

Government of Georgia
Ordinance No 529
1 September 2014, Tbilisi

**On Approving Insignificant (de minimis) Amounts of Individual State Aid and
General Procedure for Granting State Aid**

Article 1

In accordance with Article 6 of the Law of Georgia on the Structure, Powers and Procedure for Activity of the Government of Georgia, and Articles 12 (2e), 13 (1) and 34 (6) of the Law of Georgia on Competition, the Rules for granting insignificant (de minimis) amount of individual state aid and general rules for granting the state aid shall be approved.

Article 2

The Ordinance shall enter into force upon its promulgation.

Prime Minister

Irakli Gharibashvili

**Insignificant (de minimis) Amount of Individual State Aid and General Procedure
for Granting State Aid**

Article 1. General Provisions

1. This Rule was developed in accordance with the Law of Georgia On Competition (hereinafter - the Law).
2. The purpose of this Rule is to:
 - a) ensure non-discrimination and transparency of the state aid granting procedure;
 - b) define the procedure for agreement with the authorized body of state aid;
 - c) define the authority of the relevant body-legal entity under public law National Competition Agency of Georgia (hereinafter - the Agency) in case of detection of non-compliance with the state aid law and the provisions provided for in this Rule.
 - d) define an insignificant (de minimis) amount of individual state aid provided by law
3. The Agency is the authorized body provided for in this Rule.
4. The terms used in this Rule have the meaning defined by the law.

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Article 2. Scope of Action

This Rule applies only to state aid, that requires an agreement with the Agency, in accordance with Article 12 (3) of the Law, and which is granted for the following purpose:

- a) to facilitate economic development of certain regions;
- b) to promote the preservation of culture and cultural heritage.

Article 3. The form of state aid and the principles of granting state aid

1. State aid is granting a selective economic advantage to an undertaking by transferring budgetary funds or state resources or establishing another benefit, in any form.
2. The principles of non-discrimination and transparency shall be observed when granting state aid.
3. This Rule does not apply to the cases provided for in Article 12 (2) of the Law, except for the case specified in subparagraph “e” of the same clause.

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Article 4. Application upon granting state aid

1. The state aid grantor shall apply to the Agency in order to determine the compliance with the provisions of the Law on State Aid.
2. The letter of application upon granting state aid shall include the following information:
 - a) name of the body granting state aid;
 - b) form of implementation of state aid;
 - c) undertaking (s) receiving state aid;
 - d) amount of state aid;
 - e) frequency of state aid issuance, if any;
 - f) if the aid is granted to several undertakings, the mechanisms of state aid distribution among undertakings receiving state aid.
 - g) the purpose of granting state aid – considering the anticipated consequences caused on the market by the need and issuance of state aid;
 - h) substantiation of the fact that the state aid to be granted does not essentially restrict the competition on the relevant market.
3. If the conditions specified in paragraph 2 of this article might change during the review of the application by the Agency, the body issuing state aid shall inform the Agency about the aforementioned.

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Article 5. Agreement of State Aid

1. On the basis of the application (information) submitted, the Agency shall verify the compliance of state aid to be provided with the provisions of this Law and shall issue an appropriate conclusion no later than 30 working days.
2. Depending on the size and complexity of the case, this period can be extended up to 3 months. In this case, the body granting state aid shall be notified 3 days before the expiration of the date. If the Agency fails to make one of the decisions within the established period, it shall be deemed as a positive response.
3. The Agency shall submit the legal opinion provided for by paragraph 1 of this article to the provider of state aid and to the Government of Georgia.
4. The positive opinion of the Agency shall be deemed as a ground for granting state aid.
5. In case the Agency submits a negative opinion, the Government of Georgia shall make one of the following decisions:
 - a) agree with the negative opinion of the Agency, which deprives the provider of state aid of the right to grant state aid;
 - b) not agree with the Agency's opinion and make a decision about expediency of granting state aid, which is the basis for granting state aid.

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Article 5¹. Request for Information

1. The Agency is authorized to request the provider of state aid and/or the undertaking(s) receiving the aid to submit additional information, which is the basis for suspending the period provided for in the first and second paragraphs of Article 5 of this Law.
2. The Agency is also entitled to request the other undertaking/interested party to submit any information/documentation required by the Agency in the process of exercising the relevant authority.
3. In the case established by paragraph 2 of this article, the request for information is not the basis for suspending the period stipulated by paragraphs 1 and 2 of Article 5 of this Law.
4. The application submitted to the Agency concerning the request for the document/ information shall include legal basis, subject, purpose and timeframes for providing the information, as well as the reference to the possible consequences in case of failure to get the requested information.
5. In accordance with paragraphs 1 and 2 of this article, the period determined by the Agency shall not be less than 5 working days. The agency is authorized to extend the deadline for submission of the document/information only once, but not exceeding 15 working days, on the basis of a substantiation letter.
6. Information shall be deemed submitted if it is delivered to the Agency's legal address and/or official e-mail address within the period determined by the Agency.
7. The person has the right to ask the Agency to ensure classification of the information submitted by him as a commercial secret, in accordance with the procedures established by the General Administrative Code of Georgia, and to provide the relevant substantiation.

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Article 5². Consequences of Nonsubmission of the Information

1. Nonsubmission of the information requested by the Agency within the established period, providing incorrect or incomplete information shall result in a fine of three thousand GEL for the legal entity and one thousand GEL for a natural person.
2. The information shall be deemed not submitted, if:
 - a) it is not submitted within established timeframes;
 - b) the submitted information is incomplete.
3. If the Agency within the established period provides a substantiated response about the absence of the requested information, it shall not be deemed as a nonsubmission of the information.
4. Regardless of the imposition of a fine, in case of failure to provide information within the timeframes repeatedly defined by the Agency, a legal entity will be fined in the amount of five thousand GEL, and a natural person - in the amount of three thousand GEL.
5. Imposition of a fine shall not release the person from the obligation to submit the information.
6. In case the state aid provider fails to submit the information requested by the Agency within the established period, or provides incorrect or incomplete information, the Agency shall raise the issue of disciplinary liability of the authorized person of the body granting state aid.

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Article 6. Appeal against granted state aid

1. If the granted state aid significantly distorts competition in the relevant market and/or there is a violation of the Georgian legislation on Competition with respect to the procedure for granting state aid, the person who has suffered damages as a result of such distortion or violation may appeal to the court against the state aid granted.
2. Disputes related to the infringement of this Law shall be reviewed by the court authorized for competition related disputes-the Tbilisi City Court.

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Article 7. Insignificant (de minimis) Amount of Individual State Aid

1. State aid shall be classified as an insignificant amount of individual state aid if the amount of it, in relation to one undertaking, in total, during 3 consecutive fiscal years, does not exceed 400,000 GEL, except as provided for by the cases in paragraphs 2 - 4 of this article.
2. The individual state aid, for one undertaking operating in the field of land freight shipping during 3 consecutive fiscal years, in total, shall not exceed 200,000 GEL.

3. State aid defined by paragraph 2 of this article shall not be used for purchasing ground or freight transport.
4. The individual state aid for one undertaking operating in the field of agriculture for 3 consecutive years, in total, shall not exceed 200,000 GEL.
5. For the purposes of this Law, the interdependent persons shall be reviewed as one undertaking.
6. The body granting an insignificant (de minimis) amount of individual state aid is obliged, every year, until February 1 of the following reporting year, to provide the Agency with information on the amount of the individual state aid granted, the period of granting and about the undertaking(s) that received the aid.
7. The Agency shall ensure that the information obtained in accordance with paragraph 6 of this article is entered into the register of individual state aid.
8. If, in the process of keeping the register of the insignificant (de minimis) amount of individual state aid provided for by paragraph 7 of this article, the Agency finds that the amount of individual state aid granted exceeds the insignificant (de minimis) amount of individual state aid defined by the legislation of Georgia, it shall prepare an appropriate report and send it to the state aid providing body, as well as to its superior body (if any).

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Article 7¹. Liability

1. In case of the violation of the agreement of State Aid with the Agency by the state aid providing body, the Agency shall raise the issue of liability of the relevant authorized person with a superior body or official.
2. The authorized body or official referred to in the first paragraph of this article shall make a decision regarding appropriate measures against the authorized person from the state aid granting body and inform the Agency about the aforementioned.

Article 8. Transitional Provisions

This Rule does not apply to state aid that was granted before its implementation, and the change in the conditions of the mentioned type of state aid does not require any agreement with the Agency.