



**STRICT LEGAL REGIME AND PRACTICE OF
FREEDOM OF MOVEMENT IN THE
OCCUPIED TERRITORIES**



SOCIAL
JUSTICE
CENTER

Strict legal regime and practice of freedom of movement in the occupied territories

Social Justice Center

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Introduction

The 2008 Georgia-Russia war created a new legal framework, including the "Law on Occupied Territories". The aim of the law is to determine the status and legal framework of the occupied territories. The main restrictions affected the rights of property, entrepreneurial activity, and free movement in these territories. Article 4 of the law defines freedom of movement as follows: for a citizen of a foreign country and a person without a citizenship entry in the territory of Abkhazia is allowed only from Zugdidi municipality and in Tskhinvali region - from Gori municipality. In addition, the norm provides for exceptions to which the prohibition does not apply. In addition to the mentioned law, a chapter on the violation of the legal regime of the occupied territories was added to the Criminal Code of Georgia, which imposes criminal liability for violating the rule of entering the occupied territories. Article 322¹ of the Criminal Code states that a violation of the rule of entry to the occupied territories is punishable, which means the entry of a citizen of a foreign country and a person without a citizenship into the occupied territories in violation of the rules established by the Law of Georgia on the Occupied Territories. The norm provides for a fine or imprisonment for a term of 2 to 4 years, and in case of aggravating circumstances, imprisonment for a term of 3 to 5 years. After the adoption of the mentioned entry in the Criminal Code in 2008, the length of the punishment was never revised.

Accordingly, a citizen of a foreign country or a person without a citizenship can enter the territory of the Autonomous Republic of Abkhazia only from the Zugdidi Municipality, and in the Tskhinvali region - from the Gori Municipality; entering the occupied territories from any other directions for a citizen of a foreign country and a person without a citizenship is prohibited and punished by the Criminal Code of Georgia.

It is significant that the Venice Commission prepared several opinions regarding the law, stressing the need for liberalisation of the regime of entry into the occupied territories and criticising the existing legal arrangement. The Commission pointed out that the law was punitive in nature and unilaterally imposed wide-ranging restrictions, including on free movement. Also, according to the opinion, the criminal liability established for the violation of the rule of movement in the occupied territories was very strict, and transferring the action to the Administrative Code would be more suitable and would promote more involvement of the occupied territories. As an additional recommendation, the Venice Commission urged the government to define force *majeure* as one of the exceptions to the restriction of freedom of movement.¹ Despite critical comments, some of which the government tried to resolve in the following years, a number of recommendations remain unaddressed.

Considering the interest in the protection of human rights and peaceful transformation of conflicts, the purpose of this article is to analyse how the rules of entry of citizens of a foreign country and a persons without a citizenship to the occupied territory are regulated, what legal problems the

¹ Opinion on the 2013 draft amendments to the law on the occupied territories of Georgia.par.6-7.
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)036-e)

criminalization of this action create, how the norm is interpreted in the practice by investigative bodies and general court, and what are the main criticisms of the legal arrangement of the issue.

Legal framework for entering occupied territories.

The first paragraph of Article 322¹ under the Criminal Code of Georgia establishes sanctions for the citizens of a foreign countries or persons without a citizenship entering occupied territories with violation of rules set by the Law of Georgia on the Occupied Territories.

Article 4 of the mentioned law establishes rules for foreign citizens and stateless persons to enter occupied territories. More specifically, entering the territory of the Republic of Abkhazia is permissible only from Zugdidi Municipality and of Tskhinvali region – from Gori Municipality. If foreigners and stateless persons enter mentioned territories from any other place, they will be subject to criminal charges.

According to the third paragraph of Article 4 of the same law, in special cases, a legal act prepared by the Government of Georgia may issue a special permit for foreigners and stateless persons to enter the occupied territories from prohibited areas if the latter serves the state interests of Georgia: the purpose of peaceful settlement of the conflict, de-occupation, restoration of confidence between the population affected by war, or humanitarian purposes. Article 4 of the same law sets exceptions:

- a) foreign citizens or stateless persons who have entered Georgia directly from territories where their life or freedom was exposed to the danger under Article 1 of the 1951 United Nations Convention Relating to the Status of Refugees, and who stay in Georgia without permission and who, under the same Convention and the legislation of Georgia, apply for asylum to Georgian authorities on the condition that they immediately appear before a government agency to provide an appropriate explanation for their illegitimate entry into or unauthorised stay in Georgia, and if there are no elements of another crime in their acts; also persons who have committed the acts due to their being victims of human trafficking before they were granted the status of victim of human trafficking;
- b) persons who provide urgent humanitarian assistance in the occupied territories to ensure the rights of people to life, in particular to provide the population with food, medicines, and articles of daily necessity.
- c) persons with neutral identity cards and/or neutral travel documents issued to them.

According to Georgian legislation, this norm shows that entering these territories from any other area represents a criminal offence and is punishable by fine or incarceration from 2 to 4 years, and in case of the crime committed in aggravating circumstances - incarceration from 3 to 5 years. We must mention that since the adoption of Georgian Law on the Occupied Territories in 2008 and the introduction of new norms to the Criminal Code, following these changes, it has never been proposed to revise the incarceration period, even though

international actors have, since, been emphasising, amongst others, the strictness of such punishment.

Analysis of the court statistics

According to the information retrieved from the Prosecutor's Office of Georgia, up until 2010 the Prosecutor's Office did not organise statistical information about the initiation and termination of legal prosecution. In 2011 legal prosecution was initiated in 57 cases, out of which four were terminated. The variation of statistical data between 2012 and 2019 has almost the same amplitude. According to 2020 data, legal prosecutions started only in 5 cases which the pandemic can most likely explain. In 2021 the data grew to 22 again. Whilst in 2022 the numbers rose to 45.²

Initiation and termination of legal prosecution on the grounds of Article 322¹ of the Criminal Code of Georgia.

	Initiation (# of cases)	Termination (# of cases)
2009	–	–
2010	–	–
2011	57	4
2012	26	0
2013	33	0
2014	24	0
2015	16	0
2016	16	0
2017	11	0
2018	21	0
2019	19	0
2020	5	0
2021	22	0
2022	45	0

Additional information was retrieved, for research purposes, about acquitting and incriminating court decisions between 2016-2022 based on Article 322¹ of the Criminal Code of Georgia from Tbilisi city and Zugdidi and Mtskheta regional courts. According to the Tbilisi City Court, the

² The answer of the Prosecutor's Office of Georgia dated February 20, 2023.

court did not issue a single acquittal decision between 2016-2022 based on this article. Of 5 court decisions issued throughout different years, 4 cases ended with plea agreements, and one ruled 2-year prison sentence as punishment. The fine amount ranges between 2000 GEL (in one case) and 3000 GEL (in three cases). In two cases, the defendants were sentenced to imprisonment as a preventive measure.

According to the decision of the Tbilisi City Court on January 27, 2022, the convicted person was sentenced to imprisonment for 2 years. According to the factual circumstances of the case, in February 2020, the citizen illegally crossed the Russian-Georgian border at the section of the Psou River in violation of the rule established by the law of Georgia on the Occupied Territories and entered the occupied territory of Georgia in the Autonomous Republic of Abkhazia, where he stayed until August 11, 2022.

The defence claimed that the analysis of the case did not show clear evidence of an intent of committing a crime. The court did not share this reasoning and noted that the evidence presented in the case confirmed that this person had entered Georgia in accordance with the law between 2012-2018, which indicated that this person was aware of the rules established for entry into the territory of Georgia. The court also discussed the objectives of the criminalization of actions provided for in Article 322¹ of the Criminal Code and noted that the law is "aimed at protecting the country's sovereignty and territorial integrity." Since the convicted person did not make an appearance in the judicial authorities, the sentence was set to 2 years.

Of the 10 sentences handed down by the Zugdidi District Court, plea agreements were signed with all the convicts. The convicted persons are not only from the Russian Federation, but also from Pakistan, Yemen, and the Kingdom of Sweden. In all ten cases, the convicted persons were fined. The amount of the fine generally ranges from 2,000 GEL (in three cases) to 3,500 GEL (in five cases), and in two cases the court imposed a fine of 5,000 GEL.

In most cases requested from the courts, a plea agreement is reached with the defendants. In such cases, the court only formally checks the standard of evidence in the case and does not contemplate the content of the norm either, which leaves little room for analysis of the case and evaluation of the court's decision. It is also important to consider that in case of a plea agreement, the discretionary power of the prosecutor in relation to determining the amount of the fine does not lead to the imposition of unreasonably high fines, especially when the factual circumstances of the case are almost identical. It should also be noted that in all cases from the Zugdidi District Court, and in 2 cases from the Tbilisi City Court, imprisonment was used against the defendants as a punishment. It should be noted that the convicted persons are mostly from such countries that they indeed might not know about the criminal nature of the action.

It is also important to state that ethnically Abkhaz and Ossetians living in the occupied territory are issued not only Abkhaz and Ossetian passports, but also Russian passports, which most of the population owns. The authorities of Georgia consider the passports of the Russian Federation issued in the occupied territories as a document confirming the citizenship of a foreign country and accordingly initiates an investigation under the article of violation of the rule of entry into the

occupied territories. According to the factual circumstances of one of the cases, the accused under Article 322¹ of the Criminal Code is Abkhazian by nationality and lives in Abkhazia, he owns a passport issued by Abkhazia and the Russian Federation. He entered the territory of Georgia from Abkhazia through the checkpoint set up in the territory of Enguri, at which time, according to him, no one prevented him from entering the territory of Georgia. In this case, it is necessary to consider the fact that the accused had applied to the Tbilisi House of Justice with a request to issue a neutral identity document, but despite this, an investigation was started against him, and he was given bail in the amount of 5000 GEL as a preventive measure. In this case too, the case ended with a plea agreement, and the court again did not discuss important issues, including the importance of the ethnic Abkhazian moving to the controlled territory of Georgia and receiving a neutral travel document, and automatically found him guilty.

It is problematic that the Georgian authorities automatically consider the ethnically Abkhaz and Os population, who hold Russian passports, as Russian citizens. In this regard, it is important to share the example of Ukraine. Ukraine considers the automatic, forced granting of citizenship of the Russian Federation illegal and does not consider it a basis for automatic loss of Ukrainian citizenship.³ Similar to the experience of Ukraine, it is important that the passports of the Russian Federation issued in the occupied territory of Georgia are not automatically considered by the Georgian authorities as documents confirming the citizenship of a foreign country.

The current approach will not contribute to the integration of people living in the occupied territory, especially in the conditions when they face criminal liability, and the punishment stipulated by the norm is extremely heavy and disproportionate considering the degree of guilt and wrongfulness of the committed action.

In most of the cases requested from the courts, a plea agreement is signed with the defendants. In such cases, the court only formally examines the standard of evidence in the case, and does not discuss the content of the norm, which leaves little room for analysis of the case and evaluation of the decision made by the court. It is also important to consider that in case of a plea agreement, the discretionary power of the prosecutor in relation to determining the amount of the fine does not lead to the imposition of unreasonably high fines, especially when the factual circumstances of the case are almost identical. It should also be noted that in all cases from the Zugdidi District Court, and in 2 cases from the Tbilisi City Court, imprisonment was used against the defendants as a punishment. Convicted persons are generally from countries where there is a high probability that they will not be aware of the criminality of the act. In addition, the punishment stipulated by the mentioned norm is extremely severe and disproportionate considering the degree of guilt and wrongfulness of the committed act.

Courts do not discuss Article 36 of the Criminal Code, which provides a mechanism for exonerating a person from criminal liability in cases where a person commits a prohibited act, but this act is forgivable. The legislator also explains what can be considered a forgivable mistake and

³ Law "On Protection of Rights and Freedoms and Legal Regime of Persons Living in the Temporarily Occupied Territory of Ukraine" 5(6) https://online.zakon.kz/Document/?doc_id=31540279&pos=85;-10#pos=85;-10

indicates that: " A mistake shall be considered pardonable if, under the given circumstances, the person was not and could not have been aware of the fact that he/she was committing a prohibited act."

Considering the content of Article 322¹ of the Criminal Code, which specifically refers to the rules of movement in the occupied territory and aims to punish those who will try to bypass the points established by law to enter the territory of Georgia, it would be important to discuss the possibility of applying/non-applying Article 36 in the court's decision, because such regulation cannot be considered a classic delict, since there is no uniform approach even in countries where certain parts of the country's territory are occupied. Since there is no practice of using this article, it is difficult to judge how it applies to article 322¹, while a person may be objectively unaware of the fact that the act committed by him is a crime.

Criticism of the legislative resolution of the issue

As mentioned above, international actors have repeatedly criticised the legal regulation of the legal regime of movement in the occupied territories.

The Venice Commission's interim report, published on March 4, 2009, noted that the law was more punitive and imposed extensive restrictions on the right to free movement. In the conclusion, the Moldovan law of 2005, is cited for comparison. The law granted a special legal status to the settlement on the left bank of the Dniester River (Transdnistria). Unlike the Georgian legislation, the law adopted in Moldova is not punitive and aims to have a positive impact on the conflict resolution by granting a special regime to the separatist regime within the territory of Moldova.

In 2009, the Venice Commission published its final assessment in relation to the law. It positively evaluated the changes made in the Georgian law that clarified the issue of the need of a special permit for entry from a prohibited direction. According to the regulation, entry into the occupied territory will be allowed with a special permit. According to the changes, criminal liability was excluded for the following cases: when an asylum seeker enters the occupied territories from an illegal direction, a person who is a victim of trafficking before obtaining the status, as well as a person who provides emergency humanitarian aid in the occupied territories to ensure the right to life.⁴ The restrictions of the law still applied to such humanitarian and monitoring organisations, which are engaged in daily activities of vital importance in the occupied territory. The restrictions of the law still applied to such humanitarian and monitoring organisations, which are engaged in daily activities of vital importance in the occupied territory. Despite the Commission's recommendation, the term "emergency humanitarian aid" remained in the record of the law. The Commission believed that the emergency-only exception limited the scope of humanitarian aid. In exceptional cases, these persons are obliged to notify the authorities of Georgia in advance or after entering the occupied territories from a prohibited direction within a reasonable period of time.

⁴European Commission For Democracy Through Law (Venice Commission) Opinion On The Law On Occupied Territories Of Georgia [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2009\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)015-e)

The law does not determine what legal consequences arise in case of non-notification, whether these persons will be held criminally responsible or not, which was itself criticised by the Venice Commission.⁵ It is also worth noting the report of the UN Secretary General on the situation in Abkhazia, where it is emphasised that the existence of such a restrictive record may threaten the availability of humanitarian aid in the conflict zone.⁶

In 2013, a package of amendments to the law was registered in the Parliament. Regarding the changes, the Venice Commission again prepared a report, where the steps taken towards the liberalisation of criminal liability are positively assessed. However, the Commission considered the lack of information by the subjects of the law to be particularly problematic. According to the information provided by the Georgian authorities to the Venice Commission, a large number of persons convicted under Article 322¹ are foreign sailors who had no information about the regulations in Georgia. There were a number of cases when the entry of foreign sailors into the maritime zone in violation of the legal regime stated in Article 4 was due to *force majeure*. The Venice Commission welcomed the state's willingness to consider this action as an administrative offence at first. However, the Commission further called on legislators to consider *force majeure* situations and to fully decriminalise this act, which would further encourage political engagement.⁷ On the other hand, Article 4, Part 3 of the Law on the Occupied Territories provides, in special cases, for the persons provided for in Paragraph 2 of this Article, to be granted a special permit to enter the occupied territory from prohibited directions in accordance with the procedure established by the legal act of the Government of Georgia, if it serves: the state interests of Georgia, the purpose of peaceful settlement of the conflict, de-occupation, restoration of confidence between the population affected by war, or humanitarian purposes. The Venice Commission indicated in its conclusion that the mentioned criteria are vague, and especially it is not clear what is meant by the term "state interest".

Currently, the procedure for issuing a special permit is determined by the Resolution N219 of the Government of Georgia dated November 12, 2008. According to the resolution, the State Security Service issues permission to enter the occupied territories from prohibited directions (paragraph 1.2). When permission is granted to enter the occupied territory by boat, the State Security Service will request information from the Ministry of Internal Affairs (paragraph 1.3). Accordingly, a citizen of a foreign country who wants to enter the occupied territories from the North must apply to the State Security Service for a special permit. However, the resolution does not say anything about the application forms and the prescribed documents for obtaining the permit.⁸ The

⁵ Teona Piranishvili, *Assessment of the Law on Occupied Territories from Rights and Humanitarian Perspectives*, Human Rights Education and Monitoring Center, (EMC), 2020. pp 8-9
<https://socialjustice.org.ge/en/products/okupirebuli-teritoriebis-shesakheb-kanonis-shefaseba-uflebrivi-da-humanitaruli-perspektivit>

⁶ Secretary-General on the situation in Abkhazia, Georgia, pursuant to Security Council resolution 1839 (2008), S/2009/69 para 9.

⁷ Opinion On The 2013 Draft Amendments To The Law On The Occupied Territories Of Georgia. Par.14
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)036-e)

⁸ On the procedure for granting consent for activities in the occupied territories of Georgia and issuing a special permit for entry from prohibited destinations <https://matsne.gov.ge/ka/document/view/5848?publication=5>

application form and the list of required documents are not available on the website of either the Ministry of Foreign Affairs or the State Security Service.⁹ In its previous opinions, the Venice Commission also criticised the difficulty and clarity of the established rule for issuing a special permit. The Commission urged the government that in terms of hardship, it would be better to regulate the mentioned issue directly by the law and not by the Government's decree.¹⁰

In addition, it is significant that the EU Monitoring Mission urged the Georgian authorities to develop such a legislative document that would facilitate relations with the so-called "authorities" that controlled the regions of Abkhazia and South Ossetia and that it would also be important to bring the Law on the Occupied Territories in line with the views presented by the Venice Commission on this matter.¹¹

It should be noted that after the adoption of the law, the Georgian authorities had several attempts to make changes in the mentioned norm. The initial edition provided for only one exception for an entry from any other direction, which meant issuing a special permit in accordance with the legal act of the Government of Georgia - if the visit served the interests of the state, de-occupation, peaceful resolution of the conflict or humanitarian goals. In different periods, the circle of exceptions to freedom of movement was expanded: For example, restrictions regarding the movement in the territories of the Autonomous Republic of Abkhazia and the Tskhinvali region for persons holding a neutral identity card and a neutral travel document were removed. Accordingly, those persons who hold any of such documents are entitled to enter the occupied territories from any direction and they are not subject to the obligation to enter from the direction specified by law. However, it should be noted that the impact of this change is less noticeable for people living in the occupied territories, since the number of holders of neutral documents is low. For example, according to the 2016-2021 data of the State Services Development Agency, a neutral identity document was issued to a total of 246 persons, which is a significantly small number and practically does not contribute to the realisation of the right to move.

It should be noted that in the aforementioned resolution of the Government of Georgia, it is emphasised that: "The Government of Georgia considers people living in the occupied territories as its citizens; Accordingly, it considers its constitutional duty to make available to them all the benefits guaranteed to a citizen of Georgia".¹² However, taking into account the reality, the population living in the occupied territory is facing a significant problem of free movement.

In May 2013, the Parliament of Georgia adopted with the first reading the law submitted by the government "On Amendments to the Law of Georgia on the Occupied Territories". The draft law

⁹Analysis and Recommendations of the Law of Georgia on the Occupied Territories, Public Defender, 2017
<https://www.ombudsman.ge/res/docs/2019041113004967514.pdf>

¹⁰ Opinion on the 2013 Draft amendments to the law on Occupied Territories of Georgia, para 18,
[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)036-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)036-e)

¹¹ High Representative of the Union for Foreign Affairs and Security Policy, Ms. Catherine Ashton's Declaration on behalf of the EU on the Georgian strategy on Abkhazia and South Ossetia
https://eumm.eu/en/press_and_public_information/features/2040/

¹²Resolution of the Government of Georgia No. 320 on the approval of the rules for conducting activities in the occupied territories of Georgia. <https://matsne.gov.ge/ka/document/view/1057456?publication=0>

provided amendments to Article 4 of the law, after which violation of the rules for entering this territory for the first time would no longer lead to criminal liability and would become an administrative offence, while the same action committed for a second time would be a criminal offence. The fine was defined as 400 GEL.

According to the explanatory note, the initiation of the draft law was caused by the liberalisation of the criminal law policy in relation to the violation of the rule of entry into the occupied territories. Unlike the current edition of the law, which in special cases provides for the possibility of issuing a special permit before entering the occupied territories from a prohibited direction, with the proposed amendments, a person who entered the occupied territory from a prohibited direction would be exempted from responsibility if he received a government permit before or after entering the occupied territories. According to the content of the norm, the subjects in most cases may not know that there is a restriction on entering the occupied territory in Georgia. Respectively, the establishment of criminal liability for such persons is perceived as an unjust punitive measure implemented by the state of Georgia. In addition, the punishment stipulated by the mentioned norm (imprisonment for a period of two to four years, and in aggravating circumstances three to five years) is extremely heavy and disproportionate considering the degree of wrongdoing and culpability of the act committed by the person.

In 2016, the discussion of this draft law was resumed in the Parliament but was stopped soon after. In 2017, the Public Defender published a report where the regulations established by the Law on the Occupied Territories were analysed.

The Public Defender believes that entry into the territories occupied by a citizen of a foreign country or a stateless person from prohibited directions should be limited to administrative responsibility only.

The Public Defender believes that entry into the occupied territories from prohibited directions by a citizen of a foreign country or a stateless person should be limited to administrative liability only. Also, the Public Defender shares the changes proposed by the government in 2013, which provides for the possibility of issuing a special permit after entry from prohibited destinations. The recommendation focuses on the need to develop a different rule for entering the occupied territory for those international organisations/their representatives that carry out humanitarian activities, as well as projects on human rights protection, trust-building, and people-to-people relations. The Public Defender considers it important that information on the procedure and form of issuing a special permit provided by law, as well as the necessary documents to be submitted, should be available to all those who wish to enter the occupied territories with a special permit or obtain a special permit after entering. The Public Defender, considering the recommendation of the Venice Commission of the Council of Europe, believes that it is necessary to include a clause on *force majeure* in the law so that persons who violate the country's border due to unforeseen circumstances are exempted from responsibility.¹³

¹³Analysis and Recommendations of the Law of Georgia on the Occupied Territories, Public Defender, 2017
<https://www.ombudsman.ge/res/docs/2019041113004967514.pdf>

International Practice

As for the practices in other countries with a similar context, there are different approaches in terms of regulating entry into non-controlled territories of the state. Crossing the Ukraine-Moldova border by foreign nationals in the Republic of Moldova and entering the territory controlled by the Republic of Moldova through Transnistria is not punishable by criminal law, and foreign nationals are only required to register.¹⁴ In order to fulfil the obligation of visa liberalisation, in 2013, Moldova opened 6 new territorial authorities near the dividing line for Transnistria, which serve to inform foreign citizens about the need for registration and to control migration into the country. Citizens of foreign countries are obliged to register with the territorial authority within 72 hours after crossing the dividing line. Violating this rule stipulates a fine. A similar approach on the part of Moldova leaves the possibility of cooperation and negotiations with the separatist side at the legislative level, while the law of Georgia strictly establishes the red lines beyond which negotiations are impossible.

When creating the law, the Republic of Moldova was guided by the objective of creating unity among peoples, territorial integrity, common economic, defence, social, humanitarian and other spaces. The preamble of the law recognizes the importance of human rights and minority rights. Emphasis is also placed on the possibility of resolving the Transdniestrian conflict only by peaceful means, after the democratisation and demilitarisation of the separatist regime. The authorities of Moldova aim to achieve the territorial integrity and civil unity of Moldova, as well as to increase the population's access to democratic institutions. This law was created to provide humanitarian, political, legal, social, and economic assistance to the population of Transnistria to help them cope with the consequences of the conflict. Based on these goals, the law defines the legal status of Transnistria under the jurisdiction of Moldova, after it is fully demilitarised from Russian troops and democratic governance is established. The law grants Transnistria autonomous status and defines a number of powers and rules regarding governance.¹⁵

The authorities of the Republic of Cyprus declare it illegal to bypass the authorities of Cyprus for entering Northern Cyprus (the so-called Turkish Republic of Northern Cyprus) and urge everyone not to use the airports and ports in the territory of Northern Cyprus. As in the case of Georgia, entry into the territory is permitted from the southern Cyprus side and the Cypriot authorities can fine a person who illegally enters the territory of the Republic of Cyprus.¹⁶ However, Cyprus does not actively use this mechanism, especially after it joined the European Union. Before joining the EU it was forbidden to enter South Cyprus for those who used the ports and/or airports in Northern

¹⁴ Moldova's success story The visa-free regime with the EU one year on <https://www.batory.org.pl/upload/files/Programy%20operacyjny/Otwarta%20Europa/Moldova%20success%20story%20-%20policy%20paper%20-%20SBF%20IWP.pdf>

¹⁵ Teona Piranishvili, *Assessment of the Law on Occupied Territories from Rights and Humanitarian Perspectives*, Human Rights Education and Monitoring Center, (EMC), 2020. pp 12-13 <https://socialjustice.org.ge/en/products/okupirebuli-teritoriebis-she sakheb-kanonis-shefaseba-uflebrivi-da-humanitaruli-perspektivit>

¹⁶ Website of the Ministry of Foreign Affairs of the Republic of Cyprus <https://mfa.gov.cy/important-information-concerning-travel-to-occupied-area.html>

Cyprus, after the accession the EU citizens can move freely throughout the territory of Cyprus, although Cyprus still reserves the right to fine those who used illegal airports and ports.

It seems that the countries with a similar context to Georgia are not strict in regulating the free movement of persons in the occupied territories. The flexibility of the regulation should in no way be perceived as a waiver of the country's sovereignty or territorial integrity. Although the current regulation of the Law of Georgia on the Occupied Territories does not directly contradict international law, for the effectiveness of free movement and greater involvement of people living in the occupied regions, it is advisable for Georgia to make its policy more flexible.

Even though the government of Georgia cannot exercise effective control over the occupied territories, it has a positive obligation to ensure the realisation of the rights and freedoms of the population living there, using both political, legal, and diplomatic means. A similar legislative arrangement should promote the protection of the rights and freedoms of the local population as much as possible. Since the law applies not only to foreign citizens, but also to the ethnic Os and Abkhazian population, it prevents the process of conducting sustainable peace policy and conflict transformation.

Conclusion

The study of the issue reveals that there are significant problems, both in terms of awareness and in relation to the punishments in the Criminal Code. In most cases, lack of information creates problems. The law should contribute as much as possible to the protection of the rights and freedoms of the local population and the improvement of the social and economic situation. Adoption of the mentioned law generally does not contradict international practice. The study of the other countries' legislation reveals that the issue of the occupied territories is to some extent regulated by legislation, although most countries try to regulate such an issue, not through criminal law, but through spreading information. Therefore, it is important to make the legal framework related to displacement liberal and consider the recommendations issued by the Venice Commission. This will contribute to the improvement of the legal situation in the conflict regions, as well as the de-isolation of these regions and the peace process in general.