

BGI Law Brief

March 2022 – May 2022

Changes in the Law of Georgia on International Protection

On 11 May 2022, the Law on International Protection was amended. Under the amendment, in case a repeated application for international protection is rejected by the authorities, the applicant shall no longer be considered an asylum seeker and shall not be protected by the principle of non-expulsion established under Article 8 of the law. This amendment is effective as of 17 May 2022.

The amendments also introduced other changes that shall become effective from 1 January 2023. Such changes include, *inter alia*, Article 49¹, according to which the communication with foreigners or stateless persons shall be carried out by publication of the relevant notice on the website of the Ministry of Internal Affairs. Any decision made by the Ministry on the basis of this law shall be considered delivered from the day following the day of placing such decision on the Ministry's website. The information about the publication of the decision on the website shall be sent to the foreigner / stateless person in the form of a short text message in a language understandable for the latter.

Major Changes to the Environmental Assessment Code

On 17 March 2022, the parliament amended the Environmental Assessment Code (**Code**). The Code is subject to extensive and substantial changes. One of the major aspects of the amendment is that LEPL National Agency of Environmental Protection is established under the Ministry of Environment Protection and Agriculture of Georgia. The Agency is delegated with the authority to act as the key governmental body within the scope of the regulatory framework of the Code.

A New Agency Established Under the Code of Georgia on Spatial Planning, Architectural and Construction Activities

On 26 April 2022, the parliament adopted amendments to the Code on Spatial Planning, Architectural and Construction Activities (**Code**). According to the amendments, from 11 June 2022 the Ministry of Economy and Sustainable Development (**MoESD**) shall substitute the Ministry of Regional Development and Infrastructure for the purposes of the Code. The amendments also introduce a new authority, the Agency of Spatial and Urban Development (**Agency**), which is the LEPL supervised by the MoESD. The Agency shall become operational from 11 June 2022 and shall be responsible for the development of Georgia's spatial planning plan, managing the information system of spatial and urban planning, provision of development plans for the special regulation zones and areas, *etc.* The statute setting out the detailed functions of the Agency has not yet been issued by the MoESD.

New Law on the Protection of Consumer Rights

On 29 March 2022, the parliament adopted a new Law on Protection of Consumer Rights. The law is the result of legislative changes which began 10 years ago with the adoption of the Product Safety and Free Movement Code (on 8 May 2012). A major part of the new law comes into force on 1 June 2022, while the rest shall become effective on 1 November 2022.

The new law sets out the general principles for the protection of the rights of a consumer who establishes a legal relationship with a trader for the personal use of goods or services. The law covers important legal aspects, such as inadmissibility of discrimination, the obligation of provision of information, adherence to commercial warranties, validity of standard terms of contract, *etc.* The new Law envisages the institutional guarantees for the protection of consumer rights. More specifically, a consumer has the right to apply to the LEPL National Agency of Competition or to the authorized regulatory body in the relevant field. The National Agency of Competition can get actively involved in these matters – it may examine cases, identify breaches and impose fines on the breaching vendor in case of non-compliance.

Temporary measure facilitating trade with Ukraine

On 18 May 2022, the Order No. 257 of the Minister on Finance on “Approving the Instructions on the Movement and Registration of Goods on the Customs Territory of Georgia” (its annex 8) was amended. According to the amendment, for the purposes of benefitting from the free trade agreement with Ukraine (dated 9 January 1995), up until 1 September 2022 the Preferential Origin Certificates EUR 1 and CT-1 may be submitted by the declarant in the form of a signed and stamped (if any) copy – electronically or in a material form. After the expiry of the stated period, upon the request of the customs authority, the declarant is obligated to submit the originals of such certificates.

Changes related to air pollution legislation

On 16 May 2022, the government of Georgia (GoG) amended the Technical Regulation on the Inventory of Stationary Sources of Air Pollution. Most notably, it is no longer required to take inventory at the stationary pollution facility once in 5 years. These amendments might potentially create basis for more frequent inventory of the stationary sources of air pollution.

Changes in the Rules of Electronic Application to the National Bureau of Enforcement

On 15 May 2022, the Minister of Justice amended the Resolution No. 582 which had temporarily simplified rules for submitting electronic applications to the National Bureau of Enforcement (NBE). In particular, according to the amendment, application may no longer be submitted to the NBE via the electronic mailbox info@nbe.gov.ge. From the date of the amendment, the electronic applications may only be submitted via the citizen portal my.gov.ge (the unified portal for e-services).

The GoG issues Certification Rules for Alcoholic Beverages

On 26 April 2022, the GoG issued rules of certification for alcoholic beverages, ethyl alcohol of agricultural origin and distillate of agricultural origin.

According to the said Resolution, the certification is carried out by the LEPL National Wine Agency. The Resolution requires business operators to register with the said agency and submit the required samples for inspection. Based on the results of the inspection, the agency issues a certificate of conformity valid for 18 months.

Apart from the certification, the National Wine Agency has the monitoring and control authorities.

Changes to the Instruction on Public Registry

On 13 April 2022, the Minister of Justice of Georgia (MoJ) issued Order No. 817 Amending the Instruction on the Public Registry.

The amendments, *inter alia*, apply to the existing practices involving electronic procedures. In particular, from now on, the oral hearings held by the National Agency of Public Registry within the framework of administrative proceedings may be conducted with or without the means of electronic communication.

Further, the amendment requires signatures made on the documents prepared by legal persons or with their involvement to be notarized or certified by an authorized administrative body. As for the electronic documents, the requirement is that the latter be executed with qualified electronic signatures in accordance with the Law on Electronic Documents and Electronic Trust Services and/or with the qualified electronic stamp.

Per the amendment, the POAs issued by the legal persons for the purposes of registration shall be notarized or be executed with qualified electronic signatures and/or with the qualified electronic stamp.

In addition, the amendment provides for the documents qualified for the identification of the interested natural persons (including their representatives): ID card of a citizen of Georgia, passport of a citizen of Georgia, certificate of return to Georgia, residence permit of a foreigner residing in Georgia, temporary identification card, neutral ID card, neutral travel document.

According to the amendment, it is allowed to determine the identity of the interested person / representative on the basis of a vehicle driving license or an international driving license issued by the relevant authority of Georgia.

With respect to the foreign nationals and stateless persons, the passport issued by the respective country intended to be operational abroad, a residence permit or a temporary certificate of return to the homeland also qualifies as an identification document.

GoG Lifts Certain Covid-19 Restrictions

On 29 March 2022, the GoG issued Resolution N151 on the amendment of GoG Resolution N322 on Approval of the Rules of Isolation and Quarantine dated 29 March 2022.

The Resolution revoked number of Covid-19 related restrictions, *inter alia* the obligation to wear a face mask at open public spaces, leaving only the obligation to wear masks in closed public spaces. Also, according to the Resolution, citizens of Georgia are no longer required to submit a document confirming the full course of Covid vaccine or a negative result of a PCR test taken within the last 72 hours prior to crossing the border to Georgia. The foreign nationals are still required to submit either one of the said two documents.

In addition, the Resolution revoked the restrictions that applied to educational institutions, cultural and sports events, gatherings (such as weddings, funerals), meetings of members of the parties, economic activities, and their control by the Labor Inspection, etc. It also cancelled the remote operation of public institutions.

On 2 May 2022 GoG introduced further changes on this issue. Under the amendment, neither the driver nor the passengers are required to wear face masks in the Taxi.

In addition, per the amendment, wearing the face mask is only required in the following types of closed public spaces:

- 1) in an institution carrying out medical activities
- 2) in a pharmacy
- 3) in public transportation (including the subway).

Constitutional Court rules on the sale of tobacco products for the price lower than the prime cost

On 20 May 2022, the Constitutional Court issued its decision on the constitutional application of British-American Tobacco Georgia (**BAT**). BAT

had challenged the normative content of Article 5.2(i) of the Law on Tobacco Control, which prohibited the realization or placement of tobacco products, tobacco accessories and/or equipment intended for tobacco use free of charge or for the price lower than their prime cost, arguing that this was unlawful restriction of freedom of entrepreneurship. The Constitutional Court satisfied BAT's motion, thereby declaring unconstitutional such normative content of the said provision, which prohibited the sale of tobacco products by one economic agent to another agent operating on the same market at a price lower than the prime cost in the event of existence of a legitimate economic interest.

Constitutional Court decides on the Registration of Political Parties

On 21 April 2022, the Constitutional Court issued its decision on the constitutional action regarding requirements for political parties. The court declared unconstitutional a requirement for political parties to submit the list of no less than 1,000 (one thousand) members for the purposes of its registration. The court ruled that the requirement is an artificial obstacle for the multi-party system. Hence, the parties in Georgia are no longer required to reach a 1,000-member threshold, for them to be able to register in accordance with the law.

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.

For any further questions or inquiries please contact:

Sandro Bibilashvili, Partner
sandro.bibilashvili@bgi.ge

© **BGI Legal. 2022**