

BGI Special Alert

2 August 2024

Minister of Justice Adopts the Rules on Registration and Monitoring of “Foreign Agents”

On 1 August 2024, Minister of Justice adopted the Order No. 1019 on the “Approval of the Procedure for the Maintenance of the Registry of Organizations Carrying Out the Interests of a Foreign Power, Submission of a Financial Declaration and Monitoring” (“**Order**”), taking effect immediately.

The Order is a subordinate act to the malign law on the Transparency of Foreign Influence (also known as the Foreign Agents Law or the Russian Law) adopted by the Parliament of Georgia on 28 May 2024 in complete disregard of intense public backlash and against unanimous position of the international community (except Russia) as well as against the recommendation of the European Commission for Democracy through Law (the Venice Commission), by overriding the presidential veto.

The Order sets out procedures how non-commercial legal entities (NGOs) as well as all types of media outlets that are labeled by the Law as “*organizations pursuing the interests of a foreign power*”, are obliged to file with the National Agency of Public Registry written applications requesting their registration in the respective registry. Upon submission of application, the applicant shall be given access to an electronic portal, through which the entities labeled as Organizations of Foreign Influence shall electronically submit annual reports.

The Order approves 11 forms of financial declaration which must be filled out by the Organization of Foreign Influence initially by September 2024 and, subsequently, annually in the month of January (so long as the entity is registered as such). The requested information is very detailed and concerns every aspect of the organizations’ business/activities, including information about a lessor/landlord from which the Organization leases its premises or other property, as well as the information about each employee and contractor. In particular, the information subject to reporting includes: 1) income received throughout the reported year; 2) expenses incurred throughout the reported year; 3) balance sheet; 4) information about bank accounts and respective deposits; 5) information about cash register operations; 6) non-financial assets; 7) description of real estate owned; 8) description of vehicles owned; 9) description of other leased/rented movable property; 10) description of contractual liabilities; 11) information about loans/credits.

According to the Law, a person authorized¹ by the Ministry of Justice may conduct monitoring of the entities falling within the scope of the Foreign Agents Law. The Order specifies that no later than 3 business days after the commencement of monitoring, the Ministry shall send the respective Organization a written notice, containing *inter alia* a brief description of the subject and content of monitoring, as well as the request for information to determine whether an entity meets the statutory criteria for a Foreign Influence Organization. The notice must be delivered in compliance with the civil procedure rules, which means that after the second unsuccessful delivery attempt, the notice may be subject to publication, in which case it will be considered delivered after 7 days from the publication.

¹ According to the latest amendment to the Regulation of the National Agency of Public Registry, adopted on 29 July 2024, a “person authorized by the Ministry” implies the head (or the acting head) of the Financial Reporting Department. This department was created under this amendment for the purposes of implementing the Foreign Agents Law.

Any Organization of Foreign Influence “revealed” through monitoring shall be subject to mandatory registration. Violation of the Foreign Agents Law shall be considered an administrative offence and shall be subject to heavy, often prohibitive fines and penalties. The forms of an administrative offence protocol, as well as the enforcement order to be issued by the Agency are approved under the Order. The head (or the acting head) of the Financial Reporting Department shall be authorized to issue a resolution imposing the administrative liability, as well as the corresponding enforcement order.

By way of reminder, according to the Foreign Agents Law, appeal of a legal act issued on the basis of the Law and/or any of its subordinate acts, shall have no suspensive effect (in other words, the respective fines shall become payable immediately, irrespective of pending appeals).

Therefore, the authority to penalize such Organizations, as well as individuals who fail to provide the requested information, and to enforce these penalties will be within the same administrative agency, which will have the tools to quickly enforce the penalties bypassing the court scrutiny.

The adoption of the Foreign Agents Law has already had a major negative effect on Georgia, with the EU halting Georgia’s EU integration process and the US suspending USD 95 million assistance. The enactment of the Order on the day when the Foreign Agents Law went into effect will likely accelerate Georgia’s slide towards authoritarianism against the backdrop of massive anti-Western disinformation campaign conducted by the Georgian Government, as numerous pointed out by the US and EU officials.

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