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Legal Aspects of Labour Migration Governance in Georgia *A Reply to Prof. G. Gabrichidze*

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CARIM-East Analytic and Synthetic Notes 2012/10



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CARIM-East
Creating an Observatory of Migration East of Europe

Analytical and Synthetic Note
CARIM-East AS 2012/10

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Labour Migration Governance in Georgia
A Reply to Prof. G. Gabrichidze
(CARIM-East RR 2012/09)

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CARIM-East – Creating an Observatory East of Europe

This project which is co-financed by the European Union is the first migration observatory focused on the Eastern Neighbourhood of the European Union and covers all countries of the Eastern Partnership initiative (Belarus, Ukraine, the Republic of Moldova, Georgia, Armenia and Azerbaijan) and Russian Federation.

The project's two main themes are:

- (1) migration from the region to the European Union (EU) focusing in particular on countries of emigration and transit on the EU's eastern border; and
- (2) intraregional migration in the post-Soviet space.

The project started on 1 April 2011 as a joint initiative of the European University Institute (EUI), Florence, Italy (the lead institution), and the Centre of Migration Research (CMR) at the University of Warsaw, Poland (the partner institution).

CARIM researchers undertake comprehensive and policy-oriented analyses of very diverse aspects of human mobility and related labour market developments east of the EU and discuss their likely impacts on the fast evolving socio-economic fabric of the six Eastern Partners and Russia, as well as that of the European Union.

In particular, CARIM-East:

- builds a broad network of national experts from the region representing all principal disciplines focused on human migration, labour mobility and national development issues (e.g. demography, law, economics, sociology, political science).
- develops a comprehensive database to monitor migration stocks and flows in the region, relevant legislative developments and national policy initiatives;
- undertakes, jointly with researchers from the region, systematic and *ad hoc* studies of emerging migration issues at regional and national levels.
- provides opportunities for scholars from the region to participate in workshops organized by the EUI and CMR, including academic exchange opportunities for PhD candidates;
- provides forums for national and international experts to interact with policymakers and other stakeholders in the countries concerned.

Results of the above activities are made available for public consultation through the website of the project: <http://www.carim-east.eu/>

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Migration management is among Georgia's key external and internal policy priorities. This is demonstrated by the latest agreements signed by Georgia in order to integrate into the European Union as well as into the rest of civilized and democratic world. Prof. G. Gabrichidze's (hereafter: "the author") study "Legal Aspects of Labour Migration Governance in Georgia" (hereafter: "the study") is an attempt to assess current legal instruments of migration management. The study is crucial for anyone wanting to have a full picture about the existing legal context, achievements, as well as gaps and measures that should be further taken. However, the study does not fully reflect a dynamic evaluation of legal and policy-making developments, nevermind the approaches and aspirations of Georgia to improve the migration management within and outside the country.

1. International legal framework

The author might have made reference to the Constitution of Georgia to explain the role of the international agreements/conventions within the Legal space of Georgia. In accordance with Article 6 of the Constitution of Georgia¹, if there is any agreement/convention, ratified or otherwise recognized in Georgia covering migration in general and namely labor migration, it will have primary power over domestic laws. In the above-mentioned context, it should be emphasized that the author passes over the documents which make the country profile on migration policy and which directly or indirectly are related to labour migration management. Below are the enumerated documents which should be considered as the legal instruments of migration governance in Georgia and a review of them is vital for legal studies.

Multilateral international agreements:

- ILO Convention (88) on Employment Service²;
- ILO Convention (122) on Employment Policy³.
- ILO Convention (163) on Seafarers' Welfare Convention⁴;
- ILO Convention (151) on Labour Relations (Public Service) Convention;⁵
- Protocol "to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" of the UN convention "against the Trans-National Organized Criminal."⁶

Regional agreements:

Convention of the Council of Europe "on Action against Trafficking in Human Beings"⁷. The convention pays special attention to the obligations of parties to take appropriate measures to enable and support legal migration. It is worth mentioning here that the convention refers to some documents:

¹ "1. The Constitution of Georgia shall be the supreme law of the state. All other legal acts shall correspond to the Constitution. 2. The legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement unless it contradicts the Constitution of Georgia, the Constitutional Agreement, shall take precedence over domestic normative acts."

² Ratified by the Parliament of Georgia 7 June 2002 by the Act of the Parliament # 1488 (Entry into force: 11.09.2002).

³ Ratified by the Parliament of Georgia 16 May 1996. According to the convention "there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin".

⁴ Agreed by the Parliament of Georgia in 2004; According to convention each member is obliged to undertake adequate welfare facilities and services for seafarers both in port and on board ship.

⁵ Agreed by the Parliament of Georgia 16 July 2003.

⁶ Ratified by the Parliament of Georgia 7 June 2006.

⁷ Ratified by the Parliament of Georgia on 22 December 2006.

- recommendation 1545 (2002) on a campaign against trafficking in women;
- recommendation 1610 (2003) on migration connected with trafficking in women and prostitution;
- European Union Council Directive 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subjects of an action to facilitate illegal immigration.

Bilateral agreements:

- The “Agreement on Partnership” has been signed between the Republic of Georgia and the International Organization of Migration.⁸
- The “Agreement on the readmission of persons residing without authorization”. (22 November 2010)⁹. It was signed In order to strengthen the co-operation to combat illegal immigration between Georgia and the EU, as well as laying out the obligation for both parties – when and how to take back people who are illegally residing on their territories.
- The Agreement “on the Readmission of Persons Residing without Authorization”.¹⁰ It was signed on 10 November 2011 between Georgia and the Kingdom of Norway.
- Agreement “on the facilitation of the Issuance of visas” (27 June 2010)¹¹ was signed by the EU and Georgia in order to reaffirm the intention to establish a visa-free travel regime for citizens of both signatories as a long-term goal, provided that all the conditions for well-managed and secure mobility were fulfilled, as well as to promote selective attitudes to visa facilitation and to escape illegal migration.

Above-mentioned agreements, especially the readmission agreements have a direct impact on the issue of illegal labour migration abroad, as returned people/migrants are illegally residing abroad in order to be employed there. Both overview and analysis of these agreements/conventions with regard to their effectiveness and any possible impact on the national legal and institutional framework would have been essential for the study. For example: after the ratification of the convention concerning trafficking in human beings, the Parliament of Georgia adopted the law “on the Fight against Trafficking in Persons”, accompanied by the establishment of a national victim referral mechanism and the Permanent Anti-Trafficking Coordination Council. Furthermore, special legal norms were amended in the Criminal Code¹².

As to the European Convention on the Legal Status of Migrant Workers, which is mentioned in the study and which has not been signed by Georgia, it should be emphasized that only 11 countries ratified and only 15 signed the convention.¹³ Besides this, it should be underlined that the execution and implementation of agreements of a social character demand state finances and some essential measures to be provided regarding to legal and institutional context within the country. Ratification of “European Social Charter”¹⁴ in a very rapid regime of time would jeopardize the Charter’s fulfillment by Georgia.

⁸ Signed on 6 Sep 1994, Tbilisi, Georgia.

⁹ Entered into force on 1 March 2011.

¹⁰ Entered into force on 3 February 2012.

¹¹ Entered into force on 1 March 2011.

¹² Articles: 143¹, 143², 143³.

¹³ Ratification and signature data base on “European Convention on the Legal Status of migrant Workers.

¹⁴ National report about the implementation of “European Social Charter” is prepared and sent to concerned state agencies. After receiving comments from the agencies report will be presented to the Council of Europe and the Social Partners. Georgia’s Progress Report on Implementation of the ENP Action Plan, 2011, Office of the State Minister of Georgia on European and Euro-Atlantic Integration.

Georgia intends to negotiate bilateral agreements on the facilitation of the issuance of visas with Norway, Switzerland, Liechtenstein, Denmark, the United Kingdom and Ireland. Georgia also plans to negotiate bilateral agreements on the readmission of persons residing without authorization with Denmark and Iceland.¹⁵

2. Legal aspects of overseas employment of Georgian citizens

2.1 Measures of legal character affecting overseas employment

Obligation for emigration and labour rights regulations are set up in the Constitution of Georgia.¹⁶ Consequently, the author might have noted and described the functions of executive bodies of Georgia and as well as those legal acts, which impact on the overseas residence of citizens of Georgia.

The study passes over one of the most important paragraphs prescribed in the Organic law “on Citizenship”, which directly or indirectly leads to the results concerned: “If a citizen of Georgia being abroad has not been registered at the nearest Georgian Consulate within two years, she/he automatically loses the citizenship of Georgia.” Potentially a great number of citizens of Georgia face the loss of citizenship notwithstanding their mean of exit from the country and their more general category.

The study does not include the issues that are important in the light of the prevention or regulation of outflows, namely illegal migration. The adoption of the law “on the Fight against Trafficking in Persons” led to the establishment of the Intergovernmental Coordination Council and State Fund Organization. Moreover, relevant action plans have been affirmed.

After the entry into force of the agreement on readmission between Georgia and the EU, an Order of the President was issued (# 225; 26.04.11) authorising the Ministry of Internal Affairs of Georgia to implement the Agreement and to be in charge of procedural and organizational issues. The Ministries of Foreign Affairs and Justice, as well as the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees were tasked to provide necessary assistance to the competent authority when such a need arises.

Based on the Presidential Order, the Minister of Internal Affairs issued an order No. 367 on May 2011, which amended the Patrol Police Regulations to accommodate additional functions under the Agreement. The separate unit of international relations was created within the Patrol Police, which will be the competent authority under the Agreement.

To justify the process of the implementation of the readmission agreements the Ministry of Internal Affairs (Patrol Police, Boarder Police) concluded and signed the documents of understanding and co-operation with relevant bodies abroad. For instance, documents on “the agreement of cooperation in the sphere of border control” and “the exchange of information on readmission and the return of persons” were signed between the Border Guard of Estonia and the Ministry of Internal Affairs of Georgia.

According to the Visa Facilitation and Readmission Agreements, the EU-Georgia joint committees were created and regular meetings were convened. The parties discuss the procedures of implementation and monitoring of the above-mentioned agreements, and exchanged relevant information on these matters.

¹⁵ Office of the State Minister of Georgia on European and Euro-Atlantic Integration, Georgia’s Progress Report on Implementation of the ENP Action Plan, 2010.

¹⁶ Article 30: “The following shall fall within the exclusive competence of higher state bodies of Georgia: legislation on Georgian citizenship, human rights and freedoms, emigration and immigration, entrance and leaving the country, temporary or permanent residence of citizens of foreign states and stateless persons in Georgia.¹⁶ On the basis of international agreements governing labour relations, the state shall protect the labour rights of the citizens of Georgia abroad.”

2.2 Main challenges and progress in improving the national legal framework

As to progress regarding the prevention of migration outflows, important complex actions were provided within the country. These measures indirectly impacted the labour migration and enhanced reintegration. For the last 5-7 years the situation in Georgia has substantially improved including in terms of stabilization, the fight against crime and corruption, an improvement of the rule of law, human rights protection, new businesses and development opportunities, launching the employment programs and the creation of jobs. All these factors as well as statistical data might have been used in the study to give a fuller picture of migration in general as well as progress in the regulation of outflows and labour migration in Georgia. Emphasizing the policy reforms including all legal and institutional changes taken place in Georgia would have been indispensable and essential for the study.¹⁷

It should be noted that in 2009 and 2010 Georgia had positive net migration figures after negative trends in 2006-2008¹⁸. Furthermore, in recent years the State made significant steps towards the prevention of illegal emigration: border protection was increased, including the introduction of highly secure personal identification documents and efficient systems to fight against trafficking in human beings. Georgia has been included in the list of 30 countries which are the most successful in fighting trafficking. Presenting the statistical data on border-crossing would have made sense because it would have shown what progress Georgian is making in this area.¹⁹

As to Migration Policy Document mentioned by the author, it was adopted by the Governmental Commission on Migration. Before the submission to the Government of Georgia for final adoption it was discussed by Civic Organizations. At the same time working groups under the Governmental Commission on Migration started to elaborate a Migration Policy Implementation Working Plan.

2.3 Recommendations

The author is of the opinion that the state should regulate the maximum range of issues in order to set limitations, control, to manage and govern migration movement and the labour market. This very much contradicts the freedom of movement, de-regulation principles, and open-country image of Georgia, not to mention the ideology for creating an attractive environment for foreign investment in Georgia and the free development of the market. Setting the limitation on fees introduced by private employment agencies could bring changes to the free market arrangement (planned economy). Taking measures recommended in the study probably will cause dissatisfaction from the side of employers. Regarding this issue it would be better to recommend the state to enhance and promote the policy of competition and create the real conditions for multiplication of private state agencies. But first of all it is necessary to adopt the law on “Private Employment Agencies” according to the ratified convention C181.

3. Access of aliens to the Georgian labour market

The legal philosophy of the state of Georgia regarding migration management originates from the universally declared values, reflected in the Constitution of Georgia.²⁰ The Constitution of Georgia

¹⁷ For example new policy approaches by the Ministry of Economy and Sustainable Development give lots of opportunities for the creation of job places that impact illegal emigration and labour immigration.

¹⁸ In 2000: net migration (in Thousands) –35.2. In 2001: net migration (in Thousands) –32.6. In 2002: net migration (in Thousands) –27.8. In 2003: net migration (in Thousands) –27.5. In 2004: net migration (in Thousands) 5.5. In 2005: net migration (in Thousands) 76.3. In 2006: net migration (in Thousands) –12.1. In 2007: net migration (in Thousands) –20.7. In 2008: net migration (in Thousands) –10.2. In 2009: net migration (in Thousands) 34.2. In 2010: net migration (in Thousands) 18.1.

¹⁹ Detailed information on border-crossing is published on the official web-page of the Ministry of Internal Affairs: <http://www.police.ge/index.php?m=199&newsid=171>

²⁰ Article 47.

declaring the equality of rights of foreigners and stateless persons with the rights of citizens of Georgia, and it is integrated in laws of Georgia and the policy-making process. According to the new amendments to the Constitution of Georgia²¹ “Protection of labour rights, equitable remuneration, safe and healthy environment, labour conditions for juvenile and women shall be defined by the Organic Law”.

3.1 Status of aliens regarding labour activities

Besides the status of “alien” and “stateless person” according to the law “on Legal Status of Aliens and stateless persons”²² mentioned in the study, there are special statuses defined by Georgian Laws which might have been noted in it.

The legal status for “repatriates” and their posterity, exiled from Georgia in the 1940s, are determined by the law “on Repatriation of Persons forcefully sent into exile from the Soviet Socialist Republic of Georgia by the former USSR in the 1940s”; These persons are allowed to return and repatriate to Georgia on the basis of the introduction of relevant documentation and they have the right to take Georgian citizenship.

It is essential to mention here those with “refugee” or “humanitarian status” and their labour rights. In December 2011 the Parliament of Georgia adopted the law “on Refugees and Persons having Humanitarian Status”. The law regulates the rights and obligations for asylum seekers, refugees and persons having humanitarian status. While a person is an asylum seeker and he or she is waiting for the granting of refugee or humanitarian status, they are entitled to apply for a job in order to be employed. After the abovementioned statuses are granted, the relevant ministry gives him/her temporary residence and travel permit documents.²³

3.2 Public Service

It is not relevant for the study to discuss the issue of the political situation prior to the elections and the Constitutional Amendments as though they were adopted for personal benefit. As to limitations for performing labour activities by foreign citizens at public services, Georgian law “on Public Service” provides a universally recognized approach practiced throughout the world.

3.3 Entry of aliens into Georgia for the purpose of performing labour activities

When describing the visa regime for aliens in Georgia and discussing the access of aliens to the Georgian labour market, reference might have been made to those regulations prescribed in the law “on Legal Status of Aliens”²⁴

In order to enter Georgia for 360 days a visa is not needed for the citizens of the EU and other countries (amendments were made to the law in 2011).²⁵

²¹ Adopted in 2010. See Article 30.4.

²² The title of the law “on Legal Status of Aliens” were amended and changed on 25.05.12.

²³ The law is a step to modernize the national refugee system in line with international standards – Principles of the 1951 Geneva Convention and the 1967 Protocol. The issues is mentioned as a recommendation in the Country Progress Report by the European Commission.

²⁴ Article 4(5).

²⁵ Article 4.5: “EU states, Overseas territories of United Kingdom of Great Britain and Northern Ireland - Bermudas, Caiman, Virgin islands, Falkland islands, Turks and Caicos Islands, Gibraltar; the Dependencies of United Kingdom of Great Britain and Northern Ireland- Jersey, Guernsey, islands of Mann; dependent territories of the Kingdom of Denmark - islands of Faroe and Greenland; territories of the Kingdom of the Netherlands – Aruba and Antilles; oversea territories of France Republic – Polynesia and New Caledonia; USA; Canada; Japan; Swiss Confederation; Principality of Liechtenstein; Kingdom of Norway; Israel; Vatican; Andorra; Republic of San-Marino; Republic of Iceland; United Arab

Citizens of the EU states can enter Georgia presenting only the ID cards and they do not need foreign travel passports.²⁶ Foreign citizens living permanently in any country enumerated in the law (article 4.5) with the document of permanent residence are equal to the citizens of countries granting permanent residence documents²⁷.

Georgia facilitates the visa regime for former compatriots, who are not currently Georgian citizens and who have the citizenship of those countries, citizens who need the visa to enter Georgia. According to the law “on Legal Status of Aliens and Stateless Persons” Georgia gives them the right to enter without a visa for a period of thirty days.²⁸

The degree of Freedom of Movement offered by the law of Georgia to the rest of the world is very high. This makes Georgia an open and liberal, but it is a one-sided and unilateral approach. So according to the Council Regulation concerning the visa regime at the EU borders²⁹, Citizens of Georgia are not allowed to enter the EU without a visa. The idea and method of the approach for the management of migration, as well as wholesome severity represented in the Council Regulation is absolutely understandable in the sense of internal, external and security policy. It should be noted in addition that, according to the Law of Georgia “on Legal Status of Aliens and Stateless persons” the citizens of those countries, which are not given the right to entry the EU without a visa (listed in the Council Regulation), are allowed to go to Georgia without a visa request.

As to labour relations and employment contracts, the general framework is regulated by the Organic Law of Georgia, the “Georgian Labour Code” (adopted in 2010). According to the Organic Law any kind of discrimination is prohibited³⁰.

3.4 Stay of aliens in Georgia for the purpose of performing labour activities

It is worth mentioning here that procedures for the stay of aliens and obtaining the residence permits are simplified in Georgia. Furthermore, according to the law “on Status of Aliens and Stateless Persons” the unity of family is respected and protected. Residence permits should be granted to family members (spouse, parents, adopted parents, children, adopted children, grandchildren, sisters, brothers, grandparents) of the persons who have residence permits in Georgia.³¹ According to statistical data, 4294 temporary residence permits and 7 permanent residence permits were given in 2011 to the foreigners on the basis of applications relating to labour relations.

As to the organ responsible for the granting or termination of residence permits the Legal Entity of Public Law – the State Services’ Development Agency (new amendments were made on 25 May 2012).

(Contd.) _____

Emirates; Kuwait; the Republic of Korea; Qatar; Bahrain; the Sultanate of Oman; Brunei Darussalam; Republic of Singapore; Commonwealth of Australia; Principality of Monaco; New-Zealand; Commonwealth of Bahamas; Barbados; Antigua and Barbuda; Republic of Trinidad and Tobago; the Republic of Seychelles; the Republic of Botswana; the Republic of Croatia; the Republic of Chile; the federation of Saint Kitts and Nevis; the Republic of Argentina; Federation of Malaysia; United States of Mexico; Oriental Republic of Uruguay; the Republic of Mauritius; the Republic of Panama; the Republic of Costa-Rica; Republic of South Africa; Federal Republic of Brazil; the Kingdom of Thailand; Belize; the Kingdom of Saudi Arabia; the Republic of Albania; the Republic of Serbia; Bosnia and Herzegovina; Montenegro; the Republic of Iraq”.

²⁶ Article 4. Paragraph 5. ❶

²⁷ Article 4, Paragraph 5. ❷

²⁸ Article 4. Paragraph 5⁴.

²⁹ Council Regulation (EC) No 539/2001 of 15 March 2001 - listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

³⁰ Article 2.3.

³¹ Article 19.1.

3.5 Legal measures to prevent the illegal labour activities of aliens

According to the law “on Aliens and Stateless Persons” there are certain legal norms prohibiting the entry of foreigners to Georgia (list of cases are prescribed in the law). However, these norms are preventive and are aimed at avoiding illegal labour activities. Furthermore there are other legal norms for the termination of residence permits if foreign nationals involve themselves in illegal activities.

During 2010 and afterwards, the Civil Registry Agency (currently the State Services’ Development Agency) of Georgia has implemented a series of activities directed towards the development of an effective and well-functioning national civil registry. In this respect, the system for biometric data recording has been developed.

It is worth noting that the relevant ministries organize informational campaigns which are the most important mechanisms in preventing illegal labour activities:

- During 2011, the Civil Registry Agency provided a migration related information campaign which mainly included TV and radio programs as well as newspaper articles.
- The web site of the State Commission on Migration provides information regarding international agreements, activities, projects, reintegration, competent agencies, legal travel, threats of illegal displacement, etc.
- Georgian Embassies/consulates abroad are actively involved in the information campaign intended for Georgians nationals residing abroad.

3.6 Other measures of legal character affecting the access of aliens to the Georgian labour market

The study does not give any information regarding the measures which were taken in Georgia concerning this issue. All actions provided by state entities with the cooperation of non-state actors are approved and written in legal documents like action plans or sub-laws in order to deal with migration policy. These have a great impact on the labour market, labour market composition and labour market migration:

- The Tripartite Social Partnership Commission started functioning in 2010: the Government of Georgia, the Georgian Trade Unions Confederation and the Georgian Employers Association. It should be noted that Georgian Employers Association leads bilateral negotiations with foreign partners on labour migration, develops the recruitment process for jobseekers and increases awareness by launching trainings, workshop, etc.
- “Migrant Information Centres” operate at four regional representations of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation, and Refugees of Georgia. The Centres aim at increasing public awareness about risks associated with irregular migration. Their activities are implemented in two directions: a) the organization of efficient information campaigns, and b) the implementation of target education programs. Since 2011, more than 3,000 people have benefited from the activities of the Centres.

3.7 Main challenges and progress in improving national legal framework

Notwithstanding the challenges it faces, Georgia has achieved progress in certain areas: Georgia continues the implementation of reforms in the border management sector in line with the Integrated Border Management Strategy Action Plan. The 4th EU-Georgia Cooperation Sub-committee on Justice, Freedom and Security was held on 21 June 2011 in Brussels. In the course of the Sub-Committee meeting, the sides discussed, in detail, the issues of legal and illegal migration, border management, document security. Three thematic working groups were established within the framework of the Governmental Commission on Migration: Working Group on the Consolidation of Reintegration Issues; Working Group on Statelessness; Working Group on Migration Strategy.

Regarding the issues of the creation of migration data processing and analysis system - consultations with potential donors have been successfully finalized; the system development will be funded by the EU. At this stage, the procedures and instruments for project implementation are under consideration.

3.8 Recommendations

The author touches upon the question of unemployment. It would have been interesting to provide statistical data as there has been a decline in numbers of unemployed people in 2011, compared to previous years.³²

As to demands on the labour market, IOM is finalizing the Georgian labour market analysis, which would be accessible for the public soon. This would be as an indicator of further policy-making process.

Selective approaches and the introduction of the principle of national preference regarding to access to the Georgian labour market, which is proposed in the study contradicts the Constitution of Georgia, International agreements, as well as freedom of choice and principle of discrimination.³³ The recommendations should be direct towards combating illegal immigration to Georgia, rather than towards discriminative legal acts.

Conclusion

Georgia is on a transit route between Europe and Asia and for this reason it is a country of origin, destination and transit for migrants. Consequently, it is vital for Georgia, as well as for its neighbours to have developed migration policy and adequate management of migration processes. When describing the legal aspects of migration governance in Georgia the political and economic development thinking of the state of Georgia needs to be taken into the consideration. Several years ago there was no political will to regulate migration flows. Currently steps are being taken in order to govern these processes and implement the standards introduced by democratic countries and international organizations. However, Georgia does not want to copy paste policy and preserves its independent and sovereign view regarding the best model of governance. Instead of managing migration policy through massive limitations and restrictions, Georgia has chosen another path: the development of tourism, creating a more favourable investment environment, creation of job places, introduction of employment programs, secure management of border control etc. The regulation of illegal migration regulates and prevents illegal labour migration.

³² 2009 – 16,9%; 2010 – 16,3 %; 2011 – 15,1 %.

³³ Constitution of Georgia: Article 30. Paragraph 1. “Labour shall be free”.

ILO Convention No. 111. Discrimination (Employment and Occupation) Convention. “Article 1.1.: For the purpose of this Convention the term discrimination includes-- (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”. The term “national extraction” is translated and interpreted into Georgia as a foreigner.

Social Charter: Part I. “The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.” The term “nationals of any one of the Parties” is translated into Georgia and interpreted as a citizen of other country.

Georgian Labour Code, Art. 2(3): “It shall be prohibited in labour relations any kind of discrimination according to the race, colour, language, ethnical and social belonging, nationality, origin, property and class condition, place of residence, age, sex, sexual orientation, disablement, religious or belonging to any organization, family, political and other views”.