



## Georgian Legal News

### Refer to the Law

#### **Important amendments to the law "On Accounting, Reporting and Audit**

As of 1 September 2017, the Accounting, Reporting and Audit Supervisory Agency is required to monitor quality control systems i.e. provide assessment of auditor/audit firm's compliance with audits, reviews, and other assurance engagements and related international standards, requirement provided by the law, as well as compliance with ethic rules, quality and quantity of resources used, lawfulness of reimbursement received in return for auditing services and quality system control.

Prior to 1 September, the Agency performed quality system monitoring upon auditor's/audit firm's request.





### **Case Law**

On 27 January 2017, the Supreme Court of Georgia rendered an important decision on set-off of claims, which was officially published on 17 August 2017 (Case No. 36-708-678-2016).

The Court found that the set-off is a substantive legal right of a person. Since one party notifies the other about set-off, filing a separate action or filing a counter-claim to court and incurring extra legal expenses are unnecessary for the exercise of the right concerned. From the point of legal procedure, a party is authorized to file an answer only.

### **Case Law**

In the decision rendered on 26 October 2015 (published on 31 August 2017), the Supreme Court of Georgia reviewed the issue of recognition and enforcement of a foreign court decision (Case № 3-2135-3-46-2015), according where to, an agreement on international jurisdiction/competence of a court is in itself a contract which is self-sufficient and independent from the main agreement. Whilst the authenticity and entry into force thereof is regulated by substantive law, admissibility/form of the contract and legal implications are governed by the respective procedural law.

### **Case Law**

The Supreme Court of Georgia made an important decision on presumption of the veracity and completeness of the Public Registry as a remedy for third parties (case No. 36-189-182-2013).

The Court ordered the Public Registry to correctly register all rights that are subject to registration, including ownership rights and condition thereof. According to the principle of publicity, the information becomes effective to third parties upon registration. The legislation deals with presumption of correctness of the registry, which implies that records of the Registry are deemed accurate for third parties until proven otherwise.

Guarantees for third parties are provided by the Article 185 of Civil Code of Georgia, which underlines presumption of veracity and completeness of the Public Registry, as a remedy for third parties. Nonetheless, law envisages the possibility of defective right being registered in the Public Registry; however, the law provides safeguards for a buyer who was acting in good faith. These safeguards are enshrined in Article 312(2) of the Civil Code of Georgia. In the decision, the Court interpreted Articles 185 and 312 in favor of the buyer, which means that an owner has the right to request compensation from an unlawful transferor whilst the bona-fide buyer maintains ownership rights.

According to the Court's interpretation, a buyer is in no way required to be aware of all inaccuracies of a record; rather he/she is obliged to be cognizant of those inaccuracies only that cast doubt on the authenticity of right in question. Knowledge of inaccuracies of a record refers to the knowledge of the circumstances wherefore the record is incorrect. The buyer should not be required to be aware of something that is beyond his/her reasonable capacity.

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