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BRIEF¹

Georgia: Amendment to the Implementing Regulation to the Law of Georgia on Transparency of Foreign Influence

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Introduction

On September 20, 2024, the Ministry of Justice of Georgia (MoJ) issued an order to amend (hereinafter “the Amendment”) the “Rule for Registration, Financial Declaration Submission, and Monitoring of Organizations Acting in the Interest of Foreign Powers” (hereinafter “the Implementing Regulation”²) to implement the Law on Transparency of Foreign Influence (hereinafter “the Law”).³ Specifically, the MoJ’s order amended the requirements for completing the Financial Declaration (APPENDICES 1.2 AND 1.10) of the Implementing Regulation.⁴

¹ The unofficial translation into English of the Amendment has been used for the purpose of preparing this Brief. The authors bring apologies for any discrepancies in the use of terminology or in interpretation of the provisions of the Amendment caused by inaccurate transliteration and/or translation.

² Order No. 1019, “Approval of the Rule for Registration, Financial Declaration Submission, and Monitoring of Organizations Acting in the Interest of Foreign Powers” (hereinafter referred to as “the Implementing Regulation”), Minister of Justice of Georgia, August 1, 2024, at <https://matsne.gov.ge/ka/document/view/6238278?publication=0>.

See also Order No. 1016, “Regarding the Amendment to the Order No. 134 of the Minister of Justice of Georgia (dated May 3, 2016) on Approving the Bylaw of the Legal Entity of Public Law - National Agency of Public Registry,” Minister of Justice of Georgia, July 29, 2024, at <https://matsne.gov.ge/ka/document/view/6234258?publication=0>. Order No. 1016 governs the establishment of a new department within the Agency: Department of Financial Declarations. The new department is responsible for overseeing the enforcement of the requirements stipulated by the Law.

Disclaimer: This Overview does not focus on the content of Order No. 1016.

³ The Law of Georgia on Transparency of Foreign Influence (hereafter referred to as “the Law”), Parliament of Georgia, May 28, 2024, at <https://matsne.gov.ge/en/document/view/6171895?publication=0>. The Law requires non-entrepreneurial (non-commercial) legal entities (hereinafter “NNLEs”) that meet the criteria of “implementing organizations of foreign power interests” (hereinafter “IOFPs”), based on 2023 activities to submit a registration request (i.e., written statement) to the National Agency of Public Registry (hereinafter “Agency”) by September 1, 2024. NNLEs that meet this criterion in 2024 will need to apply to the Agency in January 2025. Within two working days of receiving the request, the Agency must grant them access to a special website where they are required to submit a Financial Declaration. Within 10 working days of gaining access to the website, NNLEs must process their previous year financial data to compile the forms needed for the Financial Declaration.

⁴ Order No. 1023, “Regarding making changes to the order of the Minister of Justice of Georgia No. 1019 of August 1, 2024 ‘On the production of the register of organizations carrying out the interests of foreign forces, the submission of financial declarations and the approval of the monitoring rules’”(hereinafter referred to as “the Amendment”), Minister of Justice of Georgia, September 20, 2024, at <https://matsne.gov.ge/ka/document/view/6274057?publication=0>

The Amendment removed certain requirements to submit personal data,⁵ as well as commercial⁶ and banking secrets⁷, from APPENDICES 1.2 and 1.10 of the Implementing Regulation that are protected by other laws of Georgia. While this is a positive development, numerous requirements to disclose personal data, commercial, and banking secrets remain in the Implementing Regulation.

This Brief, prepared by the International Center for Not-for-Profit Law (ICNL) and the European Center for Not-for-Profit Law (ECNL) for the USAID Civil Society Engagement Program, provides an overview of the changes to the Implementing Regulation, specifically regarding the requirements for completing the Financial Declaration (hereinafter “the Brief”).⁸

This Brief focuses exclusively on the changes in APPENDICES 1.2 and 1.10 of the Implementing Regulation. It does not repeat the findings and analysis provided in the August 2024 ICNL/ECNL overview titled, “Georgia: Implications of the Implementing Regulation to the Law of Georgia on Transparency of Foreign Influence” (referred to as “the Overview”).⁹ Please, refer to the ICNL/ECNL Overview for a detailed examination of which requirements for submitting information in the Financial Declaration are especially problematic to non-entrepreneurial (non-commercial) legal entities (NNLEs), why these requirements pose challenges, and the legal means to protect the information required under Georgian law.

Appendix 1.2: Expenses Incurred During the Year

APPENDIX 1.2 requires organizations to provide detailed information about their expenses, accounting for each transaction, regardless of whether the funds are received from domestic or foreign sources.

⁵ According to paragraph “a” of Article 3 of the Law of Georgia on Personal Data Protection, personal data is defined as “any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, including by his/her name, surname, identification number, location data and electronic communication identifiers, or by physical, physiological, mental, psychological, genetic, economic, cultural or social characteristics;” see at: <https://matsne.gov.ge/en/document/view/5827307?publication=0> This means that any data that allows to identify a person, or relates to a person already identified, is considered a personal data.

⁶ The Supreme Court of Georgia defined a “commercial secret” as any information “that has a commercial value or on the basis of which it should be possible to make a profit...the information is also considered to be commercial, if its disclosure may harm a person’s competitiveness in the market.” In addition, the court pointed out that competitiveness “represents the ability of an enterprise to provide commercial production in a certain market in such a way as to withstand the market competition of similar goods (services).” See the decision of the Supreme Court of Georgia adopted on February 28, 2017, on the case number BS-33-32(K-16).

⁷ The Law on Commercial Bank Activities treats the “information on any agreement (including in the case of an attempt to conclude an agreement), payment operation, bank account, transaction conducted from accounts, and account balance” as confidential information. Section 1 of Article 17 of the same law states that “no one shall have the right to give anyone access to confidential information, to disclose or disseminate this information, or to use it for personal purposes.”

⁸ **Not Legal Advice.** *The information contained in this document does not constitute legal advice and is for informational purposes only. Before acting upon the information contained in this document, please consult local legal counsel.*

⁹ “Georgia: Implications of the Implementing Regulation to the Law of Georgia on Transparency of Foreign Influence,” ICNL and ECNL, August 31, 2024, at <https://www.icnl.org/post/news/review-of-the-implementing-regulation-to-the-law-of-georgia-on-transparency-of-foreign-influence>.

The Amendment omits the following sections from [APPENDIX 1.2](#), which previously required the submission of personal data and commercial and banking secrets that are otherwise protected by Georgian law:

- Personal number and/or identification number of the individual or legal entity receiving the funds from the organization.
- Recipient's bank account number.
- The financial institution of the natural person/legal entity receiving the funds from non-profit and media organizations qualifying as implementing entities of foreign power interests.

While the Amendment represents positive change by limiting the required submission of personal data and commercial and banking secrets, this Appendix still requires the submission of:

- Name, surname, and legal form of the individual/legal entity receiving the funds from the organization.
- The bank account number of the natural person/legal entity making the expenditure.
- The financial institution of the natural person/legal entity making the expenditure.

This information is considered personal data or commercial or banking secrets protected under Georgian law.

Furthermore, the information omitted from [APPENDIX 1.2](#) in some cases may still be available to the public because organizations submitting the declaration might have to disclose similar data in other appendices of the Implementing Regulation. For example, [APPENDIX 1.10](#) requires organizations to provide information about the name of contract counterparties¹⁰ and the descriptions of the contracts concluded with them. Therefore, commercial secrets protected under Georgian law may be exposed to the public.

Appendix 1.10: Description of Liabilities

[APPENDIX 1.10](#) requires organizations to provide information about their financial obligations to vendors. The Amendment removes the requirement to submit the “counterparty identification number/personal number,” which is considered personal data/commercial secret and is protected by Georgian law.

While the Amendment provides for a positive change by limiting the required submission of personal data, this Appendix still requires the submission and potential public exposure of the following information:

- The date on which the contract involving any financial or property obligation was concluded.
- The name of the counterparty, including the name of the legal entity or the first and last name if the counterparty is an individual.

¹⁰ If the declarant must fulfill any financial obligations under the contract in future.

- A brief description of the subject matter of the agreement.
- The total amount specified in the contract, in Georgian Lari (GEL).
- The value of the goods or services provided under the contract, in GEL.
- The amount paid to the contractor, in GEL.

This information may be considered personal data or commercial or banking secrets protected under Georgian law.



Conclusions

Although the Amendment positively limits the requirement to submit personal and commercial data, the Implementing Regulation still obliges organizations to submit, and risk exposure to the public of, other information in the Financial Declaration that constitute personal data, commercial and bank secrets, or other sensitive information protected by the Constitution and Georgian laws. Examples of such protected data include salary details, bank account numbers (APPENDIX 1.1), and contract specifics with information about beneficiaries and experts (APPENDIX 1.10). Although no privacy impact assessment was conducted on the implications of the proposed law, mandating the publication of this information would likely violate the Constitution and Georgian laws, as it would disproportionately infringe on the right to privacy of the affected individuals. While Georgian law provides mechanisms to safeguard the rights to personal data protection, commercial secrets, and other sensitive information, the effectiveness of administrative and judicial systems in upholding these rights remains to be seen. In the meantime, organizations that do not comply with this requirement face the risk of severe penalties.

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