandro.bibilashvili@bgi.ge

Luka Kodua, Junior Associate
luka.kodua@bgi.ge

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