

Tax and Other Legislation Updates

No significant changes were made to Georgian legislation, including tax legislation in October 2019.

Court Practice

Judgement of the Constitutional Court of Georgia

By decision dated 24 October 2019, the Constitutional Court of Georgia found the rule of the Code of Criminal Procedure, which only authorized the prosecution to interrogate a witness through the court at the investigation stage, to be unconstitutional.

According to the existing Code of Criminal Procedure of Georgia, the right to interrogate a witness before the magistrate judge at the stage of investigation, existed only upon the motion of the prosecution, in the case, when there is a fact and/or information that would satisfy an objective person that the person in question may hold information necessary for ascertaining the circumstances of the criminal case and if this person refuses to be interviewed. The defence could not benefit from such an opportunity.

The Constitutional Court of Georgia upheld the plaintiff's argument and mentioned that the impugned provision of the Code of Criminal Procedure of Georgia, similarly to the provision of the same code, which was declared unconstitutional by the judgement no. 2/13/1234,1235, dated December 14, 2018, of the Constitutional Court of Georgia, was conferring substantial procedural preference to the prosecution. The prosecution had the opportunity to pre-interrogate the witness and thus, to be better prepared for the hearing the case on merits. At the same time, such a restriction on the equality of the parties could not be balanced by granting the defence the right to forced interrogation of the witness at the hearing the case on merits.

Accordingly, the Constitutional Court of Georgia upheld the plaintiff's motion and declared the impugned provision unconstitutional without substantive review.

In addition, the Constitutional Court suspended the invalidation of the impugned provision until March 31, 2020 in order not to jeopardize the effective conduct of investigation and the administration of justice.

Thus, from March 31, 2020, any person holding information necessary for ascertaining the circumstances of the criminal case may be questioned in the court before the magistrate judge by the motion of both - the prosecution and the defence.

Interesting Judgement of the Supreme Court of Georgia

The Civil Chamber of the Supreme Court of Georgia, on October 24, 2019, made an important decision regarding the reimbursement of expenses, incurred by the lessee with respect to the rented object while improving it.

According to the factual circumstances of the case, it was contested whether or not the lessor was liable to reimburse the costs incurred by the lessee for improving the rented object, in the event when the parties were not agreed to reimburse such costs in agreement, although, the lessor explicitly did not resist to the lessee when undertaking the appropriate repair and reconstruction work on the rented object.

The Court of Cassation referred to the article 545 paragraph 2 of the Civil Code of Georgia and held that expenses, which are not necessarily incurred by the lessee with respect to the rented object, are subject to reimbursement according to the rules governing the agency without specific authorization. The court further referred to article 974 paragraph 1 of the Civil Code of Georgia, stating that costs incurred during the performance of principals' affairs should be reimbursed, if such expenses were incurred in accordance with the owner's will and interest. The court stated that since it was held that the lessor's interests were not impaired by the lessee's conduct on the property during repair and reconstruction works

and since the lessor had consented to such works, the lessee's expenses had to be fully reimbursed.

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