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BLC and its team shall be ready and pleased to provide any information, legal advice and specific recommendations regarding the subject matters covered by this issue of the Newsletter.*

TARIFF-FREE SALE OF ELECTRICITY TO COMMERCIAL CUSTOMERS UNDERWAY

On 22 December 2018, amendments were introduced to the Law of Georgia on Electricity and Gas. Pursuant to the amendments, only the tariffs of household consumers shall be fixed. Commercial customers shall be required to register on a wholesale market and negotiate the tariff of electricity directly with the suppliers. The reason for such differentiation was abuse of lower prices by commercial customers. While such lower tariffs were set primarily for the household consumers, the commercial customers were relying on the same tariff and, as a result, the household consumers suffered since they were sharing the financial burden of increased demand. In addition, to facilitate electricity trade and expand the pool of suppliers on the wholesale market, status of a wholesale supplier has been added to the category of qualified entity, entitling wholesale suppliers to purchase and supply electricity to direct customers on agreed terms. The package of implementing legislation rendering the new amendments fully operational, including criteria for qualifying an entity as a direct customer, is yet to be adopted.

NEW CONSTRUCTION CODE - UPSCALING CONSTRUCTION AND AREA PLANNING?

In late 2018, the Parliament of Georgia has adopted the Area Planning, Architecture and Construction Code. The new Code aims to increase the quality and safety of constructions and approximate the construction field to the best European standards. Principal provisions of the Code shall come into effect gradually from 3 June 2019 till 2022. The Code is being implemented through the adoption of various implementing regulations by the Government of Georgia. Among many other novelties, the new Code subjects performance of architectural and construction activities to the mandatory certification. Moreover, the major novelty envisaged under the Code is a mandatory accreditation/certification of architectural entities/experts, who shall bear the obligation of examination and evaluation of (i) construction permit documents, and (ii) technical supervision of constructions. Shift of duty on technical supervision from LEPL Technical and Construction Supervision Agency to accredited/certified private entities/experts raises questions as to reliability and impartiality of such entities. On the other hand, if duly exercised, such deregulation is expected to increase the quality of

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supervision. Notably, new regulations eliminate the questionable practice of "trading with coefficients". Each municipality shall adopt respective urban development master plan to set out, among others, coefficients, which can be amended/exceeded only in exceptional circumstances and considering the public interest.

LATEST UPDATE ON WORKPLACE SAFETY REGULATIONS

On 4 March 2019, the new edition of the Law of Georgia on Labor Safety was published. The regulation has been upgraded from regular law to the organic law, which means that it prevails over ordinary laws in the hierarchy of normative acts and in case of inconsistency, the rules set by this organic law will prevail. The main amendment becoming effective from September 2019 is the extension of its scope to all entities performing economic activities in Georgia. Thus, where the law does not specifically address hazardous jobs, the requirements thereunder, including having the labor safety specialist/department, shall be mandatory for all types of businesses. Moreover, the new edition of the law finally clarifies that accident insurance shall be provided only to those employees who are actually present on site and are thus exposed to physical hazard, thereby excluding office workers.

TPL INSURANCE MAY BECOME MANDATORY

New bill on mandatory civil liability insurance (TPL) of owners of vehicles registered in Georgia was submitted to the Parliament by the LEPL Insurance State Supervision Service and the Ministry of Finance. The bill has not yet reached the first season of Parliamentary hearings. It introduces significant novelties, such as mandatory insurance of health, life and property of the vehicle owners, as well as potential victims. The bill prescribes the lower and upper caps for annual insurance premium considering the type and category of vehicles varying from GEL 50 to GEL 310. The penalties for driving without having the proper mandatory insurance may amount to GEL 100-200. The insurance companies shall be obliged to transfer 2% of accumulated premium to the fund of Mandatory Insurance Bureau. The funds received by the latter are intended to cover the damages caused by use of unknown/unregistered and/or uninsured automobiles.

STANDARD BURDEN OF PROOF IN DISPUTES INITIATED AGAINST DIRECTORS – PROTECTING BUSINESS JUDGEMENT RULE

On 6 November 2018, the Supreme Court of Georgia delivered an important decision reinforcing the presumption of loyalty and good faith of directors and increasing the standard for refuting this presumption. The Supreme Court delivered its reasoning led by the following arguments: generally, it is within the utmost interest of a corporation to boost its wealth and profitability. To achieve this, the directors may take decisions that later turn out to be erroneous and inflict damage to the company notwithstanding that the decision maker believed in good faith to be sufficiently informed and acted towards the best interests of corporation. Under the "business judgment rule", only the fact of inflicting damages to the company is not sufficient for refuting the presumption of loyalty and good faith. The aggrieved party has the burden to prove the misconduct on director's part that goes beyond the "business judgment rule", damages and causation between these two.

