

ნოდია, ურუმაშვილი და პარტნიორები NODIA, URUMASHVILI & PARTNERS

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1. Economic Constraints Associated with Covid-19

By the Ordinance № 322 of May 23, 2020 of the Government of Georgia and its amendments up till this date, following activities have remained restricted throughout the whole territory of Georgia:

- To ensure continuous stay of the population at the place of residence, movement of persons, as well as, public space utilization, is prohibited from 09:00 PM till 05:00 AM;
- Gathering of more than 10 natural persons as part of social events (e.g., wedding parties, any kind of anniversaries, funeral repasts, etc.) is restricted;
- While gathering in a public area wearing of face masks is obligatory.
- During the weekend following economic activities are restricted:
 - Operation of food facilities/restaurants/bars/cafes both indoors and outdoors including receiving guests.
 - Operation of food facilities/restaurants/bars/cafes on weekends is allowed only to provide delivery and product takeaway or so-called catering service.
- Food facilities/restaurants/ bars/cafes located in shopping malls can only be operated through delivery service.

Activities of hotels and similar accommodation facilities are permitted only:

a) for the purpose of providing quarantine areas;
b) on the basis of the positive opinion with regard to the compliance with the recommendations of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia as a result of inspection carried out by the Labour Conditions Inspection Department;

For pursuing activities of non-quarantine purposes, hotels and similar accommodation facilities shall obtain permit for their economic activities through registering at the following address: <https://orginspect.moh.gov.ge/#/login>.

All economic activities are generally performed taking into account the specificity of a facility, keeping at least two meters of social distance and using face masks, in accordance with the Order of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia on the Approval of Recommendations to Prevent the Spread of the Novel Coronavirus (COVID-19) at Workplaces.

2. Constitutional Court Ruling on the Authorization Procedure established by the Law of Georgia on Public Health Restricting Labor Rights

On February 11, 2021, by the decision of the Panel of the Constitutional Court of Georgia (#1/1/1505,1515,1516,1529), the normative substance of the first and second sentences of the first paragraph of Article 45³ of the Law of Georgia on Public Health granting the Government or the Ministry designated by the Government of Georgia the possibility to restrict labor rights protected by the first paragraph of Article 26 of the Constitution of Georgia has been declared unconstitutional.

The court considered the position of plaintiffs to be grounded and recognized that appealed norms violated formal requirement of the first paragraph of Article 26 of the Constitution of Georgia that stipulated that labor rights shall be regulated by the organic Law. [Decision Paragraph II, 73].

Although the constitutionality of other norms was also disputed by plaintiffs, both formal (i.e., delegating rights to the Government) and substantive, the court did not rule in plaintiffs' favor.

3. New Procedure on Recording of Working Hours

On March 1, 2021, the Order of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs of Georgia came into force that approved working hour recording form and its implementation rules.

Echoing an amendment to the Labor Code of Georgia of October 2020, employers shall in writing and/or electronically, keep a record of the hours worked by employees on daily basis and make the monthly records of the working time available to employees.

The approved form includes data on the number of hours worked by employees, information on overtime and night shifts, vacations and days off on a monthly basis.

The approved working time recording form shall, as minimum requirement, include at least the data specified in the order. The employer may record additional information in any other form provided that the minimum requirement is fulfilled.

4. Amendment to the Labor Code of Georgia

From April 1, 2021, the requirements provided by Article 50 of the Labor Code of Georgia regarding the transfer of an enterprise do not apply transfer of enterprise subject the Law of Georgia on Rehabilitation and Collective Satisfaction of Creditors.

5. Amendments related to the Residence Permit Issuance

The Parliament of Georgia is currently reviewing initiated amendments to the Law of Georgia on the Legal Status of Aliens and Stateless Persons.

As of 05.04.2021, the law has undergone third hearing.

Within the framework of the initiative:

- The circle of family members is narrowed for the purposes of obtaining a residence permit. As per the amendment, an adult child will no longer be considered as a member of a foreign family. A residence permit for family reunification purposes will be issued to family members of a foreigner who holds a residence permit and/or a person who has been granted a status of a stateless person in Georgia. Family members include a spouse,

underage child, also an underage person being fully dependent and/or being under custody (guardianship); Recipient of support or a person with disabilities, as well as a parent of underage foreigner or parent of underage holding the status of stateless person; Spouse of a Georgian citizen, an underage child, person fully dependent and/or being under their custody (guardianship); parent of a underaged citizen of Georgia.

- A residence permit in Georgia is no longer issued to a foreigner, who at the moment of submitting an application for a residence permit in Georgia, is in Georgia on the basis of deferment of commitment to leave Georgia.
- Residence permit, except for investment residence permit, special residence permit, and temporary residence permit issued to an alien who has been granted the victim status in accordance to the Law of Georgia on Prevention of Violence against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence, will no longer be issued to an alien who is in Georgia within the framework of a country visa and/or residence permit defined by a resolution of the Government of Georgia.
- The requirements for obtaining a permanent residence permit are altering. In particular, the permit is no longer issued to an adult child of a Georgian citizen. Permanent residence permit will be issued to foreigner on the basis of living and holding temporary residence permit in Georgia for 10 years (instead of 6 years).
- A short-term residence permit will be issued to a foreigner owning real estate on the territory of Georgia. Their spouse and children will also be entitled to request a short-term residence permit hereof.
- To verify the validity of grounds for obtaining a residence permit, the permit-issuing body is duly authorized to check upon the information specified in the document, carry out site-inspection and

visit, as well as question the related persons.

6. Regulatory Oversight of Amendments to Construction Sector

The package of draft laws on making changes in the legislative acts 07-3/36/10 has been submitted to the Parliament of Georgia in a form of a legislative initiative introducing changes to the Code of Spatial Planning, Urban Planning, Architectural and Construction Activities of Georgia.

The initiatives include restrictions on the operation of the building without its prior commissioning. The following shall be prohibited:

- Operation of the building, prior to the issuance of the relevant act on the commissioning of the building.
- Supply of electricity and natural gas to the building that is not commissioned.
- Notwithstanding that the draft law provides for immediate effect of described restrictions upon its adoption, these restrictions will not apply to buildings on which the construction permit was issued prior to the enactment of this law.

The draft law further lays down temporary rules for commissioning construction works which violate construction permit conditions within the administrative boundaries of Tbilisi. It includes:

- A list of violations, regardless of which it becomes viable to put the facility into operation;
- Agreement on which facilities may be subject to the temporary rule;
- The period during which the interested entity will have the right to apply to the municipality and request the commissioning of the building in accordance with the established procedure.

The draft law on amendments to the Code on Product Safety and Free Movement considers people held responsible under Article 44 and 45 of the Code on Product Safety and Free Movement within the administrative boundaries

of the city of Tbilisi to be exempt from fines/penalties, as well as liability under this law, provided that there is no case initiated against him/her for violation of construction norms or a case is initiated but the ruling has not been yet rendered. This rule shall not apply to cases of non-payment of the amount imposed for the increase of the land development intensity coefficient (k-2).

Pursuant to the draft law on amendments to the Criminal Code of Georgia, non-fulfillment of the decision to suspend construction by a person already subject to administrative penalty also becomes punishable.

7. Consultations on Fundamental Changes to the Law of Georgia on Entrepreneurs is still ongoing

On August 13, 2020, the draft Law of Georgia on Entrepreneurs was published in the Legislative Herald of Georgia. Currently the bill is under committee hearings. Positive conclusions on the bill have been issued by the Legal Committee and the Parliamentary Budget Office, while the conclusions of other required committees have not yet been issued.

It should be noted that Georgian Business Association along with the law firm “Nodia, Urumashvili and Partners” are actively involved in the consultation processes of the draft law. On March 18, 2021, Managing Partner, Lasha Nodia, and Senior Lawyer Giorgi Kekenadze voiced position to the bill on the meeting with Chairman of the Human Rights and Civil Integration Committee.

The changes are scheduled to take effect in 2021. It is noteworthy that the transitional period of 2 years is granted to bring company registration data in compliance with the requirements set by the law.

8. New Draft Code of Enforcement

The draft Code of Enforcement recently initiated in the Parliament of Georgia.

The draft Code envisages to alter important aspects of enforcement system. Among them are:

- Establishment of a Chamber of Executives, including all executives as their members;
- Rules and procedures on granting relevant information to participants of enforcement proceedings ;
- Representation in Enforcement Proceedings;
- Enforcement Agreement;
- Enforcement Mediation;
- Procedures for entering into the debtor's premises for the purpose of removing the seized movable property;
- Special rules regulating the seizure and assessment of movable and immovable property, etc.

“Nodia, Urumashvili and Partners” is actively involved in the process of draft law review. In the close cooperation with the Business Association of Georgia, managing partner Lasha Nodia and senior lawyer Maka Todua will present their position to the Parliament of Georgia on certain provisions of the draft law while taking an active role in committee discussions.

9. New Insolvency Law and Regime – Discussion Series on TV program “Business Morning”

On March 15, 2021, law firm Nodia, Urumashvili and Partners, in cooperation with Business Media Georgia (BMG) has launched series of talks on insolvency proceedings on TV program “Business Morning”. The aim of this collaboration is to introduce new Law on Rehabilitation and Collective Satisfaction of Creditors.

Managing Partner, Lasha Nodia, along with firm’s Associates, Tamta Margvelashvili and Solomon Baghashvili and their guests, once in every two weeks will open up interesting and prevailing issues in the field of insolvency, ranging from the prospects of resolving financial difficulties from the perspective of both, creditor and debtor, the peculiarities of the procedural options of bankruptcy and rehabilitation under Georgian law, the practical aspects of managing insolvency, and other related topics. The diverse guests list includes representatives of state and

private sectors, business associations, lawyers, persons involved in the practice of insolvency.

Prior to each episode public will be given an opportunity to reflect their questions, comments on announcements posted by BMG, as well as, on our company’s blogs and social networks. Nodia, Urumashvili and Partners will address them in our talks.

By way of a refresher, please note that as of April 1, 2021, a new Law on Rehabilitation and Collective Satisfaction of Creditors came into force, introducing a completely new, modernized procedures for insolvency proceedings. It is noteworthy that law will become applicable to insolvency cases initiated from April 1, 2021. The ongoing cases, commenced before April 1 before the court are still subject to the Law of Georgia on Insolvency Proceedings of 2007.



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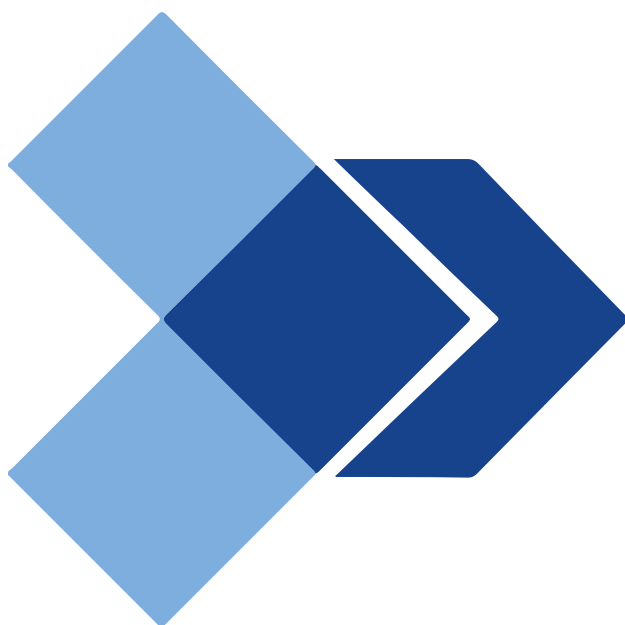
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