

Chapter 4

International Migration and the Rights of Migrants Guaranteed by the Legislation of Georgia and Their Implementation

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ABSTRACT

This chapter discusses the private law rights of migrants and how they are protected in Georgia. There are different forms of migration in the world and people move both outside and within the country. For internally displaced persons who are simultaneously citizens of Georgia, the legal framework regulating their rights, including private rights, is the same, as Georgian laws apply to the entire territory of the Georgian state. Different rules apply to migrants who are citizens or stateless persons of another country and choose Georgia as their place of residence, temporarily or permanently.

INTRODUCTION

Migration is probably as old as mankind (ICMPD, 2017), But life in modern society is unimaginable without migration processes. Migration is “part of human existence, and people have always been inclined to migrate” (Lane, 2006). Human beings move both internally and externally for a variety of reasons, it may be forced (wars, environmental disasters, etc.) as well as voluntary (desire for education, desire to unite the family, desire to create a better economic situation, etc.).

Migration and related issues are rather complex. Several branches of science have studied migration, several theories have been formulated and international legal norms protecting the rights of migrants have been created. Among them, the protection of the private law rights of migrants is not insignificant.

Growth in recent years of the statistics of residence permits issued to foreign nationals by the Civil Service Development Agency, a legal entity of public law operating within the administration of the Ministry of Justice of Georgia, clearly shows that Georgia, traditionally a country of emigration, is

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gradually becoming a country of immigration as the Russian-Ukrainian conflict has demonstrated even more clearly (IOM, 2021). Therefore, the Georgian state needs to promote the integration of migrants and the protection of their rights by creating legal norms and implementing real actions.

The purpose of this chapter is to discuss the basis for the emergence and development of the property, family, and employment relations of foreign migrants and to analyze the problems under Georgian law.

Personal and property rights are regulated by private law. “Private law regulates relations between private persons based on equality, which is based on the freedom of persons to express their will and the desire to establish relations with other persons - private autonomy” (Chanturia, 2011). According to Article 8 of the Civil Code of Georgia, the subject of private legal relations can be any natural or legal person. This rule applies both to entrepreneurs and non-entrepreneurial persons in Georgia or other countries (Parliament of Georgia, 1997).

RESEARCH METHODOLOGY

The study of the issues discussed in the chapter is based on systematic and complex approaches, therefore historical, comparative, deductive, and other methods were used in the writing of the chapter. The historical method includes the origin and evolution of the subject to be studied, which helped me to analyze the origin and development of private legal rights; The comparative method includes the comparison of the studied issue with other objects, the analysis of their similarities and differences, the mentioned method helped me to compare the Georgian legislative norms around the research topic with the international norms, to see the similarities and differences between them and to make an appropriate analysis; The deductive method, i.e. from the general to the specific, which provides an opportunity to see the general background of the problem, helped me to get to know the research issue better and to make an appropriate analysis. Among the research methods that are used in the chapter I would like to highlight the inductive method, since that is, exactly the from which goes from the specific to the general, and helps to define and determine the general background by discussing specific issues. Another not less important methods are the descriptive method which identifies the problems, and the analytical method analyzes the specific issues of the research topic and draw conclusions.

LITERATURE REVIEW

The issues related to migration and the rights of migrants are very relevant, therefore, both state structures and non-governmental organizations, scientists, and practicing lawyers are interested in this topic, and therefore the literature and studies are quite diverse. Since the research topic concerns a very specific issue, such as the private legal rights of migrants, therefore, it studies and examined many international agreements, Georgian laws, and by-laws, as well as decisions of the Constitutional Court, that have been used.

Immigrant Integration Policy and Practice in Georgia, Achievements, and Challenges (IOM, 2021), needs special mention. The main goal of the study is to determine the achievements and challenges in the process of integration of foreign migrants living in Georgia. The research was carried out within the framework of the following IOM projects: “Promoting an Integrated Operational Framework for Migrant Integration, Reintegration and Labor Migration”, funded by the IOM Development Fund

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