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### **Memorandum of Cooperation in Energy Industry**

Significant developments in Energy Industry have come into sight at the end of the previous year. On 23 December 2015, the Memorandum of Cooperation in Energy Industry was signed between Armenia, Iran, Georgia and Russia. Contracting parties agreed to work on development of power transmission systems to foster electricity trading between the above countries.

According to the Ministry of Energy and Natural Resources of Armenia, a 400/500 kilovolt (kV) power transmission line between Armenia and Georgia will be set into operation from 2018. As a result, electricity exchange capacity between Armenia and Georgia will reach 350 megawatts (MW), with a further estimated increase to 700 MW by 2021.

The Memorandum is expected to create favorable setting for development of regional infrastructure and foster energy cooperation amongst the contracting parties.

### **New Amendments in Property Law**

New amendments to the Civil Code of Georgia and Law of Georgia on Enforcement Proceedings have caused extensive criticism among financial institutions and business society. According to the new regulations, the police is no longer entitled to carry out eviction from immovable property in case of illegal occupation. By contrast, before the amendment, art. 172(3) of the Civil Code of Georgia enabled the owner of an immovable property to apply to the police and request eviction of a party who unlawfully occupied the property in question. Most notably, the procedure was simple and straightforward as there was no need for obtaining a separate court resolution to effect such eviction.

Another possibility for rightful owners was designated under the Law of Georgia on Enforcement Proceedings, where National Bureau of Enforcement could perform the eviction if the owner was a purchaser at public auction.

With the new amendments, neither of those options remain at the owner's disposal and the owners seeking to retrieve the possession on immovable property shall first obtain the respective court decision and then pursue the enforcement procedures.

Opponents of the new amendments argue that new regulations will inevitably cause problems in practice, rise of prices on mortgage market, adding cases to already overburdened city courts, just to name a few.

### **New Practice of the Supreme Court of Georgia**

New decision of the Supreme Court of Georgia overturned the previously established practice of common courts regarding lost profit and so called, statutory penalty for breach of bilateral contract.

According to the previous practice, if the debtor was in default, the creditor could be awarded not only with specific performance and damages, but damages would also include the future expected losses, amount of which would normally be equal to what creditor could have gained had it put the money on deposit in a commercial bank or other financial institution. Therefore, courts would usually award the lost profit based on market rate applied by commercial banks for the short-term deposits.

In the case No. 459-438-2015 the Supreme Court of Georgia however slightly deviated from the above practice. The court declined the claim for future expected losses and stated that simple theoretical possibility of gaining benefits from putting money on a deposit does not suffice for satisfying the claim for lost profit. According to the court, the claimant must also demonstrate that it would in fact put the disputed amount on a deposit with a bank or financial institution and thus inevitably receive the interest, had the debtor not breached the contractual obligation.

It is yet to be seen whether this new reasoning will be supported and upheld by further practice of the Supreme Court of Georgia.

### **Upcoming Amendments in the Field of National Registries**

The Minister of Justice presented to the Georgian Government a new bill that aims at establishing clear and unambiguous regulations for the state registries. Respective changes are planned to be made to the laws of relevant state agencies in charge of keeping state registry. The bill is mainly designed to replace outdated regulations relevant for state registries and improve the operation of respective state agencies in charge.

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