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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
ON AMENDMENTS TO THE ADMINISTRATIVE CODE
OF GEORGIA

Law of Georgia
On Amendments to the Administrative Code of Georgia

Article 1. The following amendment shall be introduced to the Administrative Code of Georgia:

1. Article 199¹ of the following content shall be added to the Code:

“Article 199¹. Violation of Rules for Entry to the Occupied Territories

Entry to the occupied territories by a citizen of a foreign country or a person without citizenship in violation of the rule defined by the Law of Georgia on the Occupied Territories, shall invoke fine in the amount of GEL 400.

Note: This article shall not be extended to citizens of foreign countries and persons without citizenship having entered Georgia who seek asylum in the country in compliance with the Constitution of Georgia, if there are no signs of other offences in his/her act, as well as persons who committed the act because of having been victims of human trafficking before they acquired the status of the victim of human trafficking. This article shall not be extended either to a person who has entered/enters the Occupied Territory from a prohibited direction without the special permission of the Georgian Government, but given the state interests of Georgia, has received the special permission of the Georgian Government after the entry to the Occupied Territory”.

2. Article 208 shall be formulated in the following way:

“Article 208. Proceedings on Administrative Violations by District (City) Courts

District (City) Court shall conduct proceedings on the administrative violations which are provided for by Articles 42¹ and 42², Paragraph 2 of Article 43, Articles 44–44³, 44⁵, 44⁷–44¹², 45, 46, 46¹, 48–49, 50¹–55⁴, 56, 57–59, 59², 59³, 60, 60³, 61, 61¹, 63, 63¹, 64, 64¹, 65, 66–69, 71, 72¹–78, 79¹–82², 84–86, 88–89³, 91², 94, 95, 99, 100¹, 100², 103¹, 104 and 105¹, Paragraph 5 of Article 127¹, Articles 128¹–128⁵, 143, 144, 144¹⁰, 145, 146¹, 148, 150–151, 152, 152²–153¹ and 153³–153⁵, Paragraph 2 of Article 153⁶, Articles 154–154², 155¹–156, 157¹–158¹, 159–159¹, 159⁴–159¹⁰, 163, 164, 164⁴, 165¹–165³, 166, 167 and 170, Paragraph 3 of Article 171, Articles 171¹, 172⁴, 172⁵, 173, 173⁴, 173⁶, 173⁷, 173⁹, 173¹², 174¹, 175¹, 175², 177⁸, 177⁹, 177¹¹, 178, 179¹–179³, 180–183, 187–187², 189, (except Paragraph 1 and 1¹ of Article 191), 192, 195, 196²–196⁶, 197¹ and 199¹“.

3. Article 239 shall be added with Paragraph 64 of the following content:

„64. Protocol on administrative violations provided for in Article 199¹ of this Code is drafted by persons authorized by the Ministry of International Affairs of Georgia”.

Article 2. This law shall enter into force upon publication.

President of Georgia

Mikheil Saakashvili

Explanatory Note

On the Draft Law of Georgia "On Amendments to the Administrative Code of Georgia"

a) General information about the Draft Law

a.a) The Reasons for the Draft Law

The elaboration of the Draft Law is necessitated by draft amendments to the Criminal Code of Georgia, according to which a person who violates the entry procedures for the occupied territories of Georgia, as defined by Article 322¹, is held responsible under the Criminal Code only after a person has been penalized under the Administrative Code. Respectively, the Administrative Code of Georgia is being added with a new article which provides for an administrative penalty for the entry into the occupied territories of Georgia in contravention of the Georgian legislation.

a.b) The Goal of the Draft Law

The goal of the Draft Law is to move the responsibility of a person who violates the entry procedures for the occupied territories of Georgia for the first time from the realm of Criminal Law to that of Administrative Law.

a.c) The Content of the Draft Law

According to the presented amendments, the Administrative Code of Georgia is added with a new Article 199¹ which provides for the imposition of fine in the amount of GEL 400 on foreign citizens or persons without citizenship for the entry into the occupied territories through the violation of the statutory rules of the "Law of Georgia on the Occupied Territories."

Amendment is also made to Article 208, according to which, court proceedings for the mentioned administrative violations are conferred to the District (City) Court. In addition, Article 239 of the Administrative Code is added with Paragraph 64, according to which protocol on the administrative violations as defined by Article 199¹ of the Administrative Code is drafted by persons authorized by the Ministry of Internal Affairs of Georgia.

b) The Financial Justification for the Draft Law

b.a) The Source of Financing the Instant Expenses related to the Adoption of the Draft Law

The adoption of the Draft Law will not require the allocation of funds from the state budget.

b.b) The Impact of the Draft Law on the Budget Revenue

The adoption of the Draft Law may cause an increase in the revenue of the state budget.

b.c) The impact of the Draft Law on Budget Expenses

The adoption of the Draft Law will not cause a change in budget expenses.

b.d) New Financial Obligations of the State

The adoption of the Draft Law does not entail new financial obligations for the state.

b.e) Expected Financial Outcomes for Those to whom Application of the Draft Law may Concern

The application of the Draft Law will have financial consequences for those to whom it applies.

b.f) The Amount and the Principle for Determining the Amount of the Levies, Taxes and other Charges

The adoption of the Draft Law does not require any payment of levies, taxes or other charges.

c) The Compliance of the Draft Law with International Legal Standards

c.a) Compliance of the Draft Law with the Directives of the European Union

The adoption of the Draft Law is not in contradiction with the directives of the European Union

c.b) Compliance of the Draft Law with the Obligations of Georgia Undertaken by its Membership in International Organizations

The adoption of the Draft Law will not cause new obligations of Georgia through its membership in international organizations.

c.c) Compliance of the Draft Law with the Bilateral and Multilateral Treaties of Georgia

The Draft Law is not in contradiction with bilateral and multilateral treaties of Georgia.

d) Consultations Received During the Preparation of the Draft Law

d.a) The List of State, Non-State and/or International Organizations/Actors, Experts Who Have Participated within the Elaboration of the Draft Law, if Applicable

Not Applicable.

d.b) The Assessment by Participatory Organizations (Entities) and/or Experts regarding the Draft Law, if Applicable:

Not Applicable.

d.c) The Author of the Draft Law

The author of the Draft Law is the Office of the State Minister of Georgia for Reintegration.

d.d) The Initiator of the Draft Law

The Draft Law is initiated by the Government of Georgia.