

BGI Law Brief

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Rules of Civil Procedure

According to the amendments of the Civil Procedure Code, commercial banks and other lending institutions may now bring lawsuits against their borrowers only in courts at the place of the borrowers' residence.

The Parliament also enacted further amendments to the Code with a view of speeding up litigation proceedings. In particular, the courts of first instance shall now be able to continue consideration of cases even if their refusal to grant an injunction is appealed to a higher court. The new rules establish that the court of appeals will receive only the copies of relevant case materials, while the originals shall remain with the court of first instance allowing the latter to continue trying the case.

Amendments to the Civil Procedure Code, dealing with infringement of exclusive rights to intellectual property, became effective on 11 January 2018. These amendments introduce special rules in respect of measures for securing evidence, the right to receive information and interim relief measures in cases of disputes regarding infringement of intellectual property. Interim measures may include: seizure of movable and/or immovable property (including bank accounts and other assets), prohibition of carrying out the infringing acts or requiring the infringers to submit a relevant guarantee.

Law on Trademarks

The amendments to the Law on Trademarks, effective 11 January 2018, broaden the rights of trademark owners. In particular, the amendments provide much more detailed rules in respect of actions that the trademark

owners can undertake and remedies that they can resort to in case of violation of their intellectual property rights. The law now entitles a trademark holder to claim either compensation of damages (including lost profits) or confiscation of revenues generated by the infringer as a result of trademark infringement for the benefit of the trademark holder, or payment of lump-sum compensation in an amount not less than a license fee which would have been payable in case of obtaining trademark license by the infringer.

Law on Activities of Commercial Banks

The Parliament has amended the Law on Activities of Commercial Banks restating and/or supplementing key definitions and provisions, such as: provisions on fit and proper declaration, establishing restrictions on ownership title, ownership structure and group structure of commercial banks, supervisory board composition, banking secrets, economic limits and norms, dealings with clients, prohibited transactions and methods, temporary administration regime and liquidation.

The amendments establish a new statutory ranking for satisfaction of claims in case of liquidation of a Georgian commercial bank. In particular, pursuant to the amendments, claims secured with financial collateral retain priority, followed by claims of the National Bank of Georgia and other creditors whose claims occur after revocation of the banking license, claims of the Agency of Deposits Insurance, and deposits of natural persons not exceeding GEL 10,000. The new ranking consists of 16 different categories of claims (notably, outstanding payments/debts in favor of the state are ranked eleventh in the list).

In addition, in case of liquidation of a bank, a liquidator is now empowered to transfer bank guarantees issued and bank accounts maintained by the bank, to other commercial banks and the National Bank of Georgia.

Law on Insolvency Proceedings

As of 1 January 2018, court orders in connection with insolvency proceedings as well as decisions made by the board of creditors, conciliation council, insolvency trustee, bankruptcy manager and rehabilitation manager and all documents related thereto must be published through an electronic system. Such electronic publication shall be considered as official publication and shall be deemed delivered to the relevant addressee upon publication.

The bankruptcy court is obligated to immediately inform a debtor on submission of an application on insolvency proceedings and on obligation of such debtor to further use electronic system in connection with pending insolvency proceedings.

However, during the transitional period the non-electronic insolvency proceedings shall remain in force (such transitional period will last at least until 1 September 2018).

Law on Insurance

Since March 2018 activities of insurers became subject to mandatory internal audit. According to the new statutory requirements, the internal auditor/audit department shall be responsible for supervision of the insurer's activities and assessment of compliance with the legislation and internal regulations, management standards and practices of an insurance company.

Compulsory Insurance of Civil Liability

The Parliament has adopted amendments to the Law of Georgia on Mandatory Insurance of Civil Liability of Foreign-owned Vehicles. Pursuant to the amendments, the owners

(drivers) of vehicles registered in a foreign country entering Georgia require mandatory third party liability insurance as of March 2018. Failure to obtain such insurance shall result in fining the owner/driver of the vehicle.

Furthermore, on 1 March 2018 the Government of Georgia adopted a Decree (No. 579) which requires owners of public areas to obtain mandatory third party insurance. The new Decree defines following as public areas: (1) shopping centers; (2) flea markets/bazaars (so-called 'bazroba'); (3) gas stations; and (4) hotels. Accordingly, owners of these public areas must now obtain third party liability insurance within the limits defined by the Decree.

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