



ნოდია, ურუმაშვილი და პარტნიორები NODIA, URUMASHVILI & PARTNERS

In This Issue:

- Constraints Associated with Covid-19 02
- New Law on Entrepreneurs is approved with the first hearing 02
- Amendments related to the Election of Members of the Supreme Court in the Organic Law of Georgia on Common Courts 03
- Reform of Anti-dumping Legislation 04
- Procedure for issuing Residence Permit in Georgia 10
- Amendments to the Law of Georgia on Citizenship 11

1. Constraints Associated with Covid-19

By the Ordinance 322 of May 23, 2020 of the Government of Georgia and its June 22, 2021 amendments of June 22, 2021 following changes are foreseen:

From June 22:

- It is no longer mandatory to wear a mask in an open public area or while walking. Wearing a mask in closed public areas is still mandatory.

From 23:00 o'clock of June 30:

- The restriction on movement is abolished. Movement will be allowed during the whole day/night period;
- Operation of the restaurants/bars/cafes, sport halls and swimming pools in the hotels and in similar facilities will be allowed for the purpose to serve the guests from 05:00 o'clock up to 00:00 o'clock, but from 00:00 o'clock up to 05:00 o'clock only room services will be applicable;
- Similarly, operation of food facilities/restaurants/bars/cafes will be allowed in the open and closed areas from 05:00 o'clock up to 00:00 o'clock, except social events, delivery service and take away of products.

Furthermore, with the amendments of June 16, 2021 to the resolution N322 'in case of passenger travels by the international air, land and sea transports, a person aged up to 10 (despite the citizenship) arriving from foreign countries is released from submitting a negative PCR test results of the last 72 hours

before visiting Georgia. Neither submission of the PCR on the 3rd day after crossing the border of Georgia is required.

According to May 31, 2021 amendments, in case of passenger travels by the international air transport, any person arriving from foreign country (despite the citizenship), by submitting the vaccination passport of any type Covid vaccine (two dose, but in the case of vaccine Johnson & Johnson - one dose), will not be subjected to restrictions specified in the resolution [not applicable to persons from India and travel history there while meeting certain conditions].

2. New Law on Entrepreneurs is approved with the first hearing at the Parliament

On February 11, 2021, by the decision of the Panel on August 13, 2020 the draft Law of Georgia on Entrepreneurs has been published on Legislative Herald of Georgia, that envisages fundamental changes to the entrepreneurial legislation. The Parliament has adopted the bill with the first hearing on May 28, 2021.

According to the [notes](#) of the Legal Committee of the Parliament, "in order to reprocess and enhance the package of amendments, certain significant changes are required". Therefore, it is expected that a revised version of amendments be presented by the Legal Committee for the second hearing.

Pursuant to the resolution of the Committee on Sectoral Economics and Economic Policy

of the Parliament, minimum capital requirement of GEL 100,000 for joint stock companies may not be reasonable and *“it is recommended to establish comparably lesser requirement for the minimum capital and in the following years, along with economic deployment, to approximate the amount with standards set by the European directive”*.

With the same resolution being aligned with the private sector representatives *“depriving a shareholder owning more than 75% shares [in joint stock companies] from taking unilateral decisions may negatively influence on the decision-making process in closed companies. Therefore, it is recommended, to reflect it in the draft law”*. The decision of the Financial and Budget Committee supports the same opinion.

It should be considered that as per the new law, within 2 years from form its effective date, entrepreneurs must bring company registration data in compliance with the requirements of the law.

Lastly, it is noteworthy that the draft law shall take effect in 2021, the exact date is not known yet.

3. Amendments related to the Election of Members of the Supreme Court in the Organic Law of Georgia on Common Courts

In light of Venice Commission remarks in its report on the Organic Law of Georgia „On Common Courts”, the amendments to the law

have been introduced that fully rearranged election process of Supreme Court Judge Candidates by the High Council of Justice. The changes apply to endorsement procedure before the Parliament of Georgia. As a result, the decision-making process becomes more transparent and public, in particular:

- Assessment results of a candidate competences and good faith criteria by a Member of High Council of Justice will become public and published on the web page of the Council. If a Member of the High Council of Justice refrains from assessing all candidates and does not submit it along with the justifications to the office of the High Council of Justice, it is considered, that a member has not participated in the assessment process of the candidates and all his/her results will be annulled.
- The rule for compilation of short-listed candidates has been changed by the High Council of Justice. In particular, the High Council of Justice will complete the list not according to the voting results, but competence and good faith ratings of candidates.
- Per amendments, a Member of High Council of Justice must justify its viewpoint on election process, regardless its support to or neglection of the candidate. The decision justification becomes public and is published at the web page of the Council.

The rules for voting by the High Council of Justice to nominate candidates to the Parliament endorsement have been changed.

4. Reform of Anti-dumping Legislation

1. Resolution on Approval of the Rules and Procedures for conducting Anti-dumping Measures in Trade

By the Resolution N249 of June 1, 2021 a procedure for examining allegations of dumping has been established. This particular document has been materialized in the light of anti-dumping reform and aims to protect local industries against “dumped” import. From June 1, the applications for filing provisional dumping are open by the Competition Agency of Georgia.

1.1. Object of study and the applicants

According to the resolution, the subject of study is the existence of dumped import of the product on the customs territory of Georgia, the damage/the risk of harm it causes to the local industry and the causal link between this two. The parties to the process are an applicant and an exporter, and, where applicable, other stakeholders.

An imported product can be the subject to study if a price of the given product is lower than the normal cost of a same product in usual circumstances of trade at such foreign country market, from where the export of the given product is being conducted.

According to the resolution, the eligible applicant can be the local industry or person

on its behalf, deeming, that because of dumped import of the product at the territory of custom of Georgia the local industry is under threat or may be causing the harm to it. Passing the threshold criteria, an applicant may address its statement in writing to an inspection body - Competition Agency.

1.2. The procedure for submitting an application

The Competition Agency shall, within 45 calendar days from the date of submission of the application, decide whether to initiate or refuse a study. Extension of such term is allowed for no more than 15 calendar days for the purpose of gathering additional information by the Inspection Body from the applicant.

To initiate the research, the application is being checked on material and formal basis. At a stage of material assessment, the application should meet the following two conditions:

- a) An application is supported by a portion of the local industry in which the amount of a similar production is not less than 50 percent of the similar production by the local industry explicitly endorsing or opposing the application;
- b) The number of similar products produced by the supporters referred to in subparagraph (a) of this paragraph shall not be less than 25 per cent of the total local industry.

It should be noted that application\ must contain relevant evidence confirming the

dumped import, the harm and the causal link between the dumped import and harm.

The applicant is required to provide information that is reasonably available to him, including:

- Description of the value and amount of the local production of similar products by the applicant;
- A full description of the suspected study object, the name (s) of the country or countries of export (s), the data of each known exporter or foreign manufacturer, and a list of all known persons importing the suspected study object;
- Information on prices at which the suspected study object is sold for consumption in the local market of the country of origin or exporting country (ies), and where applicable, the prices at which the suspected study object is sold from the country of origin or export to the third country /countries, or the conditional price. As well as, information on the export price, or, where applicable, on the price at which the suspected study object was first resold to an independent buyer at the territory of Georgia;
- Information on the dynamics of the amount of suspected dumped imports, the impact of such imports on the prices of the similar products in the local market and the consequent

impact of such imports on the local industry, expressed by the relevant objective factors.

The applicant is free to submit any additional information supporting his arguments regarding dumped imports.

If, however, the application does not meet the formal requirements, the Competition Agency will identify deficiencies and set a reasonable deadline for their elimination. In case an applicant cannot meet the deadline, Inspection Body is authorized to leave the application unreviewed.

It should also be noted that the application is not public. In the case of issuing a study launch decision, full text of the application excluding confidential information will be served on the exporters and the Governments of the exporting country, as well as to other stakeholder upon their request.

1.3. Study process

Information/evidence required for the study must be issued at least 6 months prior to its launch. Information / evidence on harm determination shall be released for at least 3 years prior to study launch. However, the Inspection Body is authorized to set different deadlines at its own initiative in the study launch decision with its relevant justification.

It should be noted that evidence of dumped imports and harm/damage is examined

simultaneously, both, at the initiation stage and in the subsequent research process.

Following conditions are to reject an application:

- Submission of an application by an unauthorized person;
- The evidences presented on dumping, harm or causal link are not sufficient to continue the research process;
- There is a less amount of imports or the dumping limit is less than minimum dumping margins;
- There is a decision made by the Government of Georgia on the same research object and no newly discovered circumstances are applicable;
- There is a decision made by the Inspection Body on inadmissibility of the application between the same parties, on the same subject and there is no newly discovered circumstance are foreseen.

According to resolution ground for suspension of the study is set by Article 16 of the Law of Georgia on of Anti-Dumping Measures in Trade. As for the termination, it takes place if:

- During the study process, the applicant revokes an application;
- During the study process it is detected, that the applicant is an unauthorized person;

- If Inspection Body rules in favor of conditions set out in Article 21 of the Law;
- Upon expiration of the voluntary arrangements by the exporter.

The study is completed by submitting a decision to the Government of Georgia on introduction, revision or abolishment of special anti-dumping tariff. It should be noted, that the study process does not impede customs clearance procedures.

The study period should not exceed 12 months. The extension of this period is allowed for 6 months.

The Inspection Body is obliged to present a written notice on study launch and termination/suspension to both, the Government and the competent authority of the exporting country, as well as other stakeholders. The information on suspension or termination of the study, as well as the justifying grounds of introducing, revising or cancelling of the anti-dumping measures, shall be published on the official webpage of the Inspection Body.

Stages after initiation a study process:

- **Obtaining the information:** The Inspection body serves the questionnaire to all known interested persons as defined by the law. Interested persons are obliged to return the answers within 30 business days after receiving the questionnaire. With well-grounded written request, it is possible to extend the deadline by no

more than 10 business days. In circumstances where the party / interested person and other individual or legal entity refuses to provide or give an access to the required information within a reasonable deadline, and if it significantly impedes the study process, the decision will be made based on the facts at Inspection Body's disposal.

- **Verification:** In order to verify the authenticity of information, where necessary, Inspection Body is authorized to schedule a visit in the exporting or relevant third country. Its visit requires consent from exporters and foreign manufacturers, as well as the notification and approval by the representatives of the Governments of the respective countries.
- **Hearing:** In order Inspection Body to obtain and clarify information, for the sake of protection of interests of the stakeholders and to orally justify and reconcile the opposing arguments/positions, parties or interested parties may file a written request to hold a hearing. The date shall be set no earlier than 15 calendar days from serving notice to the Inspection Body. The hearing is confidential, the absence of any invited person shall not be a ground for hearing termination.

1.4. Detection of dumping

In order to detect the dumping, the Inspection Body firstly examines the normal value. To detect the normal value, the sales amount of a similar product intended for consumption in the domestic market of the exporting country, as well as variable indicators and costs are considered. If they cannot be compared, the normal value is determined by a) the price of a similar product exported to the third country; or b) based on the cost of production in the origin country, that should include administrative, sales and other costs as well as profits. In addition, the peculiarities of countries with the market or non-market economies should be taken into account while examining a normal value.

The next step is to detect the export price. In case there is a lack of information of export price of the study object or in an event of a reasonable doubt to its authenticity, for instance, if the exporter and importer of the study object are directly or through third parties connected, or decision on the export price of the product is made under unlawful agreement in the past, or there is an additional agreement in place or there is an information about conclusion of additional agreements, including discounts and compensation, the export price may be calculated on the basis of the price at which the imported product was first sold to an independent buyer; or in case the imported product is not sold to an independent buyer or is not sold in the form in which it was imported at the customs

territory of Georgia, the export price will be detected by the method individually determined by Inspection Body that should achieve fair price comparison established by the relevant law.

Comparison and dumping margin

Dumping margin is established by comparing the weighted average price of the normal value of the product with all weighted average prices of the exporting party or with the export prices of the individual normal value of the product.

1.5. Harm and causal link determination

Detecting of the threat or harm from dumped imports to the local industry should be based on an analysis of the volume of dumped imports, as well as the impact of prices of a similar product on the local market of dumped imports and the impact on local producers of that product.

In determining material harm caused by dumped imports to the local industry, all following factors must be taken into account, none of which is given a substantive advantage over the others:

- Growth rates of dumped imports and forecast for further growth;
- Whether the exporter has sufficient export opportunities of study object or there is an irreversible increase in such opportunities, as well as ability of other export markets to receive a significant

number of additional exports of the mentioned product;

- The price level of study object, if it can lead to decrease or maintain the prices on the similar product, or increase the demand for study object in the market of Georgia;
- Supplies of the study object available to the exporter.

Inspection Body must prove that dumped imports are the cause of harm to the local industry. In doing so it must demonstrate that the increase in dumped imports and its impact on the prices is the ground for identified impact on the local industry.

1.6. The rule for determining the anti-dumping measure

1.6.1. Preliminary anti-dumping measure

If there is sufficient evidence before study completion and it becomes clear that the import is dumped and is detrimental to the local industry or poses a threat or harm, Inspection Body may rule on imposing a preliminary tariff or establishing a provisional measure in a form of security, the amount of which shall not exceed the pre-assessed dumping margin.

The preliminary anti-dumping tariff represents predetermined percentage calculated from the customs value of the research object. Preliminary anti-dumping measures may also be introduced in the form of security- in the manner of a cash deposit or guarantee that

complies with the pre-assessed anti-dumping tariff and does not exceed the pre-assessed dumping limit.

Preliminary tariff application is allowed for no more *than four months*, or at the discretion of the Inspection Body, ruling on the basis of the well-ground request from exporters, representing not less than 80 percent of the market volume, extend the period for a total of no more than six months. If Inspection Body considers that the tariff below the dumping margin will eliminate the harm during the study process, these periods may respectively be six and nine months.

1.6.2. Voluntary commitments

Exporter is entitled to address to undertake written commitment (hereinafter - obligation) to revise the prices of study object or to terminate the export of the mentioned product at dumped price at the customs territory of Georgia (in the case of existing affiliated exporters in Georgia, obligations shall be supported by them).

Commitments shall enter in force upon the decision of the Government of Georgia on the approval of the undertaking of the voluntary commitments, upraising the preliminary decision of Inspection Body. With the positive decision on voluntary commitment, study process is suspended upon its expiration. If commitments are violated, Inspection Body issues an individual administrative-legal act on the continuation of the suspended study process.

1.6.7. Special anti-dumping tariff

Similar to the preliminary tariff, the special anti-dumping tariff represents predetermined percentage, calculated from the customs value of the object of research, which is introduced for a period not exceeding 5 years and is determined individually for each exporter, taking into account their dumping margins. This period shall be calculated from the date of introduction special anti-dumping measure. If an individual dumping margin has not been established for any exporter or manufacturer of the product, a special anti-dumping tariff will be established for them with the ratio of the higher individual dumping rate to the weighted average price of the dumped import product and the average export price of the research object.

The decision on introducing the special anti-dumping tariff shall be submitted to the Government of Georgia, that makes final decision on the anti-dumping tariff.

1.6.8. Recurring study

According to the resolution 90 days before the expiration of the special anti-dumping tariff, Inspection Body shall upload an official notice on its website. Within 45 days after the publication of the official notice, the local industry is entitled to address Inspection Body with a written statement to initiate **recurring study** in connection with the extension of the special anti-dumping tariff. The written statement must contain sufficient evidence that termination of the special anti-dumping tariff is expected to cause recurring threat or

continuing harm to the local industry. The final decision is made by the Government of Georgia.

The term specified for the special anti-dumping tariff may be extended by no more than 5 years if the Inspection Body based on a recurring study determines that abolishment of the special anti-dumping tariff will cause harm to the local industry by dumped imports. It should be noted that in case of the recurring study, the special anti-dumping tariff may remain in force until the recurring study is completed, which should not exceed a period of 12 months.

2. Resolution on Administration of Preliminary Anti-Dumping Measures and Special Anti-Dumping Tariffs

In order to improve the anti-dumping legislation, on June 1, the Government of Georgia issued Resolution N251 „on Administration Rule of Preliminary Anti-Dumping Measures and Special Anti-Dumping Tariffs”.

Pursuant to the resolution, administration of preliminary anti-dumping measure and special anti-dumping tariff is carried out by a legal entity under public law - Revenue Service. It defines technical details regarding the payment of preliminary and special anti-dumping tariffs, as well as forms of providing preliminary anti-dumping measures and their administration.

According to the resolution guarantees to be provided in a form of security are bank

guarantee and financial risk insurance policy. The document in detail lists data that each of them should contain. It should be noted, that validity period of the guarantee must exceed the deadline of preliminary anti-dumping measure by at least 10 calendar days. The guarantee is submitted in written or electronically.

It should be noted that from the date of introducing special anti-dumping tariff, it is inadmissible to release a special anti-dumping tariff-imposed product into free circulation without submitting a document confirming full payment to the budget of the special anti-dumping tariff. In case of non-compliance with the anti-dumping measures, the Revenue Service is authorized to utilize tax arrears payment measures as provided for in Article 238 of the Tax Code of Georgia.

5. Procedure for issuing Residence Permit in Georgia

In March 2021, following amendments to the Law of Georgia on the Legal Status of Foreigners and Stateless Persons that newly defined the concept of family members, introduced procedure for obtaining a permanent residence permit and the decision-making process by the Agency, the Resolution of the Government of Georgia on Procedure of the Review and Decision-making on issuance of the Residence Permit in Georgia came into existence.

The following issues have been significantly amended per Resolution on May of 2021:

- **Term of application:** A request to extend validity of the residence permit shall be submitted to the Foreign State Services Development Agency (hereinafter Agency) no earlier than 90 days before the expiration of the residence permit. In case of family uniting and a short-term residence permit, the remaining period of residence permit validity must exceed 6 months;
- **Examination of the grounds for the permit:** To verify the grounds for the residence permit, the Agency is authorized, if needed, to verify the information provided in the document by holding a visit, both during administrative proceedings for issuing the residence permit and within 1 year after its issuance. The Agency is also authorized to invite an applicant and obtain from him / her mandatory documentation / information and explanation. In case of absence with unjustified grounds, the Agency may leave the application unreviewed.
- **Validity of the residence permit:** Residence permit in Georgia is automatically revoked upon its expiration date. The Agency is authorized to terminate the validity of the residence permit in Georgia for the foreigner, if it becomes aware of

grounds for its abolishment defined by the Law on the Legal Status of Foreigners and Stateless Persons.

- **Exchange of the information:** Information on abolishment of residence permits for foreigners in Georgia shall be provided to the relevant state agencies. The Agency is obliged within two-week period to submit the following data to the Public Registry for foreigner with a short-term or investment residence permit: name, surname, date of birth and cadastral code of the real estate on the basis of which the foreigner has received permit on short-term residence or investment residence permit. Public Registry is obliged to notify the Agency on the termination of the ownership of the immovable property if a short-term or investment residence permit has been issued on the basis of such property.

6. Amendments to the Law of Georgia on Citizenship

According to amendments published on May 27, 2021:

- A former citizen of Georgia who has lost Georgian citizenship due to obtaining the citizenship of another country has the right to apply to the Agency for restitution of Georgian citizenship by December 31, 2022, if he/she meets following criteria: the

state language of Georgia within established limits and there are no circumstances precluding granting citizenship through naturalization.

Except for persons who have acquired Georgian citizenship in accordance with the law or who will acquire Georgian citizenship in accordance with this law, following persons may be considered as Georgian citizens:

a) Person born until March 31, 1975, who lived in Georgia totally not less than 5 years, by March 31, 1993 has been at the territory of Georgia, and has not received the citizenship of other country.

b) Person born from March 31, 1975 who by March 31, 1993 has been living in Georgia and who has not received the citizenship of other country.

c) Person born at the territory of Georgia, who from December 21, 1991 has left the territory of Georgia and who has not received the citizenship of other country.

A certificate confirming the fact of living on the territory of the municipality and / or being present on specific day is issued by the Commission establishing the fact of the person living (staying) in the territory of the municipality with the executive body of the relevant municipality (Tbilisi Municipality - Mayor of Tbilisi Municipality).

CONTACT US

28 office, 4th floor, 71 Vazha-Pshavela Ave.

Tbilisi, 0186, Georgia

Tel: (+995) 322 207407 (ext. 101) |

Mobile: (+995) 555 018585

info@nplaw.ge

www.nplaw.ge



**NODIA,
URUMASHVILI
& PARTNERS**