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The Systematic Composition of Asylum-related Legislation in Georgia

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Generally, Georgian legislation differentiates between the procedures for granting asylum and that for granting refugee status. Asylum is granted by the President of Georgia in exceptional cases, whereas refugee status is a matter for the Ministry of IDPs from the Occupied Territories, Accommodation and Refugees and applies to cases where a person has been persecuted unjustifiably in a foreign country.

As to the granting of asylum, the *Constitution of Georgia*¹ declares that in accordance with universally recognised rules of international law and the procedure established by law, Georgia shall grant asylum to foreign citizens and stateless persons. It shall be inadmissible to extradite/transfer an individual seeking shelter, if that person is being persecuted for a political creed or for an action not regarded as a crime under the legislation of Georgia.² The President of Georgia is authorized to grant asylum to foreign citizens and stateless persons.³ The detailed provisions for the implementation of this competence can be found in the *Decree of the President of 25 June, 1998, No 387*.⁴ According to this decree, asylum shall be granted to those aliens who are persecuted in their home countries for promoting human rights, protection and peace, as well as for carrying out progressive socio-political, scientific and other intellectual activities.⁵ The decree also sets the rules concerning the applications of asylum seekers⁶, granting or terminating asylum status⁷, and asylum seekers' rights and obligations.⁸

The *Law on Refugees*⁹ is the main normative act regulating issues related to the granting of refugee status. Namely, it defines the legal status of applicants and recognized refugees¹⁰; it sets procedures and rules for the granting, termination and revocation of refugee status¹¹, and provides for legal, economic and social guarantees for refugees.¹²

Based on the above-mentioned Law the *Order of the Minister of Refugees and Accommodation of Georgia of 27 September 2008, No 117*¹³ specifies rules for the annual registration of refugees, as well as procedures for the granting, termination or cessation of refugee (including *prima facie*) status. In contrast to registration according to the place of residence regulated by the *Order of the Minister of Justice of 27 July 2011, No 98* (see below), the annual registration of refugees has the objective of verifying whether legal grounds for granting refugee status still exist.

Furthermore, the application form for those applying for refugee status has been set by the *Order of the Minister of Refugees and Accommodation of Georgia of 7 October 2005, No 576*.¹⁴

¹ Adopted on 24 August, 1995. „Sakartvelos Parlamentis Utskebebi“31-33, 24/08/1995.

² Article 47.2.

³ Article 73.1.

⁴ Decree of the President of Georgia on the Statute on Granting of Asylum to Aliens, No 387, June 25 1998. Collection of Decrees and Decisions of the President of Georgia, 12, 25/06/1998.

⁵ Article I.2.

⁶ Articles II-IV.

⁷ Article IV.8, Article VII.

⁸ Article VI.

⁹ Adopted on 18 February 1998 (Last amended on 15 October 2010). „Parlamentis Utskebani“, 11-12, 18/02/1998.

¹⁰ Article 1, 5, 6, 7.

¹¹ Articles 2, 4, 4¹, 10-11.

¹² Article 3, 5, 8.

¹³ Order No 117 of 27 September 2008 of the Minister of Refugees and Accommodation of Georgia on Refugee Status Granting Procedure. „Sakartvelos Sakanonmdeblo Matsne“, 157, 29/09/2008.

¹⁴ Order No 576 of 7 October 2005 of the Minister of Refugees and Accommodation of Georgia on Approving the Application Form for the Persons Seeking the Refugee Status. „Sakartvelos Sakanonmdeblo Matsne“, 119, 17/10/2005.

The *Decision of the Government of Georgia of 12 September 2005, No 157*¹⁵ aims at improving the transparency of state bodies and the coordinating them in the following fields: the registration of refugees, the regulation of their social issues and the simplification of procedural issues.

While the *Law on the Legal Status of Aliens*¹⁶ defines a Refugee ID as one of the three categories of official permits for staying in Georgia,¹⁷ specific rules related to the issuance and validity of a temporary residence card as well as preconditions and procedures for issuing a refugee travel document are regulated in the *Law on rules of registration of Georgian citizens and aliens residing in Georgia and the issuance of ID (Residence) cards and passports for Georgian citizens*.¹⁸ The aforementioned Laws are implemented mainly by the *Order of the Minister of Justice of 27 July 2011, No 98 on approving rules of registration and deregistration of citizens of Georgia and aliens residing in Georgia, issuing ID (Residency) card, passport, travelling passport and travelling documentation*.¹⁹

Finally, it should also be noted that the *Criminal Code*²⁰ imposes sanctions for the illegal crossing of Georgian borders with the reservation that this does not include aliens or stateless persons who enter Georgia to seek asylum in Georgia, unless, that is, signs of criminal activity are found.²¹

In conclusion, the Georgian asylum-related legislation covers most relevant aspects but, for example, the notion of subsidiary protection has still not been regulated. Some confusion has also been caused by the differentiation between granting asylum and refugee status. In this regard, it should be stressed that the relevant provisions on granting asylum have never been applied.

¹⁵ Decision No 157 of 12 September 2005 of the Government of Georgia on Registration of Internally Displaced Persons and Refugees and Social Issues. „Sakartvelos Sakanonmdeblo Matsne“, 114, 28/09/2005.

¹⁶ Adopted on 27 December 2005 (Last amended on 24 June 2011). „Sakartvelos Sakanonmdeblo Matsne“, 3, 16/01/2006.

¹⁷ Article 4.4.

¹⁸ Adopted on 27 June 1996 (Last amended on 1 July 2011). „Parlamentis Utskebani“, 19-20, 27/06/1996. See especially Arts. 11(3), 15(3), 2¹-20.

¹⁹ Order No 98 of 27 July 2011 of Minister of Justice on approving rules of registration and deregistration of citizens of Georgia and aliens residing in Georgia, issuing ID (Residency card), passport, travelling passport and travelling documentations. www.justice.gov.ge, 110727007, 27/07/2011.

²⁰ Adopted on 22 July 1999 (Last amended on 1 July 2011). „Sakartvelos Sakanonmdeblo Matsne“, 41 (48), 13/08/1999.

²¹ Article 344.