



## OVERVIEW

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# The Law on Transparency of Foreign Influence and Its Impact on Non-entrepreneurial (Non-commercial) Legal Entities and Media Organizations in Georgia

MAY 22, 2024

UPDATED MAY 23, 2024<sup>1</sup>

### Introduction

On May 14, 2024, the Georgian parliament adopted the Law on Transparency of Foreign Influence (hereinafter “the Law”).<sup>2</sup> The Law requires non-entrepreneurial (non-commercial) legal entities (NNLEs) and media organizations to register and submit information to be included in a special registry of “implementing organizations of foreign power interests” (IOFPs) to be maintained by the Ministry of Justice (the MoJ). The MoJ obtains a broad power to inspect the activities of all NNLEs, media organizations and, possibly, other entities, to ensure compliance with the Law. Failure to comply with the Law’s requirements will result in penalties up to 25,000 Georgian Lari (GEL) (approximately USD 9,100).

Georgian and foreign organizations operating in Georgia are concerned that the Georgian government will use the Law to interfere in their activities as well as undermine the credibility of and stigmatize NNLEs and media organizations by presenting them as conduits of foreign influence. While the specific requirements for

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<sup>1</sup> This Overview was updated on 23 May 2024 to accurately reflect the entities to which the Law of Georgia on Broadcasting applies, as well as to include the definitions of “broadcasters” as defined in the Law of Georgia on Broadcasting.

<sup>2</sup> The Law on Transparency of Foreign Influence (hereafter referred to as “the Law”), Parliament of Georgia, at <https://parliament.ge/legislation/28355>.

information to be submitted into the Registry of IOFPs are yet to be determined in implementing regulations, NNLEs and media organizations expect such requirements will be burdensome and might violate the privacy of organizations by including personal information in the open IOFP Registry.

Although the President of Georgia vetoed the Law on May 18, 2024, the Georgian parliament has the power to overturn the veto.<sup>3</sup> If the parliament overturns the veto, the Law's provisions will apply to NNLEs and media organizations after 60 days of its official publication.<sup>4</sup>

If the Law comes into effect, NNLEs and media organizations, whose revenue from foreign powers exceeds 20% of the total annual revenue (for media organizations, 20% of total annual *noncommercial* revenue) in 2023, will be required to apply to register in the IOFP Registry (one month after 60 days since the official publication of the Law).<sup>5</sup>

The MoJ will issue implementing regulations on the detailed procedures for:

- registration of an organization as an IOFP;
- maintaining the Registry of IOFPs;
- canceling registration as an IOFP; and
- monitoring of activities of NNLEs and media organizations.

In addition, the MoJ will adopt forms for:

- the application to register as an IOFP;
- the application to cancel registration as an IOFP; and
- an annual financial declaration.

These implementing regulations will be adopted within 60 days of the date of official publication of the Law.

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<sup>3</sup> The Constitution of Georgia does not set the time frame within which the parliament may overturn the president's veto.

<sup>4</sup> Section 2 of Article 11 of the Law with the exception of section 1 of Article 10 of the Law.

<sup>5</sup> Section 2 of Article 10 of the Law.

The purpose of this Overview is to help organizations to understand the provisions of the Law and the implications of the Law on their activities, keeping in mind that certain provisions in the Law are not clear.<sup>6</sup>

*Disclaimer: The interpretation of the Law in implementing regulations may differ from the interpretation of the Law's provisions by the authors of this Overview.*

## Responses to Frequently Asked Questions

The Overview attempts to provide responses to the following frequently-asked questions:

### *1. Which organizations are subject to the Law?*

- What is an “NNLE”?
- Which media organizations are subject to the Law?

### *2. What is a source of revenue received from a foreign power?*

- What is a “foreign power”?
- What is “revenue”?
- What does it mean “to receive money and other material assets ... from a foreign power”?

### *3. What is the procedure to register as an IOFP?*

### *4. What obligations does an IOFP have?*

### *5. What is the authority of the MoJ to monitor NNLEs, media organizations and others?*

### *6. How to cancel a registration as an IOFP?*

### *7. What are the sanctions for failure to comply with the Law?*

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## 1. WHICH ORGANIZATIONS ARE SUBJECT TO THE LAW?

### WHAT IS AN “NNLE”?

The Law applies to NNLEs “*which [are] not founded by an administrative body<sup>7</sup>, ... and whose more than 20% of gross revenue received in a calendar year comes from a foreign power.*” The Law only exempts Georgian national sports federations and a blood bank

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<sup>6</sup> ICNL and ECNL used the unofficial translation of the Law from Georgian into English and bring our apologies for any discrepancies in interpretation of the provisions of the Law caused by inaccurate transliteration and/or translation.

<sup>7</sup> According to Section 1(a) of Article 2 of the General Administrative Code of Georgia (Administrative Code), an administrative body is defined as “all state or municipal bodies/institutions, legal entities under public law (except for political and religious associations), and any other person exercising authority under public law in accordance with the legislation of Georgia”.

provided in the “Law of Georgia on Quality and Safety of Human Blood and its Components” from a requirement to comply.<sup>8</sup>

It is unclear if the Law’s registration requirement applies to both NNLEs registered as legal entities under Georgian law as well as representative offices of foreign NNLEs registered in Georgia. Technically, the Civil Code of Georgia differentiates between domestic NNLEs and the representative offices of foreign NNLEs.<sup>9</sup> However, in practice, NNLEs and representative offices of foreign NNLEs are treated similarly (e.g., the registration, tax treatment, tax reporting, accounting rules, and other requirements are the same for both).

The Law does not apply to informal groups operating in Georgia which are not registered as legal entities or to foreign legal entities without offices registered in Georgia.

#### WHICH MEDIA ORGANIZATIONS ARE SUBJECT TO THE LAW?

The Law applies to media organizations which receive more than 20% of gross annual “*noncommercial revenue*” from a foreign power. The 20% gross revenue does not include revenue received from commercial coverage, such as income received from sponsorship, teleshopping or commercial advertisements placed by entities or persons.

#### *The Law applies to the following media organizations:*

##### A. BROADCASTERS

*“A broadcaster provided in the Law of Georgia on Broadcasting, whose more than 20% of gross noncommercial revenue received in a calendar year comes from a foreign power.”<sup>10</sup>*

The Law of Georgia on Broadcasting<sup>11</sup> applies to the following entities<sup>12</sup>:

- *“a media service provider (except for over-the-air radio broadcasting) if one of the following conditions exists:*
  - a) *the media service provider has the head office in Georgia and the editorial decisions are made in Georgia;*

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<sup>8</sup> Section 1(a) of Article 2 of the Law.

<sup>9</sup> Section 1 of Article 28 of the Civil Code states that “1. Non-entrepreneurial (non-commercial) legal persons and branches (representative offices) of foreign non-entrepreneurial (non-commercial) legal persons shall be registered in the Register of Non-entrepreneurial (Non-commercial) Legal Entities.”

<sup>10</sup> Section 1(b) of Article 2 of the Law.

<sup>11</sup> Sections 3-9 of Article 1 of the Law of Georgia on Broadcasting.

<sup>12</sup> The Law of Georgia on Broadcasting, Parliament of Georgia, December 23, 2004 (“Law on Broadcasting”), at <https://matsne.gov.ge/en/document/view/32866?publication=52>.

- b) *a substantial part of the work force involved in the activities related to media service programs performs activities in Georgia, irrespective of the location of the head office and the place of decision-making;*
- c) *a substantial part of the work force involved in the activities related to media service programs performs activities in Georgia as well as in a EU member state or in another state, although the media service provider has the head office in Georgia;*
- d) *a substantial part of the work force involved in the activities related to media service programs does not perform activities in Georgia and in a EU member state, however, the media service provider has commenced activities in the field of media services in Georgia in accordance with the legislation of Georgia and it maintains stable and efficient economic ties with Georgia.*<sup>13</sup>
- *“media service providers (except for over-the-air radio broadcasting) that:*
  - a) *use the satellite communication (link) station placed in Georgia;*
  - b) *do not use the satellite communication (link) station placed in Georgia, however, utilize the functional resources of the satellite owned by Georgia.*<sup>14</sup>
- *“a radio broadcaster that uses a radio frequency spectrum of Georgia.”*<sup>15</sup>
- *“a video sharing platform service provider that:*
  - a) *is established in Georgia;*
  - b) *has a parent company established in Georgia;*
  - c) *has a subsidiary enterprise established in Georgia, except when its parent company has been established in one of the EU member states;*<sup>16</sup>

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<sup>13</sup> Section 3 of Article 1 of the Law of Georgia on Broadcasting.

<sup>14</sup> Section 4 of Article 1 of the Law of Georgia on Broadcasting.

<sup>15</sup> Section 6 of Article 1 of the Law of Georgia on Broadcasting.

<sup>16</sup> According to Section 8 of Article 1 of the Law of Georgia on Broadcasting, “if a subsidiary enterprise of a video sharing platform service provider is established, apart from Georgia, in one of the EU member states, this Law on Broadcasting shall apply to it if its subsidiary enterprise has commenced activities in Georgia earlier and this enterprise maintains stable and efficient economic ties with Georgia.”

- d) *is a member of a group which includes an entity established in Georgia, except when its parent company or subsidiary enterprise has been established in one of the EU member states.*<sup>17</sup> <sup>18</sup>

Besides, the Law on Broadcasting specifically defines as “broadcasters”:

*s) broadcaster – the Public Broadcaster, Ajara TV and Radio of the Public Broadcaster, a person holding a licence or an authorised person, who carries out TV and/or radio broadcasting on the basis of this law;*

*s<sup>1</sup>) radio broadcaster – the Public Broadcaster, Ajara TV and Radio of the Public Broadcaster, a licence holder/an authorised person, who transmits, under the sole editorial responsibility, audio products through the personal broadcasting grid, so that at specified times allowed by the broadcasting grid, they are simultaneously available to listeners;*

*s<sup>2</sup>) TV broadcaster – the Public Broadcaster, Ajara TV and Radio of the Public Broadcaster, an authorised person who transmits, under sole editorial responsibility, audio and visual products provided for by the personal broadcasting grid, so that at specified times allowed by the broadcasting grid, they are simultaneously available to viewers; ...*<sup>19</sup>

B. LEGAL ENTITIES OWNING A GEORGIAN MASS INFORMATION PRINT MEDIA OUTLET

*“A legal entity that alone or jointly owns a mass information print media outlet operating in Georgia and whose more than 20% of gross noncommercial revenue received in a calendar year comes from a foreign power.”*<sup>20</sup>

Although not entirely clear, the Law may apply to a commercial or non-commercial legal entity registered in Georgia or abroad, if it meets the above-mentioned criteria.

C. LEGAL ENTITIES OWNING / USING AN INTERNET DOMAIN DISSEMINATING MASS INFORMATION IN GEORGIAN

*“A legal entity that owns or uses, jointly or with others, an Internet domain and/or Internet hosting intended for an Internet outlet disseminating mass information in*

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<sup>17</sup> According to Section 9 of Article 1 the Law of Georgia on Broadcasting, “if any enterprise included in a group of a video sharing platform service provider is established, apart from Georgia, in one of the EU member states, this Law shall apply to it if its subsidiary enterprise has commenced activities in Georgia earlier and this enterprise maintains stable and efficient economic ties with Georgia.”

<sup>18</sup> Article 1 of the Law of Georgia on Broadcasting.

<sup>19</sup> Sections (s), (s1), and (s2) of Article 2 of the Law of Georgia on Broadcasting.

<sup>20</sup> Section 1(c) of Article 2 of the Law.

*the official language of Georgia, and whose more than 20% of gross noncommercial revenue received in a calendar year comes from a foreign power.”<sup>21</sup>*

Although not entirely clear, the Law may apply to a commercial or non-commercial legal entity registered in Georgia or abroad, if it meets the above-mentioned criteria.

The Law “*shall not apply to a media service provider if the media services are designated for provision exclusively to third countries and if their reception, in a direct or indirect form, by the Georgian audience through standard customer devices is not possible.*”<sup>22</sup>

## 2. WHAT IS A SOURCE OF REVENUE RECEIVED FROM A FOREIGN POWER?

### WHAT IS A “FOREIGN POWER”?

A “*foreign power*” is defined as:<sup>23</sup>

*“An entity that constitutes part of a foreign country’s system of government.”<sup>24</sup>*

This may mean any government-established organization, such as USAID or any Ministry, department or division of the governments of foreign countries (e.g., the ministry of foreign affairs).

*“A natural person, who is not a citizen of Georgia.”<sup>25</sup>*

If we interpret the Law literally, everyone who is a citizen of a foreign county or who does not hold the citizenship of any country can be considered a “*foreign power*.” However, it is vague whether persons holding double citizenship (one Georgian and one foreign) are considered a “*foreign power*.” Technically, if a person holds Georgian citizenship, regardless of holding the citizenship of another country, they do not fall under the definition of a “*foreign power*” provided in the Law.

This may mean any person, except for a Georgian citizen, even if such person is a permanent resident in Georgia.

*“A legal entity not founded according to Georgian legislation.”<sup>26</sup>*

This may mean a commercial or non-commercial legal entity registered under a law of any foreign country or under international law.

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<sup>21</sup> Section 1(d) of Article 2 of the Law.

<sup>22</sup> Section 5 of Article 1 of the Law of Georgia on Broadcasting.

<sup>23</sup> Article 3 of the Law.

<sup>24</sup> Section (a) of Article 3 of the Law.

<sup>25</sup> Section (b) of Article 3 of the Law.

<sup>26</sup> Section (c) of Article 3 of the Law.

*“An organization (including a foundation, association, corporation, union, and other type of organization) or other type of association of persons, founded according to the law of a foreign state and/or international law.”<sup>27</sup>*

These may include not only legal entities, but also non-legal entities, if a law of a particular foreign country sets special rules for their establishment.

#### WHAT IS “REVENUE”?

For the purpose of the Law, “*revenue*” means:

*“...money and other material assets (any movable and immovable property). Value of any non-monetary revenue shall be calculated based on its market price, for the purposes of this Article.”*(Article 2.2.)

The authors of this Overview understand that the cost of services is not included, because the Law refers to movable or immovable things (property). In support of this interpretation, the Law states: “... an entity... is considered to have received revenue, if it received money or became an owner or user of other types of material assets (movable or immovable property).” (Article 2.3.) Therefore, “*receiving*” a service may mean “*benefiting*” rather than “*owning*” or “*using*” it.

An NNLE or media organization may be considered as having *received revenue from a foreign power* if:

*“the entity received revenue directly or indirectly from a foreign power.”<sup>28</sup>*

“*Indirectly*” may mean through an intermediary/agent, who was authorized by a foreign power to transfer money or other material assets to an NNLE or media organization. This intermediary/agent may be a Georgian legal entity or a Georgian citizen. “*Indirectly*” may also mean receiving benefits in various forms, for example, when a person benefits, if someone else pays his/her debt.

*“the entity received revenue directly or indirectly from a legal entity that received revenue directly or indirectly from a foreign power.”<sup>29</sup>*

Unless an NNLE or a media organization conducts investigations on the origin of sources of funds by their local donors, NNLEs and media organizations can never be sure that the money or other material assets received from a Georgian legal entity, or a Georgian citizen did not originate from a foreign power. Georgian donors do not have to report to beneficiaries (i.e., the NNLEs or media organizations) on all sources of

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<sup>27</sup> Section (d) of Article 3 of the Law.

<sup>28</sup> Section 4.(a) of Article 2 of the Law.

<sup>29</sup> Section 4.(b) of Article 2 of the Law.



funding. Further, NNLEs and media organizations are not equipped to conduct such investigations.

An NNLE, for example, can be considered as receiving money from a foreign power if it receives donations from Georgian employees of a Georgian company which is co-owned by a foreign business, or, if it received money from a Georgian, who rents property to foreigners residing in Georgia.

Further, if a company or an individual (for example, a government official) receives money from a foreign power, they do not need to register as IOFPs, but if they give money to an NNLE, this NNLE must register as an IOFP and disclose receiving funds from a foreign power.

*“source of the revenue is not identified.”*<sup>30</sup>

NNLEs and media organizations must register as an IOFP if they receive funds through anonymous donations, or through a fundraising from the public when they cannot identify the identity of the donors (for example, through SMS or cash boxes), if revenue from such sources exceed 20% of the gross revenue for NNLEs and of the gross noncommercial revenue for media organizations.

### 3. WHAT IS THE PROCEDURE TO REGISTER AS AN IOFP?

The detailed procedure for registration of an organization as an IOFP and for maintaining the Registry of IOFPs, as well as the form of the application, are to be determined by the MoJ. Below is the registration procedure as outlined in the Law.

#### ENTITY SUBMITS APPLICATION TO THE NATIONAL AGENCY OF PUBLIC REGISTRY

NNLEs and media organizations qualifying as IOFPs must apply to the National Agency of Public Registry (“the Agency”) under the auspices of the MoJ for registration in the IOFP Registry.<sup>31</sup>

A manager or other person legally authorized to represent an organization must submit a written request to the Agency in January of the calendar year following the year in which the organization met a requirement of receiving more than 20% of gross annual revenue from foreign powers (gross noncommercial revenue for media organizations).<sup>32</sup> Besides, the Law has retrospective effect and requires those

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<sup>30</sup> Section 4.(c) of Article 2 of the Law.

<sup>31</sup> Articles 4(1) and 4(2) of the Law.

<sup>32</sup> If the Law comes into effect, NNLEs and media organizations whose revenue from foreign powers exceeds 20% of the total revenue (for media organizations- from noncommercial revenue) in 2023, will be required to apply to register in the IOFP Registry, by August 13 (one month after 60 days since adoption of the Law.) The authors cannot provide the specific date, but there is a high probability that organizations will have to submit declarations by September 1, 2024.

organizations that received more than 20% of their revenue in 2023 from a “*foreign power*” to register as IOFPs within one month from its official publication.

There is no template for such a request.

Within two days from the date of receipt of the request, the Agency provides the applicant with access to the appropriate website for registration as an IOFP.

Within 10 working days after being allowed access to the registration website, the applicant shall fill out the application, according to the form established by the MoJ, and submit the application electronically to the Agency. Presently, the form of the application is not available and will be adopted in implementing regulations by the MoJ.

The Law only establishes that the applicant must submit the following information in the application:

- a) The applicant’s identification data.
- b) The applicant’s address.
- c) The applicant’s website.
- d) Information about source, amount and purpose of money or other types of material benefits received by the applicant during the previous calendar year.
- e) Information about amount and purpose of money spent by the applicant during the previous calendar year.
- f) The date of filling out the application.

Implementing regulations will determine how detailed submitted information shall be about “*source, amount and purpose of money or other types of material benefits received by the applicant during the previous calendar year,*” and about “*amount and purpose of money spent by the applicant during the previous calendar year.*”

Georgian organizations are concerned that such requirements for information might be very burdensome. Further, the information requirements pose challenges for those organizations, to whom provisions of the Law will apply retrospectively, i.e. if they did not keep a detailed record on source, amount and purpose of money or other types of material benefits received by the applicant during 2023, prior to adoption of the Law.

#### AUTHORIZED OFFICIAL “EXAMINES AND STUDIES” ENTITY’S APPLICATION

The authorized official of the MoJ shall, within 30 working days after submission of the application, “*examine and study*” the application. In this process, the MoJ may “*search for necessary information,*” including information to be included in the application to register in the IOFP Registry. In addition, the MoJ may request other personal data and even information containing confidential data (except for the state secrets as prescribed

by Georgian legislation). The Law states that such data may include personal data as listed in Article 3(b) of the Law of Georgia on Personal Data Protection, such as:

*“personal data of a special category is defined as: ‘data connected to a person’s racial or ethnic origin, political views, religious, philosophical or other beliefs, membership of professional unions, health, sexual life, status of an accused, convicted or acquitted person or a victim in criminal proceedings, conviction, criminal record, diversion, recognition as a victim of trafficking in human beings or of a crime under the Law of Georgia on the Elimination of Violence against Women and/or Domestic Violence, and the Protection and Support of Victims of Such Violence, detention and enforcement of his/her sentence, or his/her biometric and genetic data that are processed to allow for the unique identification of a natural person.”<sup>33</sup>*

The Law does not specify what powers are afforded to the MoJ under the term “*search for necessary information*”. However, the Law provides for broad power of the MoJ to monitor implementation of the Law.<sup>34</sup> (See Section “**5. What is the authority of the MoJ to monitor NNLEs, media organizations, and others?**” of this Overview.)

This provision of the Law is not restricted to NNLEs or media organization: “*All persons, bodies, organizations, and entities requested by the authorized official to provide the information in their possession must present it immediately.*”

#### NATIONAL AGENCY OF PUBLIC REGISTRY REGISTERS ENTITY, INCLUDES ENTITY IN IOFP REGISTRY

If the applicant meets the criteria of an IOFP, and if the application has been filled out correctly and completely, the Agency shall, within 30 days of submission of the application, register the applicant as an IOFP and include it in the IOFP Registry.

If the applicant meets the criteria of an IOFP, yet the application has been filled out in an incorrect and/or incomplete manner, the Agency shall give the applicant 10 working days to correct the fault. The applicant shall correct the fault within the 10-day period. The Agency shall, within five working days after the mentioned period, register the applicant as an IOFP and include it in the IOFP Registry.

#### 4. WHAT OBLIGATIONS DOES AN IOFP HAVE?

##### ANNUAL FINANCIAL DECLARATION

An NNLE or a media organization must electronically submit to the Agency a financial declaration at the time of submission of the application to register as an IOFP, and an annual financial declaration following the registration as an IOFP. The financial

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<sup>33</sup> <https://matsne.gov.ge/en/document/view/5827307?publication=0>

<sup>34</sup> Article 8 of the Law.

declaration is due in January following the reporting year. No specific date for submission is set. A form of a financial declaration will be established by the MoJ.<sup>35</sup>

A financial declaration should include the following information:

- a) The applicant's identification data.
- b) The applicant's address.
- c) The applicant's website.
- d) Information about source, amount and purpose of money or other types of material benefits received by the applicant during the previous calendar year.
- e) Information about amount and purpose of money spent by the applicant during the previous calendar year.
- f) The date of filling out the declaration.

Implementing regulations will determine how detailed submitted information shall be about "*source, amount and purpose of money or other types of material benefits received by the applicant during the previous calendar year,*" and about "*amount and purpose of money spent by the applicant during the previous calendar year.*" Georgian organizations expect that such requirements for information might be very burdensome.

The Agency has authority to "*examine and study*" the financial declaration within 30 days after its submission, with the MoJ having authority to "*search for necessary information*", including personal data of a special category as listed in Article 3(b) of the Law of Georgia on Personal Data Protection and even information containing confidential data. (See "**3. What is the procedure to register as an IOFP?**", which provides similar authority to the MoJ to "*search for necessary information*" relating to an entity's application to register as an IOFP.)

The MoJ has the authority to request such information not only from NNLEs and media organizations, but from any person, body, organization, or entity, who are all required to immediately provide such information in their possession.

If the financial declaration is filled out in an incorrect and/or incomplete manner, the Agency shall give the declarant 10 working days to correct the fault. The entity shall correct the fault within the mentioned timeframe.

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<sup>35</sup> Section 3 of Article 6 of the Law.

## 5. WHAT IS THE AUTHORITY OF THE MOJ TO MONITOR NNLES, MEDIA ORGANIZATIONS, AND OTHERS?

The MoJ may, at any time, “*monitor*” (effectively, inspect) the activities of any NNLE or media organization (whether registered or unregistered as an IOFP).

Prior to the adoption of the Law, the MoJ did not have any authority to inspect the activities of NNLEs or media organizations. Furthermore, the Law does not limit the MoJ’s authority only to monitoring the activities of NNLEs and media organizations. Considering the MoJ’s authority to request a broad range of information relating to compliance with the Law from any person, body, organization or entity, and their responsibility to provide such information immediately upon request, one may assume that to enforce this obligation, the MoJ may monitor anyone.

The monitoring procedure will be established by the MoJ.

The basis for such monitoring may be:

- a) a decision of the MoJ. (The Law does not provide for any particular permitted rationale for such a decision.)
- b) a written application submitted to the MoJ by anyone which contains “*appropriate indications*” related to a particular IOFP. (The Law does not define “*appropriate indications*”.)

The Law does not prescribe the measures of responsibility for submitting false or vague/incomplete information to the MoJ to initiate the monitoring of an organization. This means that any person who has personal interests or hostile attitudes toward a particular organization, may use this Law to harm the organization by initiating the monitoring against it.

With the aim of conducting monitoring, the MoJ may “*search for necessary information,*” including the data listed under Article 3(b) of the Law of Georgia on Personal Data Protection, other personal data, and information containing confidential data (except for the state secrets as prescribed by Georgian legislation). All persons, bodies, organizations, and entities requested by the MoJ to provide the information in their possession must present it immediately.

The only limitation to the MoJ’s authority to monitor the activities of NNLEs and media organizations is that such entities “*may be monitored for no more than once every six months.*”<sup>36</sup>

If the monitoring reveals that the entity fulfills the criteria of an IOFP, but it has avoided registration as an IOFP, based on a request of MoJ, the Agency shall register the entity

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<sup>36</sup> Section 4 of “Article 8. Monitoring” of the Law.

as an IOFP on its own. In this case, the entity shall pay a fine in the amount of 25,000 Gel, and within the period of 10 working days, submit the financial declaration to the Agency.

#### 6. HOW TO CANCEL A REGISTRATION AS AN IOFP?

Organizations can request the cancellation of their registration as an IOFP if, during a previous calendar year, they receive less than 20% of their revenues from sources considered as “foreign power”. Such an organization may “*submit a reasoned written application*” requesting the cancellation of its registration as an IOFP at the same time it submits an annual financial declaration to the Agency.<sup>37</sup> The MoJ will adopt a procedure and a form for application for cancellation of a registration as an IOFP in implementing regulations.<sup>38</sup>

In the event of receiving such an application, the MoJ shall make a corresponding decision within 30 working days, after “*examining and studying*” the matter. During the decision-making process, the MoJ “*may search for necessary information*” including personal data (and personal data of a special category) and secret information. All persons and legal entities must immediately submit the information requested by the MoJ in this process.

#### 7. WHAT ARE SANCTIONS FOR FAILURE TO COMPLY WITH THE LAW?

Penalties for violation of the Law’s provisions vary from 5,000 GEL to 25,000 GEL (approximately USD 1,800 to USD 9,100). Paying penalties does not exempt an organization from complying with the Law’s requirements. An organization’s failure to comply with the Law will result in additional aggravated penalties. If an organization refuses to submit a request for registration as an IOFP despite a request from the MoJ and imposed penalties, the MoJ has the power to register it by its own decision.

For example, if during the monitoring the MoJ decides that the organization qualifies as an IOFP, it will fine the organization in the amount of 25,000 GEL, register this organization as an IOFP, and give it 10 days to submit a financial declaration. If after 10 days the organization does not submit the declaration, the MoJ will penalize it in the amount of 10,000 GEL. If, after penalizing the organization with 10,000 GEL, the organization continues to disobey the MoJ’s request to submit a declaration, then the MoJ has the right to penalize it in the amount of 20,000 GEL. If the organization still continues to disobey the request, the MoJ can fine the organization in the amount of 20,000 GEL, every month, until the organization submits the financial declaration. The MoJ can penalize an organization every month, for up to six years, if an organization fails to submit the financial declaration.

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<sup>37</sup> Section 1 of Article 7 of the Law.

<sup>38</sup> Section 4 of Article 7 of the Law.

The Law establishes penalties for the following offences<sup>39</sup>:

1. Avoiding registration as an IOFP, failing to submit the financial declaration within the timeframe prescribed by the Law –

*“ Shall result in the imposition of a fine amounting to 25,000 GEL.”*

2. Failure to fill out and submit to the Agency the application form to register as an IOFP within 10 days of being allowed access to the website for registration of IOFPs; failure to correct the fault within 10 days after receiving a request for corrections due to an incorrectly filled form and/or incomplete form received from the Agency; or failure to comply with the obligation to submit the financial declaration upon the request of the MoJ as a result of the monitoring by the MoJ –

*“ Shall result in imposition of a fine amounting to 10,000 GEL.”*

3. Commission of an act provided in para. 2, above, by a person/entity, who has been penalized for committing an administrative offence provided in para. 2, one (1) month after imposition of the administrative penalty –

*“ Shall result in the imposition of a fine amounting to 20,000 GEL.”*

For example, if the organization continues to refuse to submit the requested financial declaration or application, the MoJ can penalize it in the following month in the amount of 20,000 GEL (about USD 7,280).<sup>40</sup>

4. Failure to provide the information requested by the MoJ in accordance with the Law (applies to any entity or person, from whom the MoJ requested info and who failed to provide it immediately) –

*“ Shall result in imposition of a fine amounting to 5,000 GEL.”*

In case of commission of the mentioned administrative offence, proceedings shall be carried out according to the Code of Administrative Offences of Georgia and other relevant legal acts.<sup>41</sup>

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<sup>39</sup> Sections 1 - 8 of “Article 9. Responsibility” of the Law.

<sup>40</sup> Section 3 of Article 9 of the Law.

<sup>41</sup> The Code of Administrative Offences and the Administrative Code provide the formal procedures (rules) for considering the circumstances of an administrative offence and for deciding on the matter of sanctioning a person/organization. It also prescribes the rights and obligations of the parties (administrative body, person accused of committing an administrative offense, interested party, attorney, etc.).

The penalties under the Law “*may be imposed on an entity that committed the administrative offence only within 6 years after commission of the administrative offence.*”<sup>42</sup>

Section 8 of Article 9 of the Law states that: “*The appeal of a legal act issued on the basis of this law and/or on the basis of subordinate normative act provided for by this law does not stop its operation.*”<sup>43</sup> This means, for example, that if an organization appeals to the court the decision of the MoJ requesting to submit a financial declaration, the appeal will not suspend the relevant decision’s legal force and the organization will still be required to pay a penalty and to submit the declaration within terms established by the Law.

## CORRECTION

*This Overview was updated on 23 May 2024 to accurately reflect the entities to which the Law of Georgia on Broadcasting applies, as well as to include the definitions of “broadcasters” as defined in the Law of Georgia on Broadcasting.*

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*The contents of this document are the authors and do not necessarily reflect the views of USAID or the United States Government.*

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<sup>42</sup> Section 7 of Article 9 of the Law. As a comparison, according to the Code of Administrative Offences, the general rule is that a person committing an administrative offence may be penalized only within 3 months after committing the offence. See at: <https://www.matsne.gov.ge/en/document/view/28216?publication=495> .

<sup>43</sup> Appeal administratively or in courts.