

LAW OF GEORGIA

ON THE BUSINESS OMBUDSMAN OF GEORGIA

Article 1 - Scope of the Law

1. This Law defines the powers, main principles and forms of activities of the Business Ombudsman of Georgia ('Business Ombudsman').
2. This Law is intended to facilitate protection of rights and legitimate interests related to the performance of entrepreneurial activities of persons in the territory of Georgia.

Article 2 - Legal grounds for the activities of the Business Ombudsman

Legal grounds for the activities of the Business Ombudsman are: The Constitution of Georgia, international agreements of Georgia, internationally recognised principles and norms, this Law, other legislative acts of Georgia and subordinate acts.

Article 3 - Main principles of the activities of the Business Ombudsman

1. The Business Ombudsman shall be independent in exercising his/her powers. Any exertion of influence on, or interference in, the activities of the Business Ombudsman shall be prohibited.
2. The Business Ombudsman shall, in the process of his/her activities, comply with the principles of justice, objectivity, impartiality and legality.
3. When reviewing an application, the Business Ombudsman shall be neutral and shall not represent an applicant or the administrative body whose decision/action is discredited by the applicant.
4. The Business Ombudsman shall try to reach a consensus by maintaining a fair balance between the interests of the parties.
5. The Business Ombudsman shall have the right not to testify about facts disclosed to him/her as the Business Ombudsman. The Business Ombudsman shall reserve this right even after termination of his/her authority.

Article 4 - Appointment of the Business Ombudsman and termination of his/her authority

1. A citizen of Georgia who has a higher legal or economic education can be appointed as the Business Ombudsman.
2. The Business Ombudsman shall be appointed by the Prime Minister of Georgia with the consent of the Chairman of the Parliament of Georgia.
3. The amount of labour remuneration (salary) of the Business Ombudsman shall be determined by a legal act of the Prime Minister of Georgia.
4. The powers of the Business Ombudsman shall be terminated:
 - a) if he/she loses Georgian citizenship;
 - b) if he/she fails to exercise his/her powers for four consecutive months;
 - c) if a court's judgement against him/her enters into force;
 - d) if a court declares him/her as a support beneficiary, missing or dead;
 - e) if he/she launches or continues activities incompatible with the position of the Business Ombudsman, 10 days after his/her appointment;
 - f) based on a decision of the Prime Minister of Georgia;
 - g) based on a personal application;
 - h) if he/she dies.
5. In the cases stipulated in paragraph 4 of this article, the powers of the Business Ombudsman shall be considered as terminated. The Prime Minister of Georgia shall issue a relevant legal act to terminate the powers of the Business Ombudsman.
6. If the authority of the Business Ombudsman is terminated, his/her duties shall be performed by one of his/her deputies by the decision of the Prime Minister of Georgia. When performing the duties of the Business Ombudsman, a Deputy Business Ombudsman shall enjoy the rights and legal guarantees granted to the Business Ombudsman.

Article 5 - Activities incompatible with the position of the Business Ombudsman



1. The Business Ombudsman shall have no right to be engaged in any other remunerative activities except for scientific, pedagogical and creative work.
2. The Business Ombudsman shall have no right to be a member or to participate in the activities of any political party.
3. The Business Ombudsman is obliged to terminate any activity incompatible with the position of the Business Ombudsman within 10 days after his/her appointment.

Article 6 - Powers of the Business Ombudsman

1. The Business Ombudsman shall supervise the protection of rights and legitimate interests related to the performance of entrepreneurial activities of persons in the territory of Georgia, and detect violations of these rights and legitimate interests, and facilitate the restoration of violated rights of persons in compliance with the rule established by this Law.
2. The Business Ombudsman shall protect the rights and legitimate interests of persons related to the performance of entrepreneurial activities through:
 - a) responding to individual and joint applications;
 - b) detecting deficiencies in the legislation of Georgia and in practise;
 - c) carrying out informational and advisory activities.
3. Within the scope of his/her authority, the Business Ombudsman shall be entitled to:
 - a) request and obtain information/documents from administrative bodies in the cases provided for by the legislation of Georgia and in accordance with established rules;
 - b) enter into agreements with administrative bodies for the exchange of information/documents and for issues of cooperation;
 - c) address to professionals, scientific and/or educational institutions to obtain interpretations/opinions for official purposes;
 - d) set up a working group that may be composed of representatives of administrative bodies and the private sector;
 - e) in certain cases, act as Amicus Curiae in the Constitutional Court of Georgia.
4. Administrative bodies shall assist the Business Ombudsman in performing activities and submit information/documents he/she needs to exercise his/her powers.
5. The Business Ombudsman shall keep confidential the information acquired in the course of exercising his/her powers.
6. Transfer of information/document to the Business Ombudsman shall not be subject to a fee payable for the service.
7. Within the scope of his/her authority, the Business Ombudsman shall:
 - a) issue individual legal acts;
 - b) enter into contracts with administrative bodies and natural and legal persons;
 - c) invite specialists for a term necessary to perform works on the basis of contract;
 - d) exercise other powers provided for by this Law and other legislative and subordinate acts of Georgia.
8. The Business Ombudsman shall be entitled to submit a request to appropriate administrative bodies on the basis of applications of interested parties; and take measures provided for by the legislation of Georgia within the scope of his/her authority if it tends to protect the rights and legitimate interests related to the performance of entrepreneurial activities of these parties.

Article 7 - Office and the Deputy of the Business Ombudsman

1. To exercise the powers of the Business Ombudsman, the Office of the Business Ombudsman (the Office) is established. The structure and the rules of procedure are determined by the Statute of the Office.
2. The Business Ombudsman may have a deputy/deputies. The deputy/deputies of the Business Ombudsman is/are appointed and dismissed by the Business Ombudsman. The powers of the deputy/deputies of the Business Ombudsman are determined by the Business Ombudsman.
3. Article 3(5) and Article 6(5), as well as the incompatibility requirements established by this Law for the Business Ombudsman shall apply to the deputy/deputies of the Business Ombudsman.
4. The deputy/deputies of the Business Ombudsman shall act in the name of Business Ombudsman and within the authority determined by the Business Ombudsman.
5. The Business Ombudsman shall:
 - a) supervise and coordinate activities of the Office;



b) approve the staff of the Office and amounts of labour remuneration (salaries) of employees;

[b) approve the staff of the Office; (Shall become effective from 1 July 2017)]

c) approve the Statute and internal regulations of the Office;

d) appoint and dismiss employees of the Office, and enter into labour contracts with employees of the Office;

e) define duties of employees of the Office;

f) apply incentive actions towards and disciplinary actions against employees of the Office;

g) approve the procedure for doing an internship in the Office.

6. The Office shall:

a) assist the Business Ombudsman in exercising powers provided for by the legislation of Georgia;

b) follow instructions and perform assignments from the Business Ombudsman and his/her deputy/deputies.

7. Article 6(5) of this Law shall apply to employees of the Office.

Law of Georgia No 4384 of 27 October 2015 - website, 11.11.2015

Law of Georgia No 129 of 21 December 2016 - website, 28.12.2016

Article 8 - Review of an application

1. The Business Ombudsman shall review applications on the legitimate interests related to entrepreneurial activities of person and the violation of rights by administrative bodies.

2. A person shall be entitled to submit to the Business Ombudsman his/her application in physical or electronic form if a decision/action of the administrative body indicated in the application will directly affect his/her rights and legitimate interests.

3. A person shall be entitled to apply to the Business Ombudsman through an authorised or legal representative. The representative of the person shall satisfy the requirements for representatives established by the legislation of Georgia.

4. The Business Ombudsman may not essentially review an application if the legislation of Georgia provides for a measure that allows correction of the violation indicated in the application and this measure has not been used.

5. The Business Ombudsman shall not review an application if:

a) the applicant refused review of the application;

b) a repeat application is submitted, a decision has been made on it and there are no new circumstances/evidences;

c) the application is submitted by an unauthorised person;

d) the application is anonymous or the applicant cannot be reached;

e) the applicant did not correct a deficiency within the time limit established for the correction of the deficiency.

6. An applicant shall be required to correct a deficiency and given a reasonable time limit to correct it if:

a) the application (except submitted in electronic form) is not signed;

b) the application is submitted by a representative and it is not accompanied by a document certifying the representation;

c) the application does not provide facts of a violation of rights and legitimate interests of a person and/or a clear essence of the request.

7. The Business Ombudsman shall review an application within 30 days after its registration. If information/documents related to the issues indicated in the application are requested, review of the application shall be suspended. The suspension of the review of application shall cause the suspension of the time limit for review.

8. The Business Ombudsman shall be entitled to request information/documents related to the issues indicated in the application from an administrative body whose decision/performed action may violate the rights and legitimate interests of the applicant. In this case, the information/documents shall be submitted to the Business Ombudsman not later than 10 calendar days after the receipt of the request.

9. The Business Ombudsman shall be authorised to request an applicant to submit an additional information/documents related to the issue indicated in the application. In this case, the information/documents shall be submitted to the Business Ombudsman within a reasonable time but not later than 30 calendar days after receipt of the request.

10. To receive an oral explanation, the Business Ombudsman shall be entitled to meet with the head/representative of the administrative body and/or a structural subdivision/unit of the administrative body whose decision/performed action may violate the rights and legitimate interests of an applicant.



11. When detecting an act of violation of rights of a person, the Business Ombudsman shall submit to an appropriate administrative body a recommendation to take measures for restoration of the violated rights of the person.

12. The recommendation of the Business Ombudsman shall include:

- a) name and identification number of the applicant;
- b) essential elements of the challenged decision, if any, of the administrative body;
- c) description of the violated right;
- d) description of facts;
- e) arguments of the applicant;
- f) information/document received from the administrative body;
- g) recommendation for the execution of restoration of the violated rights of the person.

13. The applicant shall be notified of the results of the review of an application carried out by the Business Ombudsman.

14. The appropriate administrative body shall notify the Business Ombudsman and submit relevant arguments in writing within 30 days after receipt of the recommendation if it fully or partially disagrees with the recommendation of the Business Ombudsman.

15. The Business Ombudsman shall monitor the execution of the recommendation that has been sent to the administrative body, therefore, the Business Ombudsman shall be authorised to request information/documents from the appropriate administrative body.

16. The process of reviewing an application by the Business Ombudsman does not limit the right of a person to use other means of protecting their rights and legitimate interests, including applying to a court or an appropriate international organisation.

Article 9 - Analysis of the legislation of Georgia

1. The Business Ombudsman shall analyse the legislation of Georgia and draft normative acts on the bases of his/her own initiative or on the application of an interested party/parties.

2. The Business Ombudsman shall be entitled to obtain oral and written explanations from the administrative body that is preparing a draft of a normative act.

3. If a normative act or a draft of a normative act contains a norm that may violate the rights of a person, the Business Ombudsman shall submit his/her opinion to the appropriate administrative body.

4. The opinion of the Business Ombudsman shall contain the name of the normative act/draft of normative act and the arguments based on which the Business Ombudsman believes that the normative act/draft normative act violates the rights of a person.

5. The Business Ombudsman shall be entitled to submit proposals to the Government of Georgia and other administrative bodies to develop the legislation of Georgia.

Article 10 - Practice analysis

1. The grounds for initiating a practice analysis by the Business Ombudsman may be an application of an interested person(s) or information disseminated by the mass media.

2. The Business Ombudsman shall be entitled to receive oral and written explanations from the administrative body whose decision/performed action may violate the rights and legitimate interests of applicants.

3. The Business Ombudsman shall submit a recommendation to an appropriate administrative body to eradicate deficiencies in the practice.

4. The recommendation of the Business Ombudsman shall include the reasons for initiating the practice analysis, substantiated facts and the argument that leads the Business Ombudsman to believe that the existing practice violates the rights and legitimate interests of a person.

5. The Business Ombudsman shall be entitled to submit proposals to the administrative body for the purpose of developing the practice.

Article 11 - Informational and advisory activities

To prevent the violation of rights and legitimate interests related to entrepreneurial activities of a person, the Business Ombudsman shall carry out informational and advisory activities, including through dissemination of informational video clips, and arrangement of seminars, meetings and educational visits, and invitation of specialists.

Article 12 - Annual report of the Business Ombudsman



1. The Business Ombudsman shall prepare annual reports on activities performed. The annual report of the Business Ombudsman is public and is published by the Business Ombudsman.
2. The annual report of the Business Ombudsman shall include information on applications reviewed by the Business Ombudsman for the purposes of protecting the rights and legitimate interests of persons, and on deficiencies detected in the legislation of Georgia and in practice, and on prepared recommendations and opinions, on responses of administrative bodies on recommendations and opinions, and on general tendencies in the protection of rights and legitimate interests of persons by administrative bodies and on measures to be taken.
3. The Business Ombudsman shall submit his/her annual report to the Government of Georgia, the Budget and Finance Committee and the Sector Economy and Economic Policy Committee of the Parliament of Georgia, within three months after the end of a calendar year.

Article 13 - Property and financing of the Business Ombudsman

1. Property shall be transferred to the Business Ombudsman according to the procedure established by the legislation of Georgia to exercise his/her powers properly.
2. Activities of the Business Ombudsman shall be financed from the State Budget of Georgia.
3. Along with the financing received from the State Budget of Georgia, the Business Ombudsman shall be entitled to obtain a grant in accordance with the procedures established by the legislation of Georgia to exercise the powers provided for by this Law.
4. The Business Ombudsman shall manage the funds allocated for him/her and ensure the maintenance and targeted use of the transferred property.

Article 14 - Transitional provisions

1. Upon the entry of this Law into force, the Tax Ombudsman, the Deputy Tax Ombudsman and the Staff of the Office of the Tax Ombudsman shall be appointed to the positions of the Business Ombudsman, the Deputy Business Ombudsman and to the relevant positions of the Office.
2. Administrative legal acts of the Business Ombudsman shall retain legal effect until they are changed or cancelled by the Business Ombudsman.
3. The change of a position title of the Business Ombudsman shall not entail the suspension or termination of review processes being carried out by the Tax Ombudsman/the Office of the Tax Ombudsman.
4. Before the Office is defined as an independent spending institution, activities of the Business Ombudsman shall be financed by appropriations provided for by the Law on the State Budget for the Administration of the Government of Georgia. In this case, the Government of Georgia shall ensure that expenses necessary for the activities of the Business Ombudsman are provided for in the budget call submitted to the Ministry of Finance of Georgia in compliance with the procedure established by the legislation of Georgia to prepare the draft Law on the State Budget.
5. Before the State transfers appropriate property to the Business Ombudsman, the Administration of the Government of Georgia shall provide the Business Ombudsman and the Office with premises and inventory necessary for exercising its powers.

Article 15 - Final provisions

1. Upon the entry of this Law into force, the Ordinance No92 of the Government of Georgia of 23 February 2011 on the Powers and Main Principles and Forms of Activities of the Tax Ombudsman shall be declared invalid.
2. This Law shall enter into force upon its promulgation.

President of Georgia

Giorgi Margvelashvili

Kutaisi,

28 May 2015

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