

BGI Law Brief

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Major Changes Affecting Gambling and Gaming Business

The Government of Georgia has initiated new gambling regulations, which, if adopted, would prohibit online gambling to approximately one million citizens of Georgia. The initiative includes inter alia:

- Prohibition of physical and online games for citizens under 25, public officials and the socially disadvantaged. According to the Minister of Finance, financial sanctions for violating this rule will be imposed onto gambling providers; however, the Minister failed to specify the means of administration of the said sanctions or monitoring of gambling providers.
- Change in the rules of online gambling taxation. The distributed profit tax system is now subject to a 10% Gross Gaming Revenue (GGR) tax. If online gambling companies currently pay the same rate and structure profit tax as is imposed on other sectors, the new model will tax 10% of the difference between amount of bets they receive and payouts they issue. Additionally, withdrawals of any amount won will be taxed at 2% income tax.
- Prohibition for placing public ads, which will include TV and outdoor advertisements. In the online space, the ban will apply only to Georgian websites, where the placement of advertisements for gambling companies will be banned. Advertising bans do not apply to sponsorships – gambling companies will still be able to sponsor football clubs, TV shows or other activities, although the appearance of their brand and logo will be restricted.
- Black-list: As a result of the change, a family member can apply for a ban on gambling for a specific person. Citizens can be included in the "black-list" on the basis of their own application as well.

- It is proposed to forbid transfers of money from one person to another using the system of a gambling provider. The prohibition will also apply to the transfer of money to the accounts of foreign gambling providers. This ban will apply to banks and payment system providers registered in Georgia. Its purpose is to prevent the use of foreign gaming systems by Georgian citizens.

Green Passports

On November 30, the Government adopted changes to the Resolution No. 322 on Rules of Isolation and Quarantine in order to activate "Green Passports" in Georgia.

Green Passports are intended to make social gatherings safer and to encourage vaccination process in the country. A person shall have a Green status if he/she is fully vaccinated with two doses of any vaccine (one dose in case of J&J) or has obtained a negative PCR test within last 72 hours or a rapid test within the past 24 hours. A person who has recovered from Covid has permanent Green status as well.

Persons without the Green status are prohibited from entering entertainment and food establishments (restaurants, cafes, cinemas, theaters, shopping malls, etc.), as well as fitness facilities.

Green Passports entered into force on December 1, 2021.

New Concept of Natural Gas Market Model

On September 2, 2021, the Government of Georgia adopted Resolution No. 447 on Approval of the Concept of Natural Gas Market Model.

The Concept serves as a guideline for functioning of the natural gas market, its structure and principles of conduct. The Concept aims to identify market segments for facilitating an effective trade and network balance, reduce dependence on the dominant

source of supply/import by facilitating market development and introducing interim measures, define the roles and functions of market participants, promote market liquidity and competitive pricing and provide a general outline of the target market model and set forth the temporary measures required to achieve it.

The Concept also introduces temporary public service obligations, which can be imposed on market participants. Public service obligation entails specific measures to be taken or actions to be carried out by market participants, determined by an administrative act of the regulator.

The Resolution entered into force on September 3, 2021.

New Double Tax Treaty with Poland

On December 1, 2021, the Parliament ratified a new Treaty on Avoidance of Double Taxation in relation to Taxes on Income and the Prevention of Tax Evasion and Avoidance.

The Treaty replaces previous treaty between Georgia and Poland on the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income and on capital executed in Warsaw on November 5, 1999.

The Treaty will apply to the profit and income tax in Georgia and corporate and personal income tax in the Republic of Poland.

Changes in Rules of Electricity Network

On October 26, 2021, Georgian National Energy and Water Supply Regulatory Commission adopted changes to the Order No. 10 on Approval of the Rules of Network (so-called Grid Code).

Order No. 10 was introduced on April 17, 2014, and covers the procedures, conditions, principles and standards for the development, management, access and safe use of the transmission network by participants and seekers (entities wishing to connect to the transmission or distribution network systems) of the electricity system.

The Rules include issues such as: feasibility and operational criteria for access and use of the transmission and distribution network, planning for its expansion and improvement, operating modes and standards of the power system, drawing up and implementing power supply and demand schedules, data exchange and data recording policies

The recent changes to the Rules specified procedures following connection to the network and prior to commissioning of electrical equipment of the applicant. Additionally, the Rules revamped conditions related to the voltage and frequency of electrical system and specified the role of the dispatch licensee.

The changes entered into force on November 3, 2021.

List of Countries with Adequate Personal Data Protection Guarantees

On October 21, 2021, the State Inspector approved Order No. 11, which sets out a new list of the countries with an adequate personal data protection guarantees. The Order implements Article 41 of the Law on Personal Data Protection, whereby the transfer of data to another country, without the permission of the State Inspector, is allowed if there are grounds for processing the data and the country provides an adequate personal data protection.

The new order entered into force on October 22, 2021, and replaced the order of 2014, which had the same subject matter of regulation, adding Japan to the list of countries with adequate protection guarantees.

Decision of Constitutional Court on Quotas

On August 21, 2021, The Constitutional Court made the decision which annulled normative content of Article 203.8 of the Election Code of Georgia.

Specifically, the Constitutional Court annulled the norm which set out that at least one person in every 3 candidates in the electoral list of municipal elections must be a man. The

decision is based on the similar case of 2020, where a provision with an identical content was declared unconstitutional. In the 2020 decision the Constitutional Court held that it is justified to encourage participation of women in representative bodies. At the same time, encouraging women's participation in the political party lists does not pose any hardships for political parties to form their lists or for voters to vote for their preferred candidates.

On the other hand, the Constitutional Court has held that identical regulation for men is unjustified as they do not receive the same treatment from the society, and they represent majority in representative bodies. Consequently, the Constitutional Court, applying the same reasoning as in the 2020 decision, declared the normative content of the disputed Article, whereby at least one person in every 3 candidates in the electoral party-lists for the municipal elections must be a man, unconstitutional and therefore, null and void.

Based on the same justification, the normative content of the first sentence of Article 203.10 was also annulled, according to which in case of early termination of authority of a male member of an assembly (local representative body) he should be substituted by the next male in the party list.

This Law Brief is for general information purposes only. It does not constitute and is not intended to be relied upon as legal advice. BGI shall not be responsible for any loss in the event this update is relied upon without seeking our professional advice first.

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