

GEORGIA¹

I. Overview of Country

Georgia is a republic, featuring a civil law system. The judicial branch is comprised of a Supreme Court which includes several chambers, a nine member Constitutional Court, and national courts of appeal as well as regional and district courts. The legislative branch is a unicameral parliament, with members directly elected to proportional representation by national vote. Within the executive branch, the head of government, Prime Minister Irakli Garibashvili, was elected in 2013; he presides over a cabinet of ministers. Within Georgia, two regions, Abkhazia and Ajaria, have semi-autonomous governments.

Since the dissolution of the Soviet Union in 1991, Georgia has built a democratic and peaceful government, largely focused on integration into Europe and into the European Union and the NATO alliance. Since regaining its independence in 1991, Georgia has rebuilt its legal framework and legal system, and thus many of its laws, as well as procedures for implementing these laws, are relatively new and still under development and in constant evolution. While the country has made many strides towards strengthening the rule of law, challenges remain. Georgia enjoys freedom of the press, and its laws are largely in compliance with Council of Europe best practices.

Georgia features a large and active group of not-for-profit organizations and for-profit businesses, both foreign and locally owned and operated. Laws address both civil society and business formation and conduct.

II. Registration Procedures

A. For-Profit Organizations

a. Laws

¹ The following memorandum was prepared by pro bono counsel for the ABA Center for Human Rights. It is intended as background information only and should not be relied upon as legal advice on a particular case. The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association, and, accordingly, should not be construed as representing the policy of the American Bar Association.

The Law on Entrepreneurs sets for registration requirements for commercial businesses; this law does not appear to be available online in English,² but summaries of registration requirements are available online.³ Further, non-governmental sources set forth in detail the exact documentation requirements for for-profit entities. For example, document requirements and timing expectations for registration are available online through a Georgian Ministry of Finance form.⁴

According to these sources, there are six different forms of registration available to domestic and foreign for-profit entities: limited partnership, cooperative, individual entrepreneur, joint stock company, limited liability company, and general partnership.

The specific, separate registration documentation requirements for each of these six forms of business are available online in detail.⁵ This same source provides details on bank account requirements for each of these entities (which tend to vary little among the six types of entities).

Registration requirements include: inclusion on a government register, creation and submission of a charter or shareholders' agreement, and separate requirements for tax registration. Overall, this process can be accomplished within just a few days: payment of the registration fee, creation of a corporate bank account, registration with the entrepreneurial register, and establishment of a tax identification number, can all largely be completed on the same day that the appropriate documents and payment is submitted to the relevant government or private entity.

Registration costs include a fee of 100 Georgian Lari (approx. USD 44), as well as an additional cost to open a corporate account at a bank (with the cost of this step varying depending on the bank). Registration with the entrepreneurial register, and the granting of an identification number, certificate, and tax registration are all available without any additional cost to the for-profit entity.

² Sources cited in this report are available online in English unless otherwise noted. Research for this report focused primarily on English-language materials; thus, additional laws, rules, and sources may be available online in Georgian.

³ Georgian Ministry of Finance, *Registering a Business in Georgia – Procedures*, available at [http://www.agora.mfa.gr/agora/images/docs/rad5F51CFactsheet_Text - Registering a Business in Georgia.pdf](http://www.agora.mfa.gr/agora/images/docs/rad5F51CFactsheet_Text_-_Registering_a_Business_in_Georgia.pdf) (last accessed 3 June 2015); Ernst & Young, *Monthly Tax & Law Updates*, available at [http://www.ey.com/Publication/vwLUAssets/EY-tax-and-law-brief-august-2013-eng/\\$FILE/EY-tax-and-law-brief-august-2013-eng.pdf](http://www.ey.com/Publication/vwLUAssets/EY-tax-and-law-brief-august-2013-eng/$FILE/EY-tax-and-law-brief-august-2013-eng.pdf) (29 August 2013); UHY, *Doing Business in Georgia*, available at <http://www.uhy.com/wp-content/uploads/Doing-Business-in-Georgia.pdf> (November 2013).

⁴ *Registering a Business in Georgia – Procedures*, *supra* note 2.

⁵ Ernst & Young, *Starting a Business in Georgia*, available at [http://www.ey.com/Publication/vwLUAssets/Starting-a-business-in-Georgia-guide/\\$FILE/Starting-a-business-in-Georgia-guide.pdf](http://www.ey.com/Publication/vwLUAssets/Starting-a-business-in-Georgia-guide/$FILE/Starting-a-business-in-Georgia-guide.pdf) (2012).

The National Agency of the Public Register oversees the registration process, and sets forth requirements for the contents of an entity's charter/shareholder agreement. Foreign businesses seeking to operate in Georgia may need to submit additional translated and apostillized/notarized documents beyond those required for domestic entities. Much of an entity's registration process can be completed online, reportedly in a fairly expedient fashion. And as a result of this expediency, multiple international organizations have deemed Georgia to be one of the world's leading recent reformers in the area of ease of business operations.

B. Not-For-Profit Organizations

a. Laws

The Civil Code establishes requirements for creating an entity such as a not-for-profit organization or a trade union, with a primary goal that is non-commercial.⁶ The judiciary and the ministry of justice oversee registration, with an application and charter required. The judiciary has one month to make a registration decision following the submission of registration materials. Any denial of registration must be accompanied by an explanation, with an appeal allowed under law. See the Civil Code, art. 31 et seq., for further details on these registration procedures.

Registration requirements under the Civil Code include the submission of the name and domicile of the legal entity, the object of its activities, the date of confirmation of its charter, the identity of its founders and members of its board, and possible limitations on the board's representational authority. The contents of the Register are published and open to public viewing. Changes in registration information must be submitted for publication in the register.

The Civil Code, art. 32, sets forth requirements for not-for-profit entities' charters. Charters must include:

- Objectives of the activity;
- The name of the organization;
- The domicile (address);

⁶ The Civil Code (1997), available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/90468/104299/F1276481829/GEO90468%20Eng.pdf>, *see, e.g.*, art. 30.

- The procedure for property liquidation and distribution;
- The name, surname, date and place of birth, occupation and place of residence of each founder, contributor and member of the governing board of the union or the foundation, procedure for calling board meetings and making decisions at such meetings;
- Authority powers of union members.

The charter may include other information:

- The functions of other bodies of management and control;
- The competence of the meeting of the union members.

If the organization is a foundation, additional information is required in the charter, including:

- The minimum amount and type of contributions;
- Instructions on the use of these contributions.

Additionally, charters must be notarized.

The Civil Code, art. 45 et seq., also sets for registration and conduct requirements for unofficial trade unions (i.e., unions that are not legally recognized) as well as foundations.

The Law on Political Associations of Citizens addresses registration requirements for political non-governmental entities, with registration requirements established by rules required to be enacted under the law.⁷ The Law on Political Associations, however, sets forth requirements that a political party must meet to be registered, including governance requirements and minimum membership requirements. Parties must have charters, and parties' leadership must be composed of certain positions.

Under the Law of Georgia on Trade Unions a trade union's statutes (or an association of trade unions' statutes) must be registered with the government, along with any amendments to these

⁷ The Law on Political Associations of Citizens (1997), *excerpts available at* <http://www.legislationline.org/documents/action/popup/id/5499>, at art. 1 *et seq.*

statutes.⁸ Upon registration, a trade union acquires the status of legal personhood. Such entities are not subject to minimum capital, member, or governance requirements.

A Bulgarian Center for Not-for-Profit Law report published online in 2010 offers further details regarding the founding and registration of not-for-profit entities in Georgia.⁹ Such entities can be formed by one or more legal person (a natural person or a commercial or non-commercial entities), or by a government entity. Grounds for denial of registration are largely related to determinations that the entity is engaged in commercial purposes. Entities seeking to be established as charities must show that they have been created to advance charitable activities, and prior to registration they must demonstrate that they have been engaged in such activities for at least one year. According to this report, the Tax Code of Georgia lists a wide range of permissible charitable activities, including:

Assisting persons in need of social protection and adaptation and medical assistance, as well as vulnerable physical persons including the disabled, elderly, orphans, persons left without a bread-winner, refugees, internally displaced persons (IDPs), patients, families with many children and their members, victims of wars, armed conflicts, accidents, natural disasters, catastrophes, epidemics, and/or epizootics; organizations caring after or serving the children, elderly, and disabled, including children's houses, boarding schools, pre-school and other children institutions, houses for the elderly, free dining rooms, medical institutions, rehabilitation centers, etc. is considered a charity activity. The Code also qualifies as charity activities any undertakings of an organization for public benefit in the fields such as human rights protection, environmental protection, democracy and civil society development, culture, education, science, arts, physical training sports, health care, and social protection.

b. Case Law

I did not identify any relevant case law, though several cases concerning the operation and the freedom of association for not-for-profit entities have been brought before the European Court of

⁸ The Law of Georgia on Trade Unions (1997), available at http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=58123, at art. 30 *et seq.*

⁹ Bulgarian Center for Not-for-Profit Law, *Registration and Operation of NGOs and Taxation of NGOs*, available at <http://blacksea.bcnl.org/en/nav/15-georgia.html> (2010).

Human rights. Examples include *Kakabadze and Others v. Georgia*, Application no. 1484/07, and *Case of 97 Members of the Gldani Congregation of Jehovah's Witnesses and Four Others v. Georgia*, Application no. 71156/01.¹⁰ Additionally, some sources reported in February 2015 on the potential impact for not-for-profit entities of a draft bill on state secrets. There were concerns that if passed, this law would significantly reduce not-for-profit entities' abilities to obtain information from government sources.¹¹

Otherwise, a review of sources available online notes that the laws on registration for not-for-profits are continually updated and evolving.¹² But, it does not appear that there have been many particularly significant recent changes to legal requirements for not-for-profit or for-profit entities.

It is clear from sources available online that there are a large number of diverse not-for-profit entities throughout the country.¹³

C. Analytical comparison of the legal process of registration

There appears to be more government transparency regarding registration requirements for for-profit entities than not-for-profit entities. Registration requirements are available from non-Georgian sources in thorough detail. This includes useful details such as contact information, costs, and specific details regarding timing.

There are fewer details available online regarding not-for-profit entities. But, it appears that some detailed resources may exist in Georgian; examples (including links to some online documents) are available.¹⁴ In terms of the *de facto* situation for not-for-profit entities seeking to register in Georgia, it appears that the country is generally considered to be an open democracy, with registration requirements not prohibitively onerous. While registration requirements for not-for-

¹⁰ *Kakabadze and Others v. Georgia*, Application no. 1484/07, available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-113300>; *97 Members of the Gldani Congregation of Jehovah's Witnesses and Four Others v. Georgia*, Application no. 71156/01, available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80395#{"itemid":\["001-80395"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80395#{).

¹¹ See, e.g., Transparency International, *Non-Governmental Organizations Address the Parliament of Georgia on the Draft Law on State Secrets*, available at <http://transparency.ge/en/node/4988> (4 February 2015).

¹² See, e.g., *Registering a Business in Georgia – Procedures*, *supra* note 2.

¹³ See, e.g., Friends and Partners, *Linking US-Russia Across the Internet, Georgia's NGO Database*, available at <http://www.friends-partners.org/partners/georgia/sub/dbsa.htm> (last accessed June 3, 2015).

¹⁴ Civil Society Institute, *Publications*, available at <http://www.civilin.org/Eng/publications.php> (last accessed June 3, 2015).

profit entities require more time and more in-depth governmental approval than for for-profit entities, presumably this is somewhat related to the tax advantages awarded not-for-profit entities. See section III below for further discussion on taxation of for-profit versus not-for-profit entities.

III. Tax Laws

A. For-Profit Organizations

a. Laws

The Tax Code establishes taxation requirements for for-profit entities.¹⁵ Additionally, a thorough privately developed overview of taxation requirements for for-profit entities is available online.¹⁶ In contrast to charitable entities, domestic for-profit entities that earn profits are generally subject to a range of tax requirements. However, the Tax Code appears to contain some exemptions for for-profit international entities.

According to the above-listed sources, as of 2013, the tax rate for domestic for-profit entities is generally 15% of the entity's earnings. Earnings are calculated as income minus expenses. This tax rate is similar to that applied to foreign for-profit entities in most circumstances as well. Dividends and interest are taxed at a rate of 5%, and the rate for foreign for-profit entities carrying out business in Georgia without establishing a permanent presence is between 4-10%. Dividends distributed by Georgian for-profit companies are generally subject to a 5% withholding tax. A for-profit business may make charitable donations of up to 10% of its taxable income.

b. Case Law

I did not identify any relevant case law. News items that address recent changes in the taxation of for-profit entities do not appear to show many significant, large-scale changes to the relevant law or to its implementation. Georgian experts in 2013 published a report on taxation considerations for for-profit entities seeking to make charitable contributions.¹⁷

¹⁵ Tax Code of Georgia (2004), available at <http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/geo/TCE.pdf>.

¹⁶ *Starting a Business in Georgia*, *supra* note 4.

¹⁷ Civil Society Institute, *Guidebook on Tax Deductible Donations* (2013), available at http://www.civilin.org/pdf/Guidebook_on_tax_deductible_donations.pdf (in Georgian).

B. Not-For Profit Organizations

a. Laws

The Tax Code establishes taxation requirements for not-for-profit entities, called “organizations,” as well as charities (with the two entities distinguished according to the laws under which they were established).¹⁸ Charitable organization status is determined by application, with the application requirements set forth in the Tax Code. Charitable organizations are entirely exempt from tax requirements. Application requirements include submission of details on the organization, including its charter, with a decision by the government required within one month of application. Following the granting of charitable status, a renewal of that status occurs annually. Thus, every April 1st, the charitable organization must submit paperwork containing its financial statements and a programmatic report. In order to maintain charitable status, the organization must not distribute any profit, tangible or intangible. An appeals and reinstatement process exists for charities that fail to maintain that status.

The Tax Code, art. 10, sets forth a list of what activities will be deemed charitable activities for the purpose of the Tax Code:

Voluntary, gratuitous assistance provided to people in need of such assistance, directly or through the third persons, including:

- individuals in need of social protection, medical assistance, as well as impoverished individuals, including disabled persons, elderly, orphan children, persons without a breadwinner refugees and internally displaced persons – diseased, families with many children and members thereof, those affected by wars, armed conflicts, accidents, natural disasters, catastrophes, epidemics and/or epizootics;
- organizations that provide care or services to children, elderly and disabled persons, including: orphanages, boarding schools, hostels, preschool and other children’s institutions, retirement homes, free canteens, medical establishments, rehabilitation centers;
- charitable organizations;

¹⁸ Tax Code of Georgia, *supra* note 14 at art. 10 *et seq.*

- religious organizations;
- specially gifted individuals – to enhance their talents;
- penitentiary institutions – with the purpose to improve the conditions of care or medical services of the inmates;
- individuals that carry out the activities envisaged under Subparagraph (b) of this Paragraph;
- performing the activities for public good by the organizations in the following fields: advocacy for human rights, environment protection, development of democracy and civil society development, culture, education, science, health protection, social protection, physical education and amateur sports, arts.

The activities specified in Paragraph 1 of this Article shall not be regarded charitable if:

- they are implemented by national authorities and local self-governing bodies;
- they are implemented for the support of a business, political party, or other election subject;
- they are implemented by an individual for his/her own relatives or by a legal entity for the leadership of its governing bodies or the relatives thereof;
- they are regarded as sponsorship according to the Law of Georgia on Advertisement

Art. 32 of the Tax Code sets forth in detail the information that must be provided in an organization's application for charitable, tax-exempt status:

- title;
- organizational-legal form;
- main objectives;
- main fields of activities for the past year;
- the addresses of a management body and the branches.
- The following must be attached to the application:
 - o a copy of the charter of the organization;
 - o a copy of state and/or tax registration certificate;

- a report of the past year's activities, that shall be composed of the description of activities (projects, services);
- past years' financial statements (balance and the profit-and loss statement) verified by an independent
- auditor.

This article also establishes the contents of the tax-exempt status certificate that a charitable organization may obtain.

Georgian experts have published several reports advising not-for-profit entities on compliance with tax laws.¹⁹ One report, published in 2010, provides a number of details regarding the tax obligations of Georgian not-for-profit entities.²⁰ For example, under Georgian law, charitable entities may be required to pay taxes on land and property that they own, if these resources are used for economic activities. Grants to not-for-profit entities are not taxed; neither are inheritances to not-for-profit entities. These entities are also exempt from VAT. Further, Georgian law does not thoroughly address the issue of taxation of investments owned by not-for-profit entities.

b. Case Law

I did not identify any relevant case law. News items that address recent changes in the taxation of not-for-profit entities do not appear to show many significant, large-scale changes to the relevant law or to its implementation.

C. Analytical comparison

The Tax Code appears to clearly establish a taxation exemption for not-for-profit entities, so long as these entities follow registration and renewal requirements set forth in the code, and to the extent that they do not produce a profit. This exemption appears to extend to both domestic and foreign charitable organizations. In practice, it appears that non-profit organizations are generally

¹⁹ Civil Society Institute, *Financial Accounting* (2013), available at http://www.civilin.org/pdf/Financial_Accountingi.pdf (in Georgian); Civil Society Institute, *2012 Guidebook* (2012), available at http://www.civilin.org/pdf/Guidebook_2012.pdf (in Georgian).

²⁰ *Registration and Operation of NGOs and Taxation of NGOs*, *supra* note 8.

able to function in Georgia, and there does not appear to be evidence of these entities' tax exempt status being subject to immediate, large-scale threats or challenges.

IV. Financial Transaction Laws

A. For-Profit Organizations

a. Laws

i. Foreign Investment/Foreign Funding Laws

The Law on Investment Activity Promotion and Guarantees defines investments in Georgia; differentiates between a foreign and domestic investor; and sets the standard for how many foreign assets (25%) are necessary to consider an investor to be foreign, rather than domestic.²¹ Georgians permanently residing abroad, as well as foreigners temporarily residing in Georgia, are deemed foreign investors.

Additionally, the Tax Code, at arts. 12 and 13, defines foreign investors and international financial companies. Additionally, the Tax Code subsequently sets forth taxation requirements and exemptions for these entities.

The Law on Investment Activity Promotion and Guarantees sets forth a number of rights for foreign investors, including the right to acquire stocks and other securities, the right to exchange currency, the right to export property, the right to bank in Georgia, and the right to acquire loans from Georgian banks. The law also notes the obligation of foreign investors to abide by Georgian laws. The law does not appear to address the right of foreign investors to own real property in Georgia, but art. 12 of the Law on Investment Activity Promotion and Guarantees notes that such investment activities are addressed under other Georgian laws:

- Law “On Property of Agricultural Land”,

²¹ Law of Georgia on Investment Activity Promotion and Guarantees (1996), available at <http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/geo/LAWONINVESTMENTPROMOTION.pdf>, art. 1 *et seq.*

- Law “On Lease of Agricultural land”,
- Law “On the Procedure for Granting Concessions to Foreign Countries and Companies”, and
- Law “On Entrails.”

At art. 10, the Law on Investment Activity Promotion and Guarantees also allows foreign investors to employ foreign nationals and Georgian citizens in Georgia, with an exception from Georgian taxation and labor laws applicable for foreign nationals who do not permanently reside in Georgia.

Under art. 6 of the Law on Investment Activity Promotion and Guarantees, foreign investors are required to register with the government in order to invest in Georgia. Registration requirements include filing documents providing the following information:

- a full description of the investment objects; a brief description of main directions of investment activity;
- a copy of the document certifying registration of the appropriate enterprise;
- the document certifying the value of investment;
- a special permit, including a license in the cases as per Articles 9 and 12 of the law.

Registration decisions are made within 5 days of the submission of all registration materials. Denial of registration is appealable under procedures set forth in the Law on Investment Activity Promotion and Guarantees.

Under arts. 7 and 8 of the Law on Investment Activity Promotion and Guarantees, foreign and domestic investment is protected fully and unconditionally, unless otherwise set forth in a contravening law or under a court decision. Any court decision against an investor’s interests is appealable. Seized investments are subject to compensation requirements.

Art. 9 of this law prohibits investment in certain activities, subject to a decision of parliament and the president:

- manufacture and sale of weapons and explosives;

- preparation and sale of medicines and substances that are subject to special control;
- use of forest resources and entrails;
- setting up of casinos and other gambling houses which provide for arranging games and lotteries;
- banking activity;
- insurance activity;
- issue of securities for public circulation;
- wireless communication service and TV and radio channels' creation;
- other activities defined by the effective Georgian legislation.

These prohibitions do not differentiate between foreign and domestic investors; also, the Law on Investment Activity Promotion and Guarantees at art. 14 protects foreign investors from receiving terms of compensation worse than those for domestic investors during a war.

Art. 16 of the Law on Investment Activity Promotion and Guarantees sets forth a dispute resolution process for foreign investors, including procedures addressing disputes between foreign investors and government agencies. Under this article, a foreign investor may apply to have his or her dispute heard by an international arbitration body which has been set up by the Commission of the United Nations for International Trade Law.

Lastly, it should be noted that the Law on Investment Activity Promotion and Guarantees applies to entities that have operated in the country since 1996, with entities established before that time subject to a prior version of the law.

ii. Political Contribution Laws

The 1995 Law on Political Associations of Citizens may address political contributions and participation regarding for-profit organizations. Reports on this law state that political party funding occurs in practice mainly from individual donations.²² Reportedly, many campaign expenses are also covered by candidates themselves in practice. Under

²² See, e.g., Center for Social Studies Georgia, *Georgia Country Report Based on Research and Dialogue with Political Parties*, available at http://www.idea.int/parties/upload/Georgia_report.pdf (2006).

this law, political candidates are required to publicly report their campaign spending. Further, some public financing is available to candidates, though this funding is relatively minor in comparison to the cost of the typical campaign.

B. Not-For-Profit Organizations

a. Laws

i. Foreign Investment/Foreign Funding Laws

See the discussion above under (A) regarding foreign investors and the Law on Investment Activity Promotion and Guarantees. Under article 2 of this law, “an investor shall be deemed to be a natural or legal person as well as an international organization investing in Georgia.” Further, under this article:

2. A foreign investor shall be deemed to be:

- a) A foreign citizen;
- b) A stateless person temporarily residing on the territory of Georgia;
- c) A Georgian citizen permanently residing abroad;
- d) A legal person registered beyond Georgia.

Thus, it appears that this law applies equally both to investment in for-profit organizations as well as investment in not-for-profit organizations.

ii. Political Contribution Laws

The 1995 Law on Political Associations of Citizens may address political contributions and participation regarding not-for-profit organizations. See section (ii) above for further details on the contents of this law. Information available online regarding this topic does not differentiate significantly between for-profit entities and not-for-profit entities.

C. Analytical Comparison

It appears that foreign investment in not-for-profit and for-profit entities is treated identically under Georgian law.

V. Auditing/Reporting Requirements

A. For-Profit Organizations

a. Laws

The Tax Code sets forth audit requirements for for-profit entities in detail, as well as (at art. 41) the rights of a tax-paying entity to appeal the findings of a government audit. Under art. 42 of the code, there is established a Tax Ombudsman within the country of Georgia.

Tax Code art. 43 sets forth document retention requirement in connection with taxpayer audit requirements. Article 96 et seq. within the tax code establishes corporate income tax requirements, including considerations for auditors compiling financial statements. Article 115 et seq. sets forth requirements for tax accounting regarding not-for-profit and for-profit tax payers. This includes requirements to document and regularly report income and expenditures.

Under Tax Code art. 153, tax returns are required to be filed on April 1 of every year, with quarterly periodic payments required for for-profit enterprises under art. 155. Other provisions of the tax code set forth payment timetables for specific types of taxes, such as excise tax.

B. Not-For Profit Organizations

a. Laws

Under the Tax Code, art. 10, charitable organization application requirements include submission of details on the organization, including its charter, with a decision by the government required within one month of application. Following the granting of charitable status, a renewal of that status occurs annually. Thus, every April 1st, the charitable organization must submit paperwork containing its financial statements and a programmatic report. In order to maintain charitable status, the organization must not distribute any profit, tangible or intangible. An appeals and reinstatement process exists for charities that fail to maintain that status.

See the discussion under (a) above regarding for-profit entities for further details on accounting and audit requirements for tax payers in Georgia.

C. Analytical Comparison

Reporting requirements for not-for-profit entities are established by law.

VI. Penalties for Non-Compliance

A. For-Profit Organizations

a. Laws

The Civil Code sets forth some penalties for illegal commercial activities. For example, art. 343 et seq. addresses contracts. The Criminal Code also sets forth penalties regarding commercial activities, such as art. 193's regulations regarding false entrepreneurship; art. 195 on monopolization; art. 196 on illegal application for a trademark; and art. 201 on misrepresentation to a customer.²³ Further, Chapter XXVIII of the Criminal Code sets forth additional criminal penalties for financial crimes.

Legislation may exist specifically calling for the dissolution of a commercial enterprise for its failure to comply with specific laws; however, such laws were not identified during research for this report.

B. Not-For-Profit Organizations

a. Laws

Under the Civil Code arts. 33 et seq., a not-for-profit organization's registration changes must be reported to the Ministry of Justice on notarized forms. Registration of a not-for-profit entity may be revoked by the Ministry of Justice if the entity begins entrepreneurial activities,

²³ The Criminal Code of Georgia (1996), available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/73506/104305/F-1868585986/GEO73506.pdf>.

or if it is judged that the goals stated in the entity's charter have become impossible to accomplish.

The Civil Code, art. 38, also establish liability for unions and foundations as a result of illegal actions by these organizations, their leadership, and their agents. Art. 39 of the Civil Code sets forth procedures for the reorganization (e.g. merger or division) and liquidation of a not-for-profit entity, including the distribution of the organization's property.

The Tax Code, at art. 32, sets forth the triggers for loss of an organization's charitable organization status, as well as the appeals process for organizations facing that event:

11. It shall be inadmissible to distribute a charitable organization's profit and assets among the members of the organization, founders, management, and the supervisory board. In case of liquidation of a charitable organization, at the decision of its authorized body or person, its property shall be transferred to a charitable organization with similar goals, and in case such is nonexistent the property shall be transferred to another charitable organization. The property remaining as a result of the liquidation of a legal person of public law having a charitable organization's status established on the basis of state property shall be transferred into the state ownership.

12. The charitable status shall be annulled:

- a) upon organization's initiative;
- b) upon deprivation of the status.

13. An organization shall be deprived of a charitable organizations' status, if:

- a) it has violated the requirements of this Law;
- b) its state and/or tax registration has been cancelled.

14. If an organization is deprived of a status due to the violation of the provisions of this Code, the charitable organization shall be obliged to refund the portion of the benefit received from tax benefits due to a status that is connected with the violation of the mentioned requirements.

15. In case a charitable organization is in violation of the provisions of this Code prior to preparation by tax authority of a recommendation about the deprivation of a status of a charitable organization to the Director General of the Georgia Revenue Service, it shall send a notice to a charitable organization and prescribe additional, one-month period to comply with the requirements of this Code.

16. A charitable organization that has been deprived of a status shall be authorized to apply for reinstatement of the status, at least one year after the reason for the deprivation of a status has been eliminated.

Under the Law on Political Associations, art. 35, a political party may be dissolved in accordance with a decision of the Georgian Constitutional Court, if the party fails to follow the requirements of the Law on Political Associations.

Under art. 9 of the Law on Trade Unions, de-registration of a trade union may occur upon the decision of a court that there was a violation of national laws, or of the trade union's statute. Further details on this de-registration process are to be set forth in rules.

C. Analytical comparison

Sources available online appear to set forth in greater detail the penalties for not-for-profit entities for failure to comply with relevant laws, in comparison to their for-profit counterparts.

D. Statistics on actual penalties for each group (if, available)

I was not able to identify such statistics. However, it is possible that they are being collected and are available in Georgian. There is a Civil Society Institute,²⁴ established by a not-for-profit entity within Georgia, the International Center for Economic Reforms and Development of Georgia. This entity appears to be aimed at improving the political standing and power of not-for-profit institutions in the country. This Institute, which is at least

²⁴ Civil Society Institute, available at http://civilin.org.ge/pdf/AR_2013.pdf, 2013 annual Report (2013) (in Georgian).

partially funded by the U.S. government, reports that in recent years it has worked to ensure the free operation of not-for-profit entities in Georgia. It appears that the Institute may maintain further information regarding the health of not-for-profit entities throughout the country, as well as their treatment in comparison to their for-profit counterparts. For example, the Institute maintains a thorough website that reports on recent developments regarding the regulation of not-for-profit entities.²⁵

OVERVIEW CHART

Issue	For-Profit Organizations	Not-For Profit Organizations	Similarities
Registration Procedures	Registration procedures are expedient and are set forth clearly by rules and laws.	Registration procedures are more involved for not-for-profit organizations, and the requirements are not as widely available online as they are for for-profit entities.	Registration practices for for-profit and not-for-profit entities are set forth by law, though more details generally available for for-profit entities. In practice, sources report that registration practices for not-for-profit and for-profit entities are transparent, manageable, and conducted in accordance

²⁵ Civil Society Organization website, available at <http://www.csogeorgia.org/> (last accessed 3 June 2015) (in Georgian).

			with the rule of law.
Tax Laws	General guidance on tax laws for for-profit entities is available via the Georgian government and non-governmental sources.	Certain not-for-profit entities may establish tax-exempt status within Georgia. Other non-entrepreneurial entities may be subject to some taxes.	<p>Tax laws in Georgia appear to be well-documented online; though it is unclear how transparent the taxation process works in progress.</p> <p>It is also unclear how fairly and expeditiously the charitable organization certification process works in practice.</p>
Financial Transaction Laws	<p>Under foreign investment statutes, foreign nationals are granted certain protections when investing in both for-profit and not-for-profit Georgian entities.</p> <p>Legislation regarding political contributions does not appear to be available online.</p>	<p>Under foreign investment statutes, foreign nationals are granted certain protections when investing in both for-profit and not-for-profit Georgian entities.</p> <p>Legislation regarding political contributions does not appear to be available online.</p>	<p>The relevant regulations do not appear to differ between for-profit and not-for profit entities.</p> <p>Legislation regarding political contributions does not appear to be available online.</p>
Auditing/Reporting Requirements	Legislation sets forth auditing and accounting requirements for for-profit entities.	Legislation sets forth auditing, accounting, and reporting requirements for not-for-profit entities.	Treatment of for-profit and not-for-profit entities differs in that not-for-profit entities are subject to additional reporting requirements

			in order to maintain their tax-exempt status, and for-profit entities are subject to additional accounting and auditing requirements.
Penalties	Laws set forth civil and criminal penalties for for-profit entities that fail to follow the law.	Laws set forth penalties and dissolution procedures for not-for-profit entities that fail to fulfil their legal requirements.	<p>While laws exist regarding penalties for for-profit and not-for-profit entities, some details do not appear to be available online.</p> <p>Research did not uncover reporting on problems regarding the application of undue penalties to not-for-profit entities. There appear to be a large number of domestic and foreign political not-for-profit organizations advocating on diverse issues in Georgia.</p>