

BGI Law Brief

October 2022

Register of ECHR Decisions Established

On 18 October 2022, the Parliament adopted amendments to the Law on International Treaties of Georgia. Under the amendment, the Ministry of Justice (“**MoJ**”) shall maintain a register of decisions/judgments of the European Court of Human Rights (“**ECHR**”) with respect to Georgia. Within 10 days after becoming effective, the MoJ shall submit the decisions/judgements of ECHR to the Legislative Herald, which shall ensure their translation and publication. The amendment entitles the Legislative Herald to translate and publish the ECHR decisions/judgements rendered with respect to other countries on its own initiative.

Parliament Adopts Amendments Concerning the Usage of ECHR Case Law and Interpretations of European Convention on Human Rights

On 18 October 2022, the Parliament adopted amendments to the following laws: 1) Law on the Constitutional Court; 2) Law on Normative Acts; 3) Law on Common Courts; 4) Law on Lawyers; 5) Civil Procedure Code; 6) Criminal Procedure Code; 7) Law on Prosecutor’s Office; 8) General Administrative Code; and 9) Administrative Offences Code.

The amendments serve a common purpose: promoting and authorizing the use of ECHR case law as well as the use of ECHR’s interpretations of the Convention for the Protection of Human Rights and Fundamental Freedoms (“**Convention**”), together with its Protocols. Under the amendments, these interpretations of the Convention are regarded as official interpretations and may be used in local judicial and administrative proceedings.

Amendments to the Law on National Bank

On 9 September 2022, the Parliament adopted amendments to the Law on the National Bank of Georgia (“**NBG**”). The amendment introduces the notion of a “virtual asset” and sets a general regulatory framework related thereto, which shall come into force on 1 January 2023. In particular, under the amendment, the term “virtual asset” means a digital expression of value, which is interchangeable and not unique, is the subject of transfer or trade in a digital form and is used to carry out investments and/or payments. Virtual asset does not include the digital representation of cash, securities, or other financial instruments. Under the amendment, a virtual asset does not constitute legal means of payment. It is prohibited to make payments with a virtual asset, except for the cases defined by a legal act of NBG, which are necessary for the implementation of virtual asset services. For the purposes of AML and CFT regulations, the amendment *inter alia* establishes the authority of the NBG to supervise the activities of the virtual asset service providers (“**VASPs**”) and to impose sanctions in cases of violations of the applicable regulations.

In this light, the amendment envisages that the NBG shall issue respective subordinate normative acts prior to 1 July 2023. Within 90 days after NBG rules on the registration of VASPs become effective, the VASPs that have been carrying out their activities prior to the enactment of such rules are obliged to submit respective registration applications to NBG. Such VASPs shall be entitled to continue their business until NBG issues a respective decision. In case of a failure to submit the application within the above stated period or in case NBG issues a decision on rejecting the registration of a VASP, the latter is obliged to discontinue its activities.

Amendments to the Law on Commercial Banks

On 9 September 2022, the Parliament adopted amendments to the Law on Commercial Bank Activities. These amendments cover the topics such as licensing requirements of commercial banks, qualification requirements of the administrators of banks and reporting obligations with respect to the transactions related to significant shares. While these issues are already regulated by previous version of this law, the new edition is much more comprehensive and envisages more thorough requirements.

Under the new edition of the law, NBG review-period of an application on acquisition of a banking license has been increased from 3 months to 6 months, and any additional questions of NBG towards the applicant shall stop the clock, until the requested information is submitted. In case of extension of the review period, NBG shall complete the assessment of a banking license application within no later than 12 months of submission of the application. Further, new legislation provides that any person or such persons acting in concert who intend to acquire, directly or indirectly, a significant holding in a commercial bank as a result of which their direct or indirect participation in the capital would exceed 10%, 20%, 30% or 50%, or otherwise obtain a significant influence or control over the bank, are required to notify NBG and file information required for “fit and proper” assessment. The review-period of the “fit and proper” application has been increased from 1 month to 60 days and may be extended further up to 90 days.

The new edition of the Law on Commercial Bank Activities is fully effective as of 1 November 2022.

Notable Amendments to the Law on Payment Systems and Payment Services

On 9 September 2022, the Parliament adopted amendments to the Law on Payment Systems and Payment Services, a major part of which comes into force on 1 November 2022, whereas other parts become effective starting from 1 January 2023, 1 August 2023, and 1 January 2025. The amendment broadens the existing purposes of the said law (i.e., the promotion of a safe, sustainable,

and effective functioning of the payment system of Georgia) by introducing the following additional legal purposes: ensuring proper implementation of payment services and protecting the rights of payment service users. The amendment sets various requirements upon the payment service providers (“PSPs”) in the process of carrying out payment services (e.g., strong authentication of a user) and establishes that all significant incidents shall be duly reported to NBG. One of the key aspects of the amendment is the requirement of PSPs to have adequate and effective procedures for receiving, reviewing, and resolving complaints of payment service users free of charge. The payment service users are also authorized to file complaints against the service providers to the dispute resolution commission under NBG. Additionally, on a case-by-case basis, NBG shall review the issue of exempting an internationally recognized PSP that is not registered as a legal entity or a branch of a legal entity in Georgia from the registration requirement. NBG shall publish the list of the PSPs authorized to operate in Georgia.

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