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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW
ON THE OCCUPIED TERRITORIES
OF GEORGIA



THE LAW OF GEORGIA
ON OCCUPIED TERRITORIES

23 OCTOBER, 2008

THE LAW OF GEORGIA ON OCCUPIED TERRITORIES

Georgia is a sovereign, integral and undivided state and presence of military forces of any other state on its territory, without an explicit and voluntary consent expressed by the state of Georgia, shall be considered illegal military occupation of the territory of a sovereign country, in compliance with the Hague Regulations of 1907, the 4th Geneva Convention of 1949 and the norms of common international law.

Article 1. Purpose of the Law

The purpose of this Law is to define the status of the territories occupied as a result of the military aggression by the Russian Federation and to establish a special legal regime in the above territories.

Article 2. Occupied Territories and Territorial Waters

For the purpose of this Law “the occupied territories and territorial waters” (hereinafter “The Occupied Territories”) shall mean:

- a) Territory of the Autonomous Republic of Abkhazia;
- b) The Tskhinvali Region (territory of the former South Ossetia Autonomous Region);
- c) Waters in the Black Sea: territorial inland waters and sea waters of Georgia, their floor and resources, located in the aquatic territory of the Black Sea, along Georgia’s state border with the Russian Federation, to the South of the Psou river, up to the administrative border at the estuary of the Engury River, to which the sovereign right of Georgia is extended; also the sea zones: the neighbouring zone, the special economic zone and the continental shelf where, according to the laws of Georgia and international law, namely the UN Convention on Maritime Law of 1982, Georgia is entitled to fiscal, sanitary, emigration and customs rights in the neighbouring zone and has the sovereign right and jurisdiction in the special economic zone and the continental shelf;
- d) The air space over the territories stipulated in Paragraphs (a), (b) and (c) of this Article.

Article 3. Legal Regime in the Occupied Territories

For the entire length of the validity of this Law the Occupied Territories shall be subject to Special Rule and Special Legal Regime, including limitations on free migration in the Occupied Territories, the economic activities and real estate transactions as provided for in this Law and other activities provided for in this Law.

Article 4. Limitation on Free Migration in the Occupied Territories

1. Citizens of foreign countries and persons without citizenship shall be allowed to enter the Occupied Territories only under the following circumstances:
 - a) The territory of the Autonomous Republic of Abkhazia shall be entered from the territory of the Zugdidi Municipality;
 - b) The territory of the Tskhinvali Region (territory of the former South Ossetia Autonomous Region) shall be entered from the territory of the Gori Municipality.
2. Citizens of foreign countries and persons without citizenship shall be prohibited to enter the Occupied Territories from any other directions except the ones specified in Paragraph 1 of this Article; violation of this requirement shall lead to punishment under the Criminal Law of Georgia.
3. In extraordinary cases special permission to enter the Occupied Territories, in compliance with the rules stipulated in the relevant normative document of the Georgian Government, can be granted to persons covered by Paragraph 2 of this Article if doing so serves the protection of the state interests of Georgia, promotion of peaceful conflict resolution, de-occupation, confidence building or humanitarian purposes.
4. The prohibition and respective responsibility prescribed by Paragraph 2 of this Article shall not be extended to:
 - a) 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;
 - b) Persons providing immediate humanitarian assistance in the Occupied Territories, for ensuring the right to life of the population, in particular, by providing the population with food, medication and emergency supplies.

- c) persons possessing Status-Neutral Identification Card or/and Status-Neutral Travel Document (1.07.2011. N4994)

5. Persons defined in Sub-paragraphs (a) and (b) of Paragraph 4 of this Article shall be required. Persons defined in Paragraph 4 of this Article shall be required to notify the Government of Georgia of the time of entry to and departure from the Occupied Territories, prior to entry into the Occupied Territories from the prohibited directions, and in case of failure, to notify within a reasonable period of time after entry. Persons defined in Paragraph 4 (b) shall also be required to submit information on assistance rendered to the population (1.07.2011. N4994)

Article 5. Property Rights to Real Estate in the Occupied Territories

1. Any transaction related to real estate property and concluded in violation of the Georgian law shall be deemed void from the moment of conclusion and shall not give rise to any legal consequences.

2. The right to property is protected in the Occupied Territories and is regulated by the laws of Georgia.

Article 6. Limitation of Economic Activities in the Occupied Territories

1. The following types of activities shall be prohibited in the Occupied Territories:

a) Any economic activity (entrepreneurial or non entrepreneurial), regardless whether or not it is implemented for receiving profit, income or compensation, if under the laws of Georgia 'On Licenses and Permits', 'On Entrepreneurs', 'On Bee-Farming', 'On Museums', 'On Water', 'On Civil Registry', 'On Electronic Communications', the Maritime Code of Georgia or the Civil Code of Georgia, such activity requires a license, permit, authorization or registration or if, under the Georgian legislation, such activity requires an agreement but it has not been granted;

b) Import and/or export of military products or products that have double designation;

c) International air traffic and maritime traffic, except for the cases defined in the UN Convention on Maritime Law of 1982;

c¹) Railway traffic and international automobile transportation of cargo;

d) Use of national resources;

e) Organization of cash transfer;

f) Financing or any type of support of activities listed in Sub-paragraphs (a) – (e) of this Paragraph.

2. In the Occupied Territories, implementation of activities stipulated in Paragraph 1 of this Article shall be allowed only in exceptional cases, based on special permission granted in compliance with the rules stipulated in the relevant normative document of the Georgian Government, if doing so serves the protection of the state interests of Georgia, promotion of peaceful conflict resolution, de-occupation, confidence building or humanitarian purposes.

3. Violation of the requirements provided for in this Article shall lead to criminal responsibility stipulated in the active legislation of Georgia.

4. Legal sanctions provided for in the Georgian legislation for implementation of activities stipulated in Paragraph 1 of this Article in the Occupied Territories, shall also be extended to related persons i.e. persons directly or indirectly participating in the capital and/or influencing decisions of entities involved in activities listed in Paragraph 1 of this Article.

5. For the purpose of Paragraph 4 of this Article the term “Related Persons” shall mean:

a) persons who have equity or more than 5% of shares in an entity involved in activities defined in Paragraph 1 of this Article;

b) persons who have equity or more than 25% of shares in an entity defined in Sub-paragraph (a) of this Paragraph;

c) persons who have equity or more than 50% of shares in an entity defined in Sub-paragraph (b) of this Paragraph.

6. Prohibitions stipulated in Paragraph 1 of this Article and responsibilities stipulated in Paragraphs 4 and 5 shall not be extended to persons delivering immediate humanitarian assistance in the Occupied Territories in order to ensure the right to life of the population, in particular, by providing the population with food, medication and emergency supplies.

7. Persons defined in Paragraph 6 of this Article, prior to the implementation of the activities in the Occupied Territories stipulated in Paragraph 6 of this Article, and in case of failure, then within a reasonable period of time after the implementation of such activity

in the Occupied Territories, shall be responsible to notify the Government of Georgia of the time of commencement and completion of the relevant activity implemented in the Occupied Territories, also submit information on the assistance rendered to the population.

Article 7. Protection of Human Rights and Cultural Monuments in the Occupied Territories

1. Occupied territories are an integral part of the territory of Georgia where the Georgian legislation shall be in force. In compliance with international law, in the Occupied Territory the Russian Federation shall be responsible for violation of internationally recognized human rights stipulated in the Constitution of Georgia.

2. Executive government authorities of Georgia shall inform relevant international organizations about the facts of human right violations in the Occupied Territories.

3. Responsibility of the Russian Federation, being the state exercising the military occupation, to reimburse moral and material damages inflicted in the Occupied Territories upon citizens of Georgia, persons without citizenship, and citizens of foreign countries who entered the territory of Georgia and moved to the Occupied Territory based on the required permission, shall be determined in compliance with norms and principles under international law.

4. Responsibility of the Russian Federation, being the state exercising the military occupation, to protect cultural heritage in the Occupied Territories, shall be determined in compliance with norms and principles under international law.

Article 8. Illegal Authorities (Officials)

1. Any authorized body (official person) shall be deemed illegal if it is not formed (appointed/elected) under the legislation of Georgia and/or if it actually performs legislative, executive or judicial functions or any other activities that belong to the sphere of authority of the national government or local self-government bodies of Georgia.

2. Any act issued by the authorities stipulated in Paragraph 1 of this Article shall be deemed invalid and shall not lead to any legal consequences except for the cases when the given act is used for the purpose of issuing Status-Neutral Identification Card or/and Status-Neutral Travel Document according to the rule established under Georgian legislation (1.07.2011. N4994)

3. Possibility to establish facts of civil importance in the Occupied Territories is guaranteed under the law of Georgia "On Procedure for Civil Acts Registration".

Article 9. Obligations of the Georgian Government

1. In case if the provisions of this Law are violated, the Government of Georgia shall use all mechanisms provided for in the Georgian and international law in order to protect lawful interests and safety of Georgia.

2. The Government of Georgia shall conclude bilateral agreements in order to ensure that the other state - party of the above agreement – shall use proper sanctions stipulated in its own law against the persons violating the provisions of this Law.

Article 10. Transitional Provisions

1. Within one month after enactment of this Law the Government of Georgia shall issue all normative documents that are provided for in this Law and establish a Special Regime in the Occupied Territories.

2. In compliance with the Cease-Fire Agreement of August 12, 2008, this Law shall also be extended to the following territories: the village Perevi of Sachkhere region, territories of Kureti, Eredvi, Azhara and Akhlagori Municipalities.

Article 11. Legal Force of this Law

1. This Law shall come into force immediately upon its publication.

2. The application of the provisions of Articles 5 and 8 of this Law shall be extended to relations formed since 1990. No retroactive force shall be applied to any provision of the Articles entailing criminal responsibility.

3. The legal regime stipulated in this Law shall be effective in the Occupied Territories until full restoration of the jurisdiction of Georgia.

4. Until the 1st of January 2012, the Parliament of Georgia shall discuss about expediency to add changes and amendments to the present Law pursuant to the process of de-occupation.

The President of Georgia

Mikheil Saakashvili

Tbilisi,
October 23, 2008.
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