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The Systematic Composition of Migration-related Legislation in Georgia

Gaga Gabrichidze

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The existing legislation regulating migration-related matters in Georgia consists of a number of laws and other normative acts. Nevertheless, the main legal instrument in this regard is the Law on the Legal Status of Aliens.¹

With respect of regulations on **visa**, *the Law on the Legal status of Aliens*:

- defines a visa as one of three categories of official permits,²
- sets a list of countries whose citizens or permanent residents do not require visas for entering and staying in Georgia up to 360 days,³
- designates visa-issuing authorities,⁴
- determines four categories of visas,⁵ their validity period and persons entitled to obtain them,⁶
- sets procedures necessary to obtain Georgian visas,⁷ as well as grounds for visa refusal⁸ and provisions on the extension of validity of diplomatic and service visas (preconditions and competences).⁹

The procedural rules regarding visas are specified in the Decree of the President of Georgia of 28 June, 2006, No 399.¹⁰ The application form for Georgian visas was approved by the Joint Order of the Minister of Foreign Affairs and Minister of Internal Affairs of 7 August, 2009, No 155 – No 996.¹¹ In addition, the Law on State Custom¹² determines fees for issuing an ordinary visa at state border crossing points¹³ while the Law on Consular Fees¹⁴ defines the structure of consular fees, the rules, the price as well as the grounds for exemption.

Legal relations with respect to the state **border** regime are regulated by the Law on the State Border of Georgia,¹⁵ which sets the rules for crossing Georgian state borders.¹⁵ These rules are specified in the Decree of the President of Georgia of 20 December 1999, No 676¹⁶.

Even if a general provision guaranteeing the freedom of movement to all individuals legally residing on Georgian territory is embodied in Art. 23(1) of the Constitution¹⁷, the main legal document regulating

¹ Adopted on 27 December 2005 (Last amended on 24 June 2011). „Sakartvelos Sakanonmdeblo Matsne“, 3, 16/01/2006.

² Article 4.4.

³ Article 4.5.

⁴ Depending on the place where a visa shall be issued (Abroad, at the border crossing points and within the country). See Article 5.

⁵ (a) diplomatic, (b) service, (c) ordinary, and (d) educational; see Article 6. The Law also determines a group of persons, who obtain different categories of visa and the validity period, according to which certain categories of visas are issued

⁶ Articles 7-10.

⁷ Article 11.

⁸ Article 12.

⁹ Article 17.

¹⁰ Decree No 399 of 28 June 2006 of the President of Georgia approving the Provisions on the Rules of Issuing, Extending and Terminating the Visa. „Sakartvelos Sakanonmdeblo Matsne“, 88, 30/06/2006.

¹¹ Joint order No 155 – No 996 of 7 August, 2009 of the Minister of Foreign Affairs and Minister of Internal Affairs Approving Georgian Visa Application Form. „Sakartvelos Sakanonmdeblo Matsne“, 98, 07/08/2009.

¹² Adopted on 29 April 1998 (Last amended on 24 June 2006). „Parlamentis Utskebani“, 19-20, 29/04/2006.

¹³ Article 4.7.

¹⁴ Adopted on 1 October 2010. „Sakartvelos Sakanonmdeblo Matsne“, 53, 11/10/2010.

¹⁵ Articles 12, 14-16,

¹⁶ Decree No 676 of 20 December 1999 of the President of Georgia on Establishing Rules Governing Border Regime and Protection. „Sakartvelos Sakanonmdeblo Matsne“, 69(76), 24/12/1999.

¹⁷ Adopted on 24 August 1995. „Sakartvelos Parlamentis Utskebebi“31-33, 24/08/1995.

specific issues related to **entry, stay and residence** in Georgia is the Law on the Legal Status of Aliens. Apart from defining legal grounds and mechanisms for entry, stay, exit and transit¹⁸, the Law establishes categories of official permits (visa, residence permit, refugee ID)¹⁹, determines types of residence permit (temporary and permanent residence permits), designates authorities responsible for issuing entry²⁰ or residence permits²¹ and regulates all other procedural or substantive issues.²²

Based on the provisions of the Law on Status of Aliens, the Decree of the President of Georgia of 28 June 2006, No 400²³ stipulates the rules and terms for granting permanent or temporary residence permits in Georgia.

Concrete provisions regulating the registration of aliens according to their place of residence can be found 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 citizen.²⁴ This Law also defines rules for approving IDs of aliens residing in Georgia and residence card requisites, all necessary documents and all procedures for obtaining that card.²⁵ It is to be noted that this Law constitutes the legal basis for several by-laws adopted for its implementation. Thus, forms and technical specifications of the electronic card of residence (temporary and permanent) for aliens residing in Georgia are defined in the Order of the Minister of Justice of 14 July 2011, No 91.²⁶ Another Order of the Minister of Justice of 27 July 2011, No 98²⁷ provides for further specifications on the registration of aliens according to their place of residence and the issuance of a residence card.

The visa issuing authority within the country is the Civil Registry Agency, a legal person in public law, under the control of the Ministry of Justice.²⁸

With regard to **rights of aliens**, the Constitution of Georgia declares that foreign citizens and stateless persons living in Georgia have the same rights and obligations as the citizens of Georgia if not stated otherwise by the Constitution and by Georgian legislation.²⁹ It also defines how a citizen of

¹⁸ Articles 3-4.

¹⁹ Article 4.4, 16.

²⁰ Article 13.

²¹ Article 18.

²² See Article 14 (grounds for refusal of permission); Articles 19-20 (conditions and procedures for issuing temporary and permanent residence permits); Articles 19-20 (conditions and procedures for issuing temporary and permanent residence permits); Article 23 (grounds for refusing to the Residence Permit); Article 25 (grounds for termination of the term of stay in Georgia); Article 26 (duty for the registration of aliens in Georgia, terms and exemptions); Article 26 (duty for the registration of aliens in Georgia, terms and exemptions)

²³ Decree No 400 of 28 June 2006 of the President of Georgia on Approval of the Statute on the Rules of Decision-making on the Issue of Granting Residence Permit in Georgia. „Sakartvelos Sakanonmdeblo Matsne“, 88, 30/06/2006.

²⁴ Adopted on 27 June 1996 (Last amended on 1 July 2011). „Parlamentis Utskebani“, 19-20, 27/06/1996. Articles 2-7, 9.

²⁵ Articles 11-13, 15, 17-19.

²⁶ Order No 91 of 14 July 2011 of Minister of Justice on approving forms and technical specifications of electronic IDs of citizens of Georgia and electronic card of residence (temporary and permanent) for aliens residing in Georgia. www.justice.gov.ge, 110714037, 14/07/2011.

²⁷ Order No 98 of 27 July 2011 of the 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.

²⁸ See Art. 3 of the Order No. 209 of the Minister of Justice approving the Statute of the Civil Registry Agency of 26.01.2006 (this task was conferred to it by the Order N. 248 of 31.12.2010 which amended the initial Order No. 209). See further: Order No 6 of 13 January, 2011 of Minister of Justice on approving Georgian visa application form to be issued by territorial service centers of Civil Registry Agency - legal person of public law, rules of its usage and reporting. www.justice.gov.ge, 130111, 13/01/2011; The *Law on the Costs for Services, Rendered by the Civil Registry Agency* Adopted on 15 December 2009 (Last amended on 1 July 2011). „Sakartvelos Sakanonmdeblo Matsne“, 46, 22/12/2009.

²⁹ Article 47.1.

Georgia who is simultaneously the citizen of any Foreign State shall not be the President of Georgia, the Prime Minister or Speaker of the Parliament of Georgia.³⁰ Besides, the Constitution states that the legislation can establish special restrictions on the political activity of the citizens of foreign countries and of stateless persons.³¹ These restrictions are provided for in the Organic Law of Georgia on the Political Association of Citizens³².

A general list of rights and obligations of aliens in Georgia can be found in the Law on the Legal Status of Aliens.³³ Concrete rights are the subject of regulation by several laws. Thus, the Law on General Education³⁴ stipulates that the citizens of other countries or stateless persons can receive vouchers for financing secondary education in accordance with relevant international treaties or agreements.³⁵ Furthermore, the Law on Higher Education³⁶ allows the citizens of other countries to receive state financing for higher education.³⁷ According to the Criminal Procedure Code³⁸, aliens are provided with free translation services at all stages of court procedures.³⁹ A similar provision can be found in the Code of Civil Procedure.⁴⁰ Finally, the Elections Code⁴¹ sets restrictions on the financing of election entities and election candidates on the part of non-citizens.⁴²

As regards **irregular migration**, the Law on the Legal Status of Aliens establishes the grounds,⁴³ exceptions⁴⁴ and procedures⁴⁵ for expulsion. It also identifies competent authorities engaged in this process,⁴⁶ and provides for restrictions on the re-entry of expelled aliens.⁴⁷ These provisions are further specified in the Decree of the President of Georgia of June 28, 2006, No 401.⁴⁸

In addition, the Criminal Code⁴⁹ sets sanctions for “the illegal crossing of Georgian borders”⁵⁰ or for „violation of rules for entry into the occupied territories“.⁵¹ According to the Code of Administrative Offences,⁵² aliens who commit administrative infringements may be expelled from the

³⁰ Article 29.1¹.

³¹ Article 27.

³² Adopted on 31 October 1997 (Last amended on 25 December 2009). „Parlamentis Utskebani“, 45, 31/10/1997. Articles 8, 26.1

³³ Articles 27-48.

³⁴ Adopted on 8 April 2005 (Last amended on July 1, 2011). „Sakartvelos Sakanonmdeblo Matsne“, 20, 04/05/2005.

³⁵ Article 22.7.

³⁶ Adopted on 22 December 2004 (Last amended on 1 July 2011). „Sakartvelos Sakanonmdeblo Matsne“, 2, 10/01/2005.

³⁷ Article 80.2.

³⁸ Adopted on 9 October 2009 (Last amended on 1 July 2011). „Sakartvelos Sakanonmdeblo Matsne“, 31, 03/11/2009.

³⁹ Article 6.

⁴⁰ Adopted on 14 November 1997 (Last amended on 21 June 2011). „Parlamentis Utskebani“, 47-48, 14/11/1997. Article 9.4.

⁴¹ Adopted on 2 August 2001 (Last amended on 7 December 2010). „Sakartvelos Sakanonmdeblo Matsne“, 25, 22/08/2001.

⁴² Articles 73.5, 80.1, 92.1, 109.1, 126¹⁵,

⁴³ Article 53,

⁴⁴ Article 58.3.

⁴⁵ Articles 54, 56.

⁴⁶ Arts 55, 57.

⁴⁷ Article 61.

⁴⁸ Decree No 401 of 28 June, 2006 of the President of Georgia on Approving the Provisions Governing the Issue of Expelling Aliens from Georgia. „Sakartvelos Sakanonmdeblo Matsne“, 88, 30/06/2006.

⁴⁹ Adopted on July 22, 1999 (Last amended on July 1, 2011). „Sakartvelos Sakanonmdeblo Matsne“, 41 (48), 13/08/1999.

⁵⁰ Articles 344, 344¹.

⁵¹ Article 322¹.

⁵² Adopted on December 15, 1984 (Last amended on July 1, 2011).

country.⁵³ It also imposes sanctions for violating the rules concerning the stay in and transit through the territory of Georgia,⁵⁴ as well as for the infringement of the registration rules⁵⁵.

In conclusion, the Georgian migration-related legislation is an extremely liberal, foreign national-friendly system. It addresses all aspects of the migration process, but because of its liberal nature, many issues remain unregulated (e.g. absence of work permits for foreign nationals).

⁵³ Article 24.2.

⁵⁴ Article 191.

⁵⁵ Article 185.