



## **CARIM EAST – CONSORTIUM FOR APPLIED RESEARCH ON INTERNATIONAL MIGRATION**

Co-financed by the European Union

# ***Legal Aspects of Labour Migration Governance in Georgia***

**Gaga Gabrichidze**

CARIM-East Research Report 2012/09



© 2012. All rights reserved.  
No part of this paper may be distributed, quoted  
or reproduced in any form without permission from  
the CARIM East Project.



**CARIM-East**  
**Creating an Observatory of Migration East of Europe**

**Research Report**  
**CARIM-East RR 2012/09**

**Legal Aspects of**  
**Labour Migration Governance in Georgia**

**Gaga Gabrichidze**

© 2012, European University Institute  
Robert Schuman Centre for Advanced Studies

This text may be downloaded only for personal research purposes. Any additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the Robert Schuman Centre for Advanced Studies.

Requests should be addressed to [carim.east@eui.eu](mailto:carim.east@eui.eu)  
If cited or quoted, reference should be made as follows:

Gaga Gabrichidze, Legal Aspects of Labour Migration Governance in Georgia, CARIM-East RR 2012/09, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2012.

THE VIEWS EXPRESSED IN THIS PUBLICATION CANNOT IN ANY CIRCUMSTANCES BE REGARDED AS THE OFFICIAL POSITION OF THE EUROPEAN UNION

European University Institute  
Badia Fiesolana  
I – 50014 San Domenico di Fiesole (FI)  
Italy

<http://www.eui.eu/RSCAS/Publications/>  
<http://www.carim-east.eu/publications/>  
<http://cadmus.eui.eu>

## **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/>

*For more information:*

CARIM-East

Robert Schuman Centre for Advanced Studies (EUI)

Convento

Via delle Fontanelle 19

50014 San Domenico di Fiesole

Italy

Tel: +39 055 46 85 817

Fax: + 39 055 46 85 770

Email: [carim.east@eui.eu](mailto:carim.east@eui.eu)

Robert Schuman Centre for Advanced Studies

<http://www.eui.eu/RSCAS/>

**Table of Contents**

Executive Summary ..... 5

1. International Legal Framework ..... 1

    1.1 Multilateral agreements ..... 1

    1.2 Regional agreements ..... 1

    1.3 Bilateral agreements ..... 1

2. Legal Aspects of Overseas Employment of Georgian Citizens ..... 2

    2.1 Measures of legal character with impact on overseas employment ..... 2

    2.2 Challenges and progress in improving the national legal framework ..... 2

    2.3 Recommendations ..... 3

3. Access of Aliens to the Georgian Labour Market ..... 4

    3.1 Status of aliens regarding labour activities ..... 4

    3.2 Public service ..... 5

    3.3 Entry of aliens into Georgia for the purpose of performing labour activities ..... 5

    3.4 Stay of aliens in Georgia for the purpose of performing labour activities ..... 6

    3.5 Legal measures to prevent and sanction the illegal labour activities of aliens ..... 7

    3.6. Other measures of legal character having an impact on the access of aliens to the Georgian labour market ..... 7

    3.7 Main challenges and progress in improving national legal framework ..... 7

    3.8 Recommendations ..... 7

Conclusion ..... 8

## **Executive Summary**

The main goal of the present study is to analyze the legal aspects of labour migration governance in Georgia. For this purpose, an analysis of national legal instruments related to labour migration governance has been carried out. And an overview is given of those international agreements, which are of relevance for Georgia.

The study is carried out in the following main directions: First, there is an overview of existing legislative mechanisms; second, an analysis of the coherence of these mechanisms; and, third, a survey of gaps and challenges and recommendations.

The content of the study is mainly based on the analysis of legal documents. However, it should be noted that the number of legislative acts and other official documents related to labour migration is very limited. This is due to the liberalization of migration policy, which is a reflection of the extremely liberal policy of the current Georgian government. As a consequence, Georgian legislation does not provide for the overseas employment of Georgian citizens in any form. And as to the access of aliens to the Georgian labour market, there are only some limited mechanisms, which in practice do not have a visible regulatory effect. Namely, legislation does not impose any obligation for aliens to obtain a work permit before starting work. Thus, the Georgian labour market is wide open to citizens of foreign countries.

It is recommended that the state changes to a model of labour migration governance which would be both efficient and active. This model should be based on a consideration of economic and demographic effects and it should be developed on the basis of migration flow analysis.

## 1. International Legal Framework

### 1.1 Multilateral agreements

Georgia has acceded to important international agreements relevant to labour migration. These are: the ILO Discrimination (Employment and Occupation) Convention (No 111)<sup>1</sup>; and the ILO Convention (No 181) on Private Employment Agencies.<sup>2</sup> However, Georgia has not yet ratified several important conventions related to labour migration, such as:

- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- The ILO Migration for Employment Convention (Revised) (No. 97).

### 1.2 Regional agreements

With regard to regional agreements, special reference should be made to the Revised European Social Charter to which Georgia is party.<sup>3</sup> Among those provisions of the Charter which are binding on Georgia is Article 19 which deals with the right of migrant workers and their families to protection and assistance. Though, it should be noted here that the Revised Social Charter is not yet ratified by eleven member states of the Council of Europe, including Germany, the Czech Republic and the United Kingdom. This, of course, reduces the application area of the Charter. In the context of other relevant regional agreements, it should also be mentioned that Georgia has not yet signed the **European Convention on the Legal Status of Migrant Workers**.

### 1.3 Bilateral agreements

In the context of bilateral relations, cooperation with the European Union is of particular importance. Cooperation with the EU within the Cooperation and Partnership Agreement, especially within the European Neighbourhood Policy and the Eastern Partnership have given new impetus to the development of migration governance systems in Georgia. The action plan of the European Neighbourhood Policy, adopted in 2006, provides for, *inter alia*, the development of cooperation with regards to the elaboration and the need to implement a coherent, comprehensive and balanced national action plan on migration and the improvement of coordination between relevant national agencies dealing with migration.

Special mention should be made of the Mobility Partnership initiative between the European Union and Georgia. The joint declaration of the Mobility Partnership was signed 30 November, 2009. The purpose of this initiative includes, among other things, the strengthening of Georgian institutional capacity for migration management, the development of circular and temporary labour migration schemes, to the assistance of Georgia in improving the legal framework and the legal and technical framework on migration related to data collection and management.

At this time, within the Mobility Partnership initiative, Georgia and France are working on a bilateral agreement on Circular Migration and the Residence of Professional Workers. Furthermore, for better cooperation and dialogue in the field of migration, the EU-Georgia cooperation Sub-committee on Justice, Freedom and Security issues was established.

---

<sup>1</sup> Ratified by the Parliament of Georgia on May 4, 1995.

<sup>2</sup> Ratified by the Parliament of Georgia on June 7, 2002.

<sup>3</sup> Ratified by the Parliament of Georgia on July 1, 2005.

Bilateral agreements on visa-free travel concluded by Georgia with third countries should be also be considered here,<sup>4</sup> if only briefly. After all, these agreements can definitely be a supportive factor for emigration of Georgian citizens, but they only stipulate exemptions from the obligation to obtain visa for short visits, as a rule for up to 90 days. In order to be allowed to perform labour activities in these countries Georgian citizens need to fulfill the requirements set by the legislation of the respective country. Thus, typically, they will need to obtain a labour visa and a labour permit.

Taking into consideration their reciprocal nature, the international agreements mentioned below are also of relevance not only for the overseas employment of Georgian nationals but also for the access of aliens to the Georgian labour market. Though, as the access of foreign citizens to the Georgian labour market is unlimited, international agreements would only play a role here if they stipulated mechanisms for the organized employment of foreign citizens in Georgia. However, Georgia has not yet concluded this kind of agreement.

## **2. Legal Aspects of Overseas Employment of Georgian Citizens**

As to the legislative regulation of overseas employment for Georgian citizens, Georgian legislation does not provide any such provisions. Consequently, the rules and procedures for the temporary exit of citizens from Georgia for whatever purpose, as well as for the exit of Georgian citizens for permanent residence in another state are generally regulated by the Law on the Rules of Georgian Citizen's Entry into and Exit from Georgia.

### **2.1 Measures of legal character with impact on overseas employment**

The recognition of education obtained abroad is very important in supporting the return of emigrants and circular migration more generally. In Georgia, this is a competence of the National Center for Educational Quality Enhancement, which is a public authority. The recognition process conducted in accordance with the order No 98/n of the Minister of Education and Science of Georgia "on the Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees" which was adopted on 1 October, 2010. For the purposes of recognition of foreign education diplomas the National Center for Educational Quality Enhancement verifies the authenticity of any diplomas issued by the educational institutions of foreign countries. It determines the compatibility of the qualification in these diplomas or the learning outcomes attained during the study period with Georgian qualifications. The subject of recognition is general and applies to higher education as well as to vocational education.

### **2.2 Challenges and progress in improving the national legal framework**

First of all, it should be noted that the Georgian government has not yet adopted a migration policy document. This fact has caused some disorientation with regard to development and the implementation of migration policy. Though, it should be mentioned that the Governmental Commission on Migration Issues is now working on this issue. The commission was established 13 October, 2010 on the basis of decree No 314 of the Government of Georgia for Establishing Governmental Commission on Migration Issues and Approval of its Statute. Its competence includes: proposals and recommendations in the field of internal and external migration for defining a unified policy for the government of Georgia and for improving the state system of migration management; proposals for creating proper socio-economic conditions for the citizens of Georgia who returned from emigration; proposals for activities to be implemented in the field of migration in accordance with the ENP Action Plan.

---

<sup>4</sup> Georgia currently has agreements on visa-free travel with several countries, for example, with Ukraine, Armenia, Turkey, Kazakhstan, Azerbaijan, etc.



The following state institutions participate in the work of the commission: the office of the State Minister for Euro-Atlantic Integration, the office of the State Minister for Diaspora Issues, the Ministry of Justice, the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, the Ministry of Economy and Sustainable Development, the Ministry of Labor, Health and Social Affairs, the Ministry of Finance, the Ministry of Education and Science and the National Statistics Office.

The adoption of a migration policy document would be of great importance as it would support the establishment of a migration governance system, with specific, sophisticated and coherent goals.

### 2.3 Recommendations

Regarding the overseas employment of Georgian citizens and its regulation it should be noted that the regulation of this issue by the state could be justified only when the state can offer specific benefits to its citizens. Whereas, overseas employment policy for Georgian citizens should be aimed at developing human resources.

The high expenses of emigration (for example, high recruitment fees and transportation costs) may have significant negative effects on the migration process. They may influence the decision of migrants to overstay their visa. Furthermore, they reduce the capacity to send remittances. Therefore, reducing migration costs should be one of the priorities of the state. For example, the state can set limits on fees charged by private employment agencies.

The establishment of information centers might be taken into consideration. These centers would provide Georgian citizens with advice on employment opportunities in foreign countries. For the purposes of protecting the rights of Georgian citizens specific obligations could be imposed on private employment agencies. This might be done in the form of licensing employment agencies or of registering employment contracts.

It must also be remembered that remittances are among the main benefits of labour migration.<sup>5</sup> Hence, the state should pay more attention to supporting labour emigrants when they want to send money home.

Furthermore, in order to support the legal and managed overseas employment of Georgian citizens the state should continue and intensify efforts to negotiate bilateral agreements on labour migration with third countries. While there is a general framework for hiring citizens of contracting parties and their temporary employment, this kind of agreements establish a legal basis for using labour resources for their mutual benefit. Hence, it facilitates the legal employment of migrant workers and guarantees equal treatment. Bilateral agreements on labour migration are of interest to both parties, as they not only create opportunities for legal employment. They constitute too positive measures in combating illegal labour migration. Whereas, they also take into account the shortcomings of the labour market of the receiving country.<sup>6</sup>

It is desirable to include, in the agreements, specific mechanisms for pre-departure skills training for migrant workers so that their qualifications match the requirements of the labour market in the receiving country.

---

<sup>5</sup> OSCE, IOM, ILO Handbook on Establishing Effective Labour Migration Policies, Mediterranean Edition, 2007, p. 73.

<sup>6</sup> For more information on best practices with regard to bilateral labour agreements see: the Global Forum on Migration and Development, 2008. Compendium of Good Practice Policy Elements in Bilateral Temporary Labour Arrangements [pdf]. Available at: <[http://www.iom.int/jahia/webdav/shared/shared/mainsite/published\\_docs/studies\\_and\\_reports/compendium\\_version\\_2.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/published_docs/studies_and_reports/compendium_version_2.pdf)> [Accessed on 28 March 2012]; The Caucasus Institute for Peace, Democracy and Development, 2009. Labour Migration from Georgia and Bilateral Migration Agreements: Needs and Prospects, Policy review, The Caucasus Institute for Peace, Democracy and Development, Tbilisi 2009.

Generally, qualification recognition should be a priority for Georgia. It not only affects migrants' ability to enter the labour market of other countries and practice their profession there. In addition when their qualifications are not recognized abroad, their income and, therefore, their remitting capacities are reduced.

### **3. Access of Aliens to the Georgian Labour Market**

#### **3.1 Status of aliens regarding labour activities**

According to Article 47 of the Constitution of Georgia, Foreign citizens and stateless persons residing in Georgia shall have the same rights and obligations as Georgian citizens with exceptions envisaged by the Constitution and law. As to carrying out labour activities by foreigners, Georgian legislation stipulates limitations only with regard to employment in the public service and also to becoming an attorney. Generally, the Labour Code and the Law on Entrepreneurs do not set any limitations on aliens engaging in employment relations or on them establishing commercial legal entities or on them getting registered as individual entrepreneurs in Georgia. Labour relations in Georgia can be conducted on the basis of labour contracts which shall be made in writing or verbally for a definite or indefinite period of time, with set terms for the fulfillment of work (Article 6 of the Labour Code of Georgia). Registration rules for enterprises stipulated by the Law on Entrepreneurs apply equally to Georgian and foreign citizens.

As with the Constitution of Georgia, there are some general provisions on the right to perform labour activities in the Law on the Legal Status of Aliens. Namely, according to Article 31, Aliens shall be allowed to perform labor activities in accordance with the rules established by the legislation of Georgia. And Article 30 refers to the right to investment and business activities and stipulates that aliens have the right to be engaged in investment and business activities in Georgia in accordance with Georgian legislation. Whereas, it is also specified, that aliens shall have the same rights and obligations as those of Georgian nationals, unless otherwise provided by the legislation of Georgia and its international agreements. Though, as already mentioned above, Georgian legislation does not have limitations for entrepreneurial activities.

It is interesting to note that despite the fact that there are no special acts or provisions regulating the employment of foreign citizens in Georgia and, consequently, there are no limitations, some provisions of the Law on the Legal Status on Aliens make general reference to legislation of this kind. This concerns the provisions on procedures necessary for obtaining a Georgian visa as well as the provisions on conditions and procedures for issuing residence permits. In particular, according to Article 11(2)(e), along with other documents necessary for obtaining a Georgian visa, an alien has to submit "a work permit in Georgia when envisaged by the legislation of Georgia". Remembering that in Georgian legislation there is no specific provision regulating the issue of work permits, the above-mentioned requirement is not relevant in obtaining a Georgian visa.

In contrast to the provision of Article 11(2)(e), the work permit is not mentioned in Article 19(1)(a) of the Law on the Legal Status of Aliens. There we find the conditions according to which a temporary residence permit in Georgia shall be issued to those foreigners willing to stay in Georgia for not more than six years; foreigners who are engaged in labor activities according to regulations established in Georgian legislation, including those with free professions.<sup>7</sup> In this provision emphasis is placed on engagement in labour activities.

---

<sup>7</sup> Article 2 subparagraph k) of the Law on Legal Status of Aliens defines a person of free profession as a person of a certain profession who renders practical or intellectual services on his/her own responsibility for the sake of a certain group of people or public interests.

Finally, according to Article 25(1)(d) of the Law on the Legal Status of Aliens, one of the grounds for the termination of the term of stay in Georgia marks the termination of labor activities on the grounds for which the residence permit was obtained.

### **3.2 Public service**

The limitations of performing labour activities by foreign citizens as regard to public service can be divided into two groups. First, there are the limitations, according to which, in order to be entitled to perform labour activities, it is necessary not only to have Georgian citizenship. but also one cannot be a citizen of another country. In particular, the office of the President of Georgia, the Prime-Minister, the Speaker of the Parliament cannot be taken by a Georgian with dual-citizenship (Article 29(1<sup>1</sup>) of the Constitution of Georgia). Second, there are the limitations, according to which some positions are reserved for Georgian citizens, but at the same time it is possible, in these cases, to have dual-citizenship. Georgian legislation lays down these kinds of limitations for positions which are related to the specific activities of public service, namely those involving the exercise of legislative, executive and judicial power (Articles 49(2), 86(1) and 88(1) of the Constitution of Georgia; Articles 96, 111, 134 and 167 of the Elections Code; Article 15(1) of the Law on Public Service).<sup>8</sup> Though, it should be here noted that in these cases multiple citizenship is only allowed, if it was acquired in accordance with the Georgian legislation on citizenship issues, with Georgian citizenship being granted by the President of Georgia: Article 12(1) of the Constitution of Georgia; Article 27 of the Law on Citizenship of Georgia. Consequently, withdrawal from Georgian citizenship as well as acquiring the citizenship of foreign countries is one of the grounds for dismissal from public service (Article 15(1) of the Law on Public Service).

Diametrically opposed to this approach, 22 May 2012, the Parliament of Georgia adopted constitutional amendments which stipulate that along with citizens of Georgia, individuals who were born in Georgia and who have lived in Georgia for the last 5 years permanently and who have EU member state citizenship have the passive as well as the active right to vote in parliamentary or presidential elections. Thus, Individuals in this category have been also allowed to take the political posts of President, chairperson of the Parliament and Prime Minister. It should be noted, that these amendments were initiated in order to allow one of the leaders of the political opposition to run in the October 2012 parliamentary elections and the presidential election in 2013. Therefore, the validity period of these provisions is limited to 1 January 2014.

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

For the purposes of entry into Georgia an alien may generally obtain an ordinary or study visa.<sup>9</sup> According to Article 9(1) of the Law on Legal Status of Aliens, ordinary visas shall be issued to those foreign citizens who travel to Georgia at the invitation of legal and physical persons or with for tourism, medical treatment, visiting relatives or for other purposes. Entry into Georgia for work purposes falls within “other purposes”. Consequently, ordinary visas are issued to aliens willing to work in Georgia.

Article 9(1) of Decree No 399 of the President of Georgia approving the Provisions on the Rules for Issuing, Extending and Terminating Visas stipulates the categories of persons to whom ordinary visas shall be issued. Though, there is no provision in this article regarding persons willing to travel to Georgia for work purposes. Relevant here are subparagraphs h), k) and m) of Art. 9(1), according to

---

<sup>8</sup> To this group of limitations also belongs the provisions of Article 10 of the Law on Attorneys according to which only Georgian citizens may become an attorney.

<sup>9</sup> Generally, Georgian visa policy is extremely liberal. Currently citizens of 76 states need no visa to enter and stay in Georgia.

which an ordinary visa shall be issued to persons of free profession, aliens who travel to Georgia for the purposes of tourism and other persons who stay in Georgia not longer than 360 days. In any case, according to paragraph 1 of the same article, an ordinary visa shall be issued for 360 days or, when ordinary visas are issued at border crossing points, for a period up to 90 days. Hence, an alien willing to enter Georgia for work purposes has a choice. He or she can declare their purpose while applying for a visa or they can enter Georgia as a tourist and, after the entry into Georgia, they can perform labour activities. This would be absolutely legitimate as Georgian legislation does not provide for any restrictions as regards to status change. Thus it is possible to obtain a visa for one purpose and a residence permit for another. So an alien who enters Georgia with a tourist visa, may find a job during his stay in Georgia and then obtain a residence permit that will be based on his labour contract.

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

According to Article 9(1<sup>1</sup>) of the Law on the Legal Status of Aliens, after the expiry of the validity period of the ordinary visa, an alien willing to work or study in Georgia has to obtain a temporary residence permit. As mentioned above, Article 19(1)(a) of the Law on Legal Status of Aliens states that a temporary residence permit in Georgia shall be issued for not more than six years<sup>10</sup> to those working aliens willing to stay in Georgia .

In order to obtain a temporary residence permit for labour activities in Georgia an alien has to submit, along with other necessary documents, a document verifying labor activity in Georgia (a labour contract or another employment document); for persons of free profession a certificate from their bank, detailing the turnover of sums in their personal account for the last year (Article 3(1)(g) of the Decree No 400 of the President of Georgia on the Approval of Statute on the Rules of Decision-making on the Issue of Granting Residence Permits in Georgia).

The temporary residence permit shall be issued initially for a period of up to 1 year and then it can be prolonged for up to 5 years (Article 4 of the Decree No 400 of the President of Georgia on Approval of Statute on the Rules of Decision-making on the Issue of Granting Residence Permits in Georgia). The termination of the residence permit occurs automatically upon the expiry of its validity period. The Civil Registry Agency – a legal entity of public law under the Ministry of Justice – is entitled to terminate the temporary residence permit before time if an alien no longer has the relations for which he obtained the temporary residence permit. It should be noted here that there is an inaccuracy in decree No 400 of the President of Georgia. While according to Article 25(1)(d), one of the grounds for the termination of the term of stay in Georgia is the termination of labor activities for which the residence permit was obtained, Art. 4 of the decree No 40 considers this as grounds for the termination only in cases when it occurs on the initiative of an alien (in the text of the decree: “Alien has stopped”). Thus, this wording does not cover cases when the termination of labour relations with an alien was on the initiative of the employer.

Georgian legislation does not regulate the case where the grounds for which an alien obtained a temporary residence permit have ended; s/he finds a new job before the termination of the previous labour contract and it becomes known to the authorities. Regarding this it should be noted, that the main interest of the migration legislation of Georgia is not to limit employment opportunities for foreign citizens but rather the lawfulness of their stay on Georgian territory. Therefore, taking this into consideration, it can be argued, that starting “new” labour relations and obtaining another residence permit based on it does not contradict existing migration policy.

---

<sup>10</sup>After 6 years the person may apply for a permanent residence permit (Article 20 of the Law on Legal Status of Aliens).

### **3.5 Legal measures to prevent and sanction the illegal labour activities of aliens**

As labour immigration is completely liberalized in Georgia, the issue of its illegality is not actually relevant.

### **3.6. Other measures of legal character having an impact on the access of aliens to the Georgian labour market**

For labour activities by foreign citizens in Georgia the recognition of education obtained abroad is vital. It is a task which is performed by the National Center for Educational Quality Enhancement on the basis of order No 98/n of 1 October 2010 of the Minister of Education and Science of Georgia: “on Approval of the Procedure of Validation of Georgian Educational Documents and Recognition of Foreign Education and Fees”.

### **3.7 Main challenges and progress in improving national legal framework**

Although Art. 66 of the law on Legal Status of Aliens provides for the establishment of a Unified Migration Database, this database has not yet been established. This kind of database would be very important with regard to identifying the necessary mechanisms for controlling and managing migratory flows.

As in the case of the overseas employment of Georgian citizens, the non-existence of a migration policy document leaves the sphere of labour immigration without strategic points of reference. In the past there were attempts to systemically regulate labour migration. So a draft law “On Labour Migration” was prepared which, despite being a step forward, did not comply with international standards.<sup>11</sup> Regardless the quality of the draft law, its adoption and revising was passed over by the Georgian government because of that government’s liberal migration philosophy.

Now, as mentioned above, the Governmental Commission on Migration Issues, established 13 October, 2010, is working on issues of migration governance.

### **3.8 Recommendations**

It is recommended that Georgia revise its existing legislation. Georgia should establish a system with the goal of defining legal principles and mechanisms for access to the Georgian labour markets and the competencies of state authorities participating in this process. After all, there are high levels of unemployment<sup>12</sup> which could be a reason to protect, to a certain extent, the domestic labour market. There is the fact too that limitations on labour activities for foreign citizens is a common practice throughout the European Union,

It is recommended that any legislation be based on the principle of national preference. The Georgian authorities should allow foreign citizens to take up a job only after completing a “labour market test” which will show whether this particular labour activity cannot be carried out by a Georgian citizen. A selective approach should be implemented which would give priority to those foreign citizens who might be considered beneficial to the country because of their qualifications.

It is recommended that Georgia introduce some limitations regarding the labour activities of foreign citizens who study in Georgia. For example, foreign students should be allowed to work for a

---

<sup>11</sup> Natia Chelidze, *Labour Emigration from Post-Soviet Georgia* (2009), at 111.

<sup>12</sup> According to the data of the National Statistics Office of Georgia, the unemployment rate stood at 16,3 % in 2010. The amount of self-employed persons was 52%. Source: [http://www.geostat.ge/?action=page&p\\_id=145&lang=geo](http://www.geostat.ge/?action=page&p_id=145&lang=geo)

specific number of days or months per year. This would help to prevent employers bypassing the legal provisions on the issuance of work permits.

Furthermore, it should be impossible to make changes in status. For example, a foreign citizen entering Georgia for the purpose of tourism should not be able to stay in Georgia for work purposes.

The implementation of this kind of policy should be supported with employers being held responsible for hiring aliens without a work permit. For example, the employer of an alien without a work permit shall be responsible for all expulsion costs in case the decision on expulsion is based on the grounds of illegal employment.

## **Conclusion**

Practically speaking, Georgian legislation does not regulate the labour migration at all. This concerns the employment abroad of Georgian citizens for which there is no single provision in Georgian legal acts as well as the labour immigration. In particular, foreign citizens have the same rights with regard to performing labour activities as Georgian citizens. Whereas in order to enter Georgia for work purposes and in order to perform labour activities in Georgia they do not need to obtain work permits. It might be noted, that this state of affairs is part of the policy of the Georgian government which aims at reducing the number of licenses and permits and issuing procedures for existing licenses and permits. However, it is recommended that the government develop instruments for active management of migration. They should be able to respond to challenges based on Georgia's short- and long-term interests. In this regard it is very important that Georgia draft a migration policy document that would set and define priorities, goals and strategy and that would become the basis for the establishment of a migration management system.